

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

ANDREW MACKMIN, *et al.*,

*Plaintiffs,*

v.

VISA INC., *et al.*,

*Defendants.*

Civil Action No. 1:11-cv-1831-RJL

Assign Date: 8/4/2015

Description: Antitrust – Class Action

**NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF SETTLEMENTS  
WITH THE BANK OF AMERICA, CHASE, AND WELLS FARGO DEFENDANTS AND  
RESPONSE TO OBJECTION**

Pursuant to Fed. R. Civ. P. 23, at the Fairness Hearing scheduled for May 17, 2022, at 3:00 p.m., at the E. Barrett Prettyman Courthouse, 333 Constitution Avenue NW, Washington, D.C. 20001, the *Mackmin* Plaintiffs will and hereby do move this Court, pursuant to Rule 23 of the Federal Rules of Civil Procedure, for an order:

- (1) Finally approving the proposed class action settlements with Bank of America, National Association; NB Holdings Corporation; Bank of America Corporation; Chase Bank USA, N.A.; JPMorgan Chase & Co.; JPMorgan Chase Bank, N.A.; Wells Fargo & Company; and Wells Fargo Bank, N.A.;
- (2) Certifying the proposed Settlement Class.
- (3) Approving of the proposed Plan of Allocation; and
- (4) Rejecting Shiyang Huang's objections and granting the fees, expenses, and services awards requested in Plaintiffs' Motion for Award of Attorneys' Fees, Reimbursement of Litigation Expenses, and Service Awards for Class Representatives (Dkt. 256).

The motion is based upon this notice, the attached memorandum of points and authorities and the exhibits attached thereto, the accompanying declaration of Eric Schachter, the pleadings and other papers on file in this action, such matters over which the Court may take judicial notice, and such arguments that may be presented at or before the hearing.

DATED this 25th day of March, 2022.

Respectfully submitted,

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**MEMORANDUM IN SUPPORT OF MOTION FOR FINAL APPROVAL OF  
SETTLEMENTS WITH THE BANK OF AMERICA, CHASE,  
AND WELLS FARGO DEFENDANTS AND RESPONSE TO OBJECTION**

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## I. INTRODUCTION

In November 2021, this Court preliminarily approved the settlements (“Settlements”) reached with the Bank of America Defendants, the Chase Defendants, and the Wells Fargo Defendants (collectively, the “Bank Defendants”).<sup>1</sup> Dkt. No. 252. The Court designated Andrew Mackmin and Sam Osborn as Class Representatives for the Settlement Class, and designated Hagens Berman Sobol Shapiro LLP, Quinn Emanuel Urquhart & Sullivan, LLP, and Mehri & Skalet, PLLC, as Class Counsel for the Settlement Class. *Id.* The Court also approved the form and content of the proposed notice forms, which have now been provided to members of the Settlement Class as directed. Plaintiffs respectfully request that the Court now grant final approval to the Settlements because they represent an outstanding recovery for the Settlement Class: the Bank Defendants will provide \$66.74 million in cash payments to Plaintiffs (57.5% of the *maximum* single damages estimated for class transactions at the Bank Defendants’ ATMs), while leaving the non-Bank Defendants joint and severally liable for the remainder of Class Plaintiffs’ damages.

The events since preliminary approval have only confirmed that the Settlements are an excellent result. Plaintiffs have implemented a notice program that has reached tens of millions of class members by direct email notice alone. In addition to this extensive direct email notice effort, the Settlement Administrator, A.B. Data, engaged in a state-of-the-art publication notice campaign. Thus far, 271,669 claims have been received. The notice and claims administrator has also sent a reminder email to potential class members to encourage claim filing through the deadline of May 11, 2022. The reaction to the settlement has been overwhelmingly positive with

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<sup>1</sup> All defined terms have the same meaning as in Plaintiffs’ Renewed Motion for Preliminary Approval (Dkt. No. 250, “Preliminary Approval Motion”) and the Court’s Order granting preliminary approval (Dkt. No. 252, “Preliminary Approval Order”) unless otherwise noted.

only *one* objection and *seventeen* opt-out requests. And the sole objection to the settlement is meritless—it does not challenge the substance of the settlements, and only raises misguided attacks on Class Counsel’s fee request and request for modest service awards for the two class representatives.

Plaintiffs respectfully request that the Court certify the proposed Settlement Class, grant final approval to the Settlements, and overrule the lone objection.

## II. THE SETTLEMENTS ARE FAIR, REASONABLE, AND ADEQUATE

To obtain final approval, Plaintiffs must show that the proposed settlements are “fair, reasonable, and adequate.” Manual for Complex Litigation § 21.634 (4th ed. 2021); *see also In re Vitamins Antitrust Class Actions*, 215 F.3d 26, 30 (D.C. Cir. 2000); *Pigford v. Glickman*, 206 F.3d 1212, 1215 (D.C. Cir. 2000). In the Preliminary Approval Motion submitted on October 25, 2021, Plaintiffs discussed the traditional factors considered by courts in this Circuit in making this determination, as well as the Rule 23(e)(2) factors that were added in 2018. Because the relevant facts have largely not changed since the Preliminary Approval Motion, and because there are no objections to the settlements themselves (only Plaintiffs’ motion for fees, costs, and service awards), Plaintiffs will not burden the Court with a repetitive discussion, and respectfully refer to the Court to that pleading. *See* Dkt. 250 at 15-25.

Here, Plaintiffs discuss the execution of the notice plan and the only factor that could not be assessed at preliminary approval—the reaction of the class. “In approving class action settlements, courts gauge the reaction of the class by looking at the number of objections as compared to the overall size of the class.” *In re Domestic Airline Travel Antitrust Litig.*, 378 F. Supp. 3d 10, 23 (D.D.C. 2019). Here, there are approximately 200 million class members, but only 17 opt-outs and just *one* class member (Shiyang Huang) objected. *See* Declaration of Eric Schachter in Support of Motion for Final Approval of Settlement (“Schachter Decl.”), ¶¶ 19-20,

concurrently submitted herewith. As discussed below, Mr. Huang is a repeat objector. With no objection to the substance of these Settlements, Mr. Huang instead launches only misguided attacks on Class Counsel’s attorney and service fee requests. The lack of objection to the Settlements confirms they should be approved. *See Domestic Airline*, 378 F. Supp. 3d at 23 (approving settlement where “the objectors are but a tiny fraction of the class”).<sup>2</sup>

### III. THE PROPOSED SETTLEMENT CLASS SATISFIES RULE 23

For final approval of a class action settlement, the proposed settlement class must satisfy the Rule 23(a) requirements referred to as “numerosity, commonality, typicality, and adequacy of representation.” *Cohen*, 522 F. Supp. 2d at 113. Additionally, the proposed class must meet one of the Rule 23(b) requirements. Here, Plaintiffs seek certification of the proposed settlement class pursuant to Rule 23(b)(3). *Id.* In the Preliminary Approval Motion, Plaintiffs discussed at length why the Settlement Class should be certified. *See* Dkt. No. 250 at 14-21. Because the facts relevant to certification have not changed, Plaintiffs do not repeat that discussion here.

One point is worth emphasizing. The Court need not apply the Rule 23 requirements to the proposed Settlement Class as stringently as it would in reviewing an opposed class certification motion. “[I]f the case is surely going to be settled, then the ‘district court need not inquire whether the case, if tried, would present intractable management problems.’” *Thomas v. Albright*, 139 F.3d 227, 234 (D.C. Cir. 1998) (quoting *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997)); *see also Stewart v. Rubin*, 948 F. Supp. 1077, 1091 (D.D.C. 1996)

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<sup>2</sup> *See also Kifafi v. Hilton Hotels Ret. Plan*, 999 F. Supp. 2d 88, 101 (D.D.C. 2013) (out of a class of 23,000 persons, five objected, and this weighed in favor of approval); *Cohen v. Warner Chilcott Pub. Ltd. Co.*, 522 F. Supp. 2d 105, 119 (D.D.C. 2007) (finding the small number of objections weighed in favor of approval); *Trombley v. Nat’l City Bank*, 826 F. Supp. 2d 179, 200-01 (D.D.C. 2011) (approving settlement where there were only 10 objections out of over 13 million class members).

(recognizing that “manageability and efficiency of a class action settlement is quite different than that in a litigated case”).

Thus, the pending appeal of this Court’s class certification decision offers no reason to delay final approval of this proposed Settlement Class. It is common for a settlement class to be certified before the certification of a litigation class (as to non-settling defendants) is resolved. Indeed, courts have recognized that certain classes certified for settlement purposes might not be appropriate to certify as litigation classes in light of management problems that arise in litigation. *See, e.g., In re Hyundai & Kia Fuel Econ. Litig.*, 926 F.3d 539, 558 (9th Cir. 2019) (“A class that is certifiable for settlement may not be certifiable for litigation if the settlement obviates the need to litigate individualized issues that would make a trial unmanageable.”).<sup>3</sup> Courts have certified settlement classes after declining to certify the same class for litigation purposes. *See, e.g., Ramirez v. DeCoster*, 142 F. Supp. 2d 104, 111 n.9 (D. Me. 2001) (reaching that conclusion because “the difficulties of managing the resulting jury trial . . . are not presented in a settlement”).

Objector Huang, whose arguments are discussed in more detail in Part VI, *infra*, does not provide any substantive arguments as to why the Rule 23 requirements are not met for the settlement class, but he suggests that due to the appeal, “class certification is likely defective.” Dkt. No. 254 at 9. Class certification is not “defective,” for the reasons explained in the Preliminary Approval Motion and above. But even if the D.C. Circuit were to later hold that the predominance requirement is not met for the litigation class (the only issue on appeal), that will

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<sup>3</sup> *See also In re Warfarin Sodium Antitrust Litig.*, 391 F.3d 516, 537 (3d Cir. 2004) (“Although Appellants’ concerns about the manageability of a multistate class of consumers and TPPs . . . did not pose a problem for the certification of a settlement class, there is a significant risk that such a class would create intractable management problems if it were to become a litigation class, and therefore be decertified.”).

not affect approval of the settlements. The case management concerns that ground the predominance inquiry have no bearing on the certification of a settlement class. *See also* 2 William B. Rubenstein, *Newberg on Class Actions* § 4:63 (5th ed. 2018) (“Courts . . . regularly certify settlement classes that might not have been certifiable for trial purposes because of manageability concerns.”).

#### **IV. THE APPROVED NOTICE PROGRAM WAS ADEQUATE AND SATISFIED DUE PROCESS**

Notice to the class must be made “in a reasonable manner to all class members who would be bound by the” proposed settlement. Fed. R. Civ. P. 23(e)(1)(B). For a proposed Rule 23(b)(3) Settlement Class, the court must “direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B). Here, the Court approved, and Plaintiffs then implemented, a state-of-the-art notice program designed by an experienced notice and claims administrator, A.B. Data.

The notice and claims administrator delivered *direct* email notice successfully to approximately 59,271,528 unique email addresses of potential settlement class members. Schachter Decl., ¶ 7. Specifically, after receiving approximately 100 million email addresses of potential settlement class members from the Bank Defendants, the administrator sent emails to 87,685,557 unique email addresses after data review and validation efforts, with the administrator’s records showing that emails were successfully delivered to 59,271,528 (67%) of these unique email addresses. *Id.*, ¶¶ 3-7. This robust direct email notice campaign was explicitly endorsed by the 2018 Amendments to Rule 23, which explain that “notice may be by

one or more of the following: United States mail, electronic means, or other appropriate means.”  
 Fed R. Civ. P. 23(c)(2)(B).<sup>4</sup>

In addition to a massive direct email notice effort, A.B. Data also engaged in a robust publication notice campaign. The campaign included (i) a digital advertising campaign on numerous digital and social media platforms; (ii) a news release disseminated via *PR Newswire*; (iii) a publication notice in *People* magazine; and (v) a toll-free telephone number and case-specific website to address potential Settlement Class Member inquiries. *See* Schacter Decl., ¶¶ 8-16 (discussing scope of publication campaign in detail).

Courts in this District recognize that individual notice by email, in combination with publication notice, as was done here, may be the best way to provide notice to large settlement classes. *See In re Domestic Airline Travel Antitrust Litig.*, 322 F. Supp. 3d 64, 69-72 (D.D.C. 2018) (approving of proposed settlement program by publication notice and individual notice by email).<sup>5</sup> As the court in *Domestic Airline* explained:

No single formula can be derived which will anticipate the myriad of circumstances that may confront class action litigants attempting to identify absentee class members of a 23(b)(3) action and resolve whether the effort is reasonable. . . . Instead, this Court must examine the available information and possible methods of identification before deciding what amounts to reasonable efforts under the circumstances. The Court must balance between protecting class members and making Rule 23 workable, with consideration of the circumstances, size of the class, and cost of providing notice compared to the total settlement fund.

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<sup>4</sup> *See also* Fed. R. Civ. P. 23, Notes of Advisory Comm., Subdivision (c)(2) (2018) (discussing technological changes that may provide opportunities for better notice).

<sup>5</sup> *See also Domestic Airline*, 322 F. Supp. 3d at 70 (citing, among other cases: *In re LivingSocial Mktg. & Sales Practice Litig.*, 298 F.R.D. 1, 8 (D.D.C. 2013) (involving a class of 10.9 million persons contesting gift certificates sold via the internet, in which notice was given through e-mail); *In re Sony PS3 “Other OS” Litig.*, 2017 WL 5598726 (N.D. Cal. Nov. 21, 2017) (involving breach of contract claims by purchasers of computer entertainment consoles, where dissemination of settlement information was to be completed by giving notice “to Class Members via email for those Class members for whom an email address is available”).

*Id.* at 70-71 (internal citation and quotation marks omitted).

Here, as in *Domestic Airline*, the combination of “e-mail and publication” notice (*id.* at 71), was the best notice practicable given the large size of the class, which is further shown by the Administrator’s estimate that notice reached approximately 80% of potential members of the Settlement Class. Schachter Decl., ¶ 21. This is consistent with recommendations by the Federal Judicial Center’s Judges’ Class Action Notice and Claims Process Checklist and Plain Language Guide, which considers reach exceeding 70% to be reasonable. *See* Dkt. 222-3, ¶ 30.

As of this date, a total of 271,669 claims have been received. The number of claims is a reflection of the extensive and multifaceted notice campaign in this case. Moreover, because Settlement Class members may submit claims until May 11, 2022, the number of claimants is likely to *increase* during the next two months. That is particularly likely in this case because the administrator sent an email reminder to file claims to millions of potential Settlement Class members with a valid email. Schachter Decl., ¶ 18. Plaintiffs can update the Court about the number of claims at the final approval hearing, scheduled for May 17, 2022.

#### **V. THE PROPOSED PLAN OF ALLOCATION IS FAIR AND ADEQUATE**

A plan of allocation “must be fair and adequate,” but it “need only have a reasonable, rational basis, particularly if recommended by experienced and competent class counsel.” *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 2019 WL 6875472, at \*20 (E.D.N.Y. Dec. 16, 2019); *accord In re Advanced Battery Techs., Inc. Sec. Litig.*, 298 F.R.D. 171, 180 (S.D.N.Y. 2014).

Plaintiffs propose to distribute settlement funds *pro rata* to qualifying class members based on the number of approved claims submitted. *See* Schachter Decl., Ex. E ¶ 8 (proposing *pro rata* allocation in notice to class). Such *pro rata* allocations are routinely approved, and have been called “the fairest method of allocating the settlement benefits.” *See In re Lloyd’s Am. Trust*



*Fund Litig.*, 2002 WL 31663577, at \*19 (S.D.N.Y. Nov. 26, 2002) (“*pro rata* allocations provided in the Stipulation are not only reasonable and rational, but appear to the fairest method of allocating the settlement benefits”); *see also In re TFL-LCD (Flat Panel) Antitrust Litig.*, 2011 WL 7575004, at \*4 (N.D. Cal. Dec. 27, 2011) (approving a *pro rata* plan and citing several cases for this holding, including *In re Vitamins Antitrust Litig.*, 2000 WL 1737867, at \*6 (D.D.C. Mar. 31, 2000)). No objector has challenged the proposed plan of allocation.

Here, Plaintiffs respectfully submit that it makes the most sense to distribute settlement proceeds to claimants at a later date, after the claims against the Non-Settling Defendants (Visa and MasterCard) are also resolved, and to submit a detailed distribution plan at that time. That would allow Plaintiffs to combine the distribution of the funds from the current settlements with any later recovery in the case, maximizing efficiency and minimizing administrative costs. These types of deferrals are often approved and do not stand in the way of final approval of the Settlements or an award of attorneys’ fees. *See, e.g., Domestic Airline*, 378 F. Supp. 3d at 22 (“In a case such as this, involving a large number of Class Members and two Non-Settling Defendants, it would be inefficient to distribute and process claims until the entire case has been resolved through litigation or otherwise and the Total Funds Available for Distribution are known.”).

However, if the Court would prefer Plaintiffs to distribute funds after final approval of the settlements with the Bank Defendants, Plaintiffs will do so. In that case, Plaintiffs will submit a motion for distribution of these settlement funds following final approval.

## VI. THE SOLE OBJECTION IS MERITLESS

Mr. Huang is the sole objector to the Settlements. His arguments concern Class Counsel’s attorney and service fee application, not the merits of the Settlements. *E.g.*, Dkt. No. 254 at 1 (“Huang files his Objection to chiefly focus on only one key issue pending here: **Every Named**

**Plaintiffs’ \$10,000 service awards [sic] must be denied under *stare decisis*.**”) (emphasis in original); *see generally* Dkt. 257 (in Mr. Huang’s “supplemental objection,” he focuses on Class Counsel’s fee application).<sup>6</sup> Huang also spends 5.5 pages of his 12-page supplemental objection arguing that his motivations are benign and that he is not a “serial objector,” as well as maligning the motivations of Class Counsel. *See* Dkt. 257 at 6-11. These discussions are an unfortunate distraction from the only thing that matters. Mr. Huang’s arguments are incorrect and contrary to controlling law, as many courts have held.

**A. Co-Lead Class Counsel’s Request for Attorneys’ Fees and Reimbursement of Litigation Expenses Already Incurred Is Reasonable**

As detailed in Plaintiffs’ Motion for Award of Attorneys’ Fees, Reimbursement of Litigation Expenses, and Service Awards for Class Representatives (Dkt. No. 256, “Fee Motion”), Plaintiffs’ attorneys’ fee request is reasonable. To begin with, Huang downplays that in the D.C. Circuit, “a percentage-of-the-fund method is the appropriate mechanism for determining the attorney fees award in common fund cases.” *Swedish Hosp. Corp. v. Shalala*, 1 F.3d 1261, 1271 (D.C. Cir. 1993); *accord In re Fannie Mae Sec., Derivative, & “ERISA” Litig.*, 4 F. Supp. 3d 94, 110 (D.D.C. 2013) (Leon, J.). The fee request for 30 percent of the common settlement fund, or \$20,022,000, is well within the range of awards in comparable cases, and it is reasonable when considering the factors courts in this District examine when scrutinizing fee requests. *See* Dkt. 256 at 15-25 (citing cases and discussing factors). Mr. Huang objects to the fee request, but he does not apply these factors when doing so. Moreover, although not required,

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<sup>6</sup> Huang’s arguments are also procedurally improper and untimely. His original objection was styled as “Class Member Shiyang Huang’s Response/Objection to Motion for Settlement Approval [ECF No. 250].” Dkt. 254 (dated February 10, 2022). However, the docket number Mr. Huang referenced was Plaintiffs’ Preliminary Approval Motion, which was granted on November 11, 2021 (Dkt. 252), months before Mr. Huang’s brief. Thus, his objection, ostensibly to preliminary approval, is untimely. Regardless, his arguments fail on the merits, both as to his original objection and his “supplemental objection.”

performing a lodestar cross-check also confirms the reasonableness of the request because: (1) the lodestar utilized for the cross-check includes a 5% across-the-board reduction (*id.* at 13 n.4); (2) is calculated based on historical billing rates, rather than the current, higher billing rates, as many courts, including this Court, have utilized (*id.* at 13 n.4 & 26 n.10); and (3) even with these adjustments, the fee request represents a very modest lodestar multiplier of 1.22 (*id.* at 2; *see also id.* at 27 (citing cases showing that a 1.22 multiplier is well within the range of multipliers granted in other cases, and lower than many)).<sup>7</sup>

Mr. Huang also ignores this Court’s holding that “[i]n addition to being entitled to reasonable attorneys’ fees, class counsel in common fund cases are also entitled to reasonable litigation expenses from that fund.” *In re Fannie Mae*, 4 F. Supp. 3d at 113 (quoting *In re Lorazepam & Clorazepate Antitrust, Litig.*, 2003 WL 22037741, at \*10 (D.D.C. June 16, 2003) (emphasis added)); *see also Vista Healthplan, Inc., v. Warner Holdings Co. III, Ltd.*, 246 F.R.D. 349, 365 (D.D.C. 2007) (“[T]here is no doubt that an attorney who has created a common fund for the benefit of the class is entitled to reimbursement of . . . reasonable litigation expenses from that fund.”). Here, Class Counsel has litigated this case for eleven years, and advanced out-of-pocket costs of approximately \$3.24 million more than the \$10 million requested in reimbursement. Dkt. 256-1 at 27-30. Counsel has done so while facing the prospect of recovering *nothing* for this significant investment if the case was unsuccessful. Huang ignores the practical realities of Class Counsel’s efforts and focuses instead on inapt arguments that misapply the law.

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<sup>7</sup> Indeed, if Class Counsel used current billing rates as many Courts do, without any billing judgment adjustment, its lodestar would be \$23,722,023, leading to a *negative* multiplier of 0.84. *See* Dkt. 256-1 at 26 n.10.

**1. Mr. Huang's Arguments About the Size of the Amount Requested Are Meritless**

Huang's primary argument is that the Class Counsel's request is "eye-popping" and "excessive." Dkt. No. 257 at 1-2. Huang goes so far as to state that Class Counsel "should get just" the expenses they advanced in the case and *no fees. Id.* But that would be grossly unfair, because it would mean Class Counsel would not recover a dime for over a decade of work on this case, including in obtaining the Bank Settlements. Huang calls the attorneys' fee request a 30% "commission" on top of the amount requested for expense reimbursement (*id.* at 1), distorting the fact that Class Counsel already spent \$13.24 million on litigation expenses, and the fee request is for counsel's work on the case, while the expense reimbursement is just that, a request to recoup a portion of the costs already spent by counsel out-of-pocket to litigate this case, with no guarantee of recovery at all.

The law does not support Mr. Huang's objection. Rather, courts award reasonable attorneys' fees in common fund cases, like those requested here, because they incentivize private law firms to undertake the risks and costs of litigating antitrust class actions that ultimately benefit consumers. *E.g., In re Lorazepam*, 2003 WL 22037741, at \*9 (approving 30% fee award in part because "this class action was vigorously litigated for a protracted period of time, raised novel and complex issues, [and] involved a substantial risk of absolute non-payment"); *In re Credit Default Swaps Antitrust Litig.*, 2016 WL 2731524, at \*17-18 (S.D.N.Y. Apr. 26, 2016) (approving \$257 million fee request and noting: "[T]here are significant public policy considerations that weigh in favor of approval. It is important to encourage top-tier litigators to pursue challenging antitrust cases such as this one."); *see also Pillsbury Co. v. Conboy*, 459 U.S. 248, 262-63 (1983) (emphasizing "the importance of the private action as a means of furthering the policy goals of certain federal regulatory statutes, including the federal antitrust laws").

Huang also argues (Dkt. No. 257 at 1-2) that the fee award should be calculated as a percentage of the *net* settlement fund (*i.e.*, the total settlement fund, minus the requested \$10 million in expense reimbursement) as opposed to the *gross* settlement fund (*i.e.*, the total settlement fund, before expenses are deducted). However, courts often use the gross settlement fund as a benchmark for determining Class Counsel’s fee award because “the costs of litigation and claims administration” are “treated as a benefit to the class,” just like the rest of the settlement fund. *Ferrer v. CareFirst, Inc.*, 2019 WL 11320974, at \*7 (D.D.C. Sept. 30, 2019). The \$10 million requested for expense reimbursement is a portion of the amount (\$13.24 million) that Class Counsel incurred to obtain the Settlements; it is neither fair nor logical to subtract that from the settlement amount for purposes of calculating Class Counsel’s fees. *Trombley*, 826 F. Supp. 2d at 207 (citing *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980)). For this reason, courts in this District routinely base fee awards on the gross settlement fund, rather than the net settlement fund. *See, e.g., In re Lorazepam*, 2003 WL 22037741, at \*9; *Bynum v. D.C.*, 412 F. Supp. 2d 73, 81 (D.D.C. 2006); *In re Vitamins Antitrust Litig.*, 2001 WL 34312839, at \*9 (D.D.C. July 16, 2001) (awarding attorneys’ fees equal to 33.7% of \$365 million settlement fund, minus payments to opt outs). This Court should do the same here.<sup>8</sup>

In any event, it does not matter which method is used, because the fee request is reasonable under either benchmark given the long-running and complex nature of this case. *See Powers v. Eichen*, 229 F.3d 1249, 1258 (9th Cir. 2000) (“the choice of whether to base an attorneys’ fee award on either net or gross recovery should not make a difference so long as the

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<sup>8</sup> Huang’s cited cases are inapposite. In *Pearson v. NBTY, Inc.*, 772 F.3d 778, 781 (7th Cir. 2014), the settlement “yield[ed] total compensation for the class members of less than \$1 million,” meaning the awarded attorney’s fees were “an outlandish 69 percent” of the settlement. And *In re Baby Prods. Antitrust Litig.*, 708 F.3d 163, 178 (3d Cir. 2013), concerned a class settlement whereby some of the funds would be distributed to *cy pres* recipients. Neither circumstances—an “outlandish” fee request nor a novel *cy pres* scheme—is present here.

end result is reasonable”); *In re Visa Check/Mastermoney Antitrust Litig.*, 297 F. Supp. 2d 503, 525 n.34 (E.D. N.Y. 2003), *aff’d sub nom. Wal-Mart Stores, Inc. v. Visa U.S.A. Inc.*, 396 F.3d 96 (2d Cir. 2005) (rejecting objector’s assertion that the judge “should award attorneys’ fees calculated on the net recovery to the Class, excluding costs and expenses”); *see also In re Ampicillin Antitrust Litig.*, 526 F. Supp. 494, 498 (D.D.C. 1981) (noting that several courts have awarded more than 40 percent of the settlement fund in antitrust cases).

## **2. Mr. Huang’s Arguments About the Lodestar Have Been Rejected by Courts**

Mr. Huang also argues that the Supreme Court’s decision in *Perdue v. Kenny A. ex rel. Winn*, 559 U.S. 542, 554-55 (2010), prevents Class Counsel from recovering anything more than a 1x lodestar multiple. Dkt. No. 257 at 2. But “the *Perdue* presumption against a lodestar enhancement does not apply” in cases like this, “when a court awards fees from a common fund created after a settlement.” *In re BioScrip, Inc. Sec. Litig.*, 273 F. Supp. 3d 474, 480-90 (S.D.N.Y. 2017). To ignore this distinction would upend decades of precedent awarding lodestar multiples in antitrust common fund cases, and it would undermine the strong policy arguments in favor of granting reasonable fee awards in such cases. *See* Section IV.A.1, *supra*. Indeed, the *Perdue* argument Mr. Huang raises here was recently rejected in a case involving Mr. Huang. *In re Equifax Inc. Customer Data Sec. Breach Litig.*, 999 F.3d 1247, 1279 (11th Cir. 2021) (“Nothing in *Perdue* considered the appropriate method for calculating attorney’s fees in a common fund case. The percentage method therefore remains the proper method to apply when awarding attorney’s fees in common fund settlement cases.”).

## **3. Mr. Huang’s Arguments About the “Approximation of the Market” Are Meritless**

Mr. Huang also asserts that the fee request does not “approximate the market” based on (1) a 2020 NERA study of securities class actions and (2) two bids Hagens Berman submitted in

unrelated cases. Huang ignores that private contingency fee arrangements frequently result in lawyers obtaining fee awards between 30-40% of the recovery, which confirms that the 30% requested here is consistent with the market. *See* Dkt. 256-1 at 17. In any event, neither of Mr. Huang's cited sources supports his argument.

**NERA Study:** Mr. Huang cites a NERA study purportedly showing that Class Counsel's fee *and* expense award should be limited to \$19.272 million, or 29.2% of the gross settlement fund. Dkt. No. 257 at 4. But that study is inapposite for at least two reasons.

*First*, NERA surveyed securities cases, not antitrust cases, and the "antitrust class action is arguably the most complex action to prosecute." *See In re Linerboard Antitrust Litig.*, 2004 WL 1221350, at \*10 (E.D. Pa. June 2, 2004) (quoting *In re Motorsports Merch. Antitrust Litig.*, 112 F. Supp. 2d 1329, 1337 (N.D. Ga. 2000) (internal quotation marks omitted)).<sup>9</sup> Confirming that the requested fee award is reasonable for an antitrust class action, Plaintiffs' Fee Motion cited a study showing that among antitrust class action settlements surveyed between 2009 and 2020, the median fee awarded for settlements between \$50 million and \$99 million was 30 percent—the amount requested here as a portion of the \$66.74 million in settlements. *See* Dkt. No. 256-1 at 16 (citing 2021 study by Professor Joshua Davis that was published in the 2020 Antitrust Annual Report); *see also id.* at 16-17 (citing cases showing that the requested amount is well within the range of fee awards granted in analogous class actions, including in this District).

*Second*, the cases NERA surveyed are poor comparisons to this lawsuit. "[A] signification proportion" of the cases in the NERA survey were "resolved in under four years";

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<sup>9</sup> *See also Meredith Corp. v. SESAC, LLC*, 87 F. Supp. 3d 650, 669 (S.D.N.Y. 2015) (antitrust cases are "notoriously complex, protracted, and bitterly fought"); *In re Auto. Refinishing Paint Antitrust Litig.*, 617 F. Supp. 2d 336, 341 (E.D. Pa. 2007) (the "antitrust class action is arguably the most complex action to prosecute[;] [t]he legal and factual issues involved are always numerous and uncertain in outcome" (internal quotation marks and citation omitted)).

“more than 80% of suits are resolved within four years”; and “[t]he most common resolution periods in the data are between one and two years (28% of cases) and between two and three years (23% of cases).”<sup>10</sup> Obviously, that is not what happened here: this case took almost *twice as long to settle* as nearly every case surveyed by NERA, and it cost Class Counsel nearly \$13.24 million in expenses (not including fees) to do so. Because the fee inquiry is case specific, the unique circumstances here weigh in favor of the requested fee award. *See Swedish Hosp. Corp.*, 1 F.3d at 1265.

***Bids In Unrelated Lawsuits:*** Bids that Hagens Berman submitted in unrelated lawsuits are just that: bids submitted in different cases, in different courts, with different facts. They have no bearing on the reasonableness of the fee request here. Indeed, the same argument Mr. Huang raises here was rejected in one of his own cited cases, which determined that even the bid submitted at the outset *in that case*, which was *not* actually accepted by that court, was not “relevant to . . . determin[ing] the reasonableness of the request for attorneys’ fees” post settlement. *In re Lithium Ion Batteries Antitrust Litig.*, 2020 WL 7264559, at \*21 (N.D. Cal. Dec. 10, 2020). That is all the more true in this case, where no bid was presented at any point, and Mr. Huang points only to bids submitted in other lawsuits in which two of the three firms representing Plaintiffs (Quinn Emanuel and Mehri & Skalet) were not even involved.

**B. Mr. Huang’s Arguments About Service Awards Should Be Rejected**

Mr. Huang also objects to the request for \$10,000 service awards (also called incentive awards) to each of the two Class Representatives, Andrew Mackmin and Sam Osborn. But as

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<sup>10</sup> NERA, *Recent Trends in Securities Class Action Litigation: 2020 Full-Year Review* (Jan. 25, 2021), [https://www.nera.com/content/dam/nera/publications/2021/PUB\\_2020\\_Full-Year\\_Trends\\_012221.pdf](https://www.nera.com/content/dam/nera/publications/2021/PUB_2020_Full-Year_Trends_012221.pdf).



shown in Plaintiffs' Fee Motion, such service awards are routinely granted and are particularly well deserved here. Dkt. No. 256-1 at 30-31.

Ignoring decades of precedent, Mr. Huang insists that service awards “**must be denied under *stare decisis***,” citing two Supreme Court cases from the 1800s that predate both Rule 23 and the antitrust laws. Dkt. No. 254 at 1 (emphasis in original). Mr. Huang is wrong. The D.C. Circuit has described service awards as “entirely appropriate” and has noted that they “have often been used to compensate a class representative for incurring expenses or taking on financial risk.” *Cobell v. Jewell*, 802 F.3d 12, 25 (D.C. Cir. 2015). And other courts have rejected Mr. Huang's argument that these pre-Rule 23 Supreme Court cases bar service awards to class representatives. *See Grace v. Apple, Inc.*, 2021 WL 1222193, at \*7 (N.D. Cal. Mar. 31, 2021) (rejecting same argument based on “novel reading of old Supreme Court decisions” as inconsistent with more recent precedent).<sup>11</sup>

While the Eleventh Circuit has held that service awards are not appropriate, *Johnson v. NPAS Sols., LLC*, 975 F.3d 1244 (11th Cir. 2020), that decision does not bind this Court. *Johnson* also has not been followed by other district courts because it is out of step with current class action practice. *See, e.g., In re Apple Inc. Device Performance Litig.*, 2021 WL 1022866, at \*11 (N.D. Cal. Mar. 17, 2021) (“This Court declines to follow *Johnson* and finds that the requested service awards are appropriate in this case.”); *Somogyi v. Freedom Mortg. Corp.*, 495 F. Supp. 3d 337, 353-54 (D.N.J. 2020) (declining to follow *Johnson*; “Until and unless the Supreme Court or Third Circuit bars incentive awards or payments to class plaintiffs, they will

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<sup>11</sup> The two cases, *Cent. R.R. & Banking Co. v. Pettus*, 113 U.S. 116 (1885), and *Trustees v. Greenough*, 105 U.S. 527 (1881), concerned starkly different facts than modern class action practice and have been distinguished by other courts granting service awards on the grounds that they do not apply in this context. *E.g., Melito v. Experian Mktg. Solutions, Inc.*, 923 F.3d 85, 96 (2d Cir. 2019) (finding both cases “inapposite” and rejecting argument that service awards are “unlawful”).

be approved by this Court if appropriate under the circumstances”). Plaintiffs respectfully submit that this Court likewise should not follow *Johnson* and should grant the requested awards because they appropriately compensate the class representatives for a decade of service to the Class that made the Settlements possible. Dkt. No. 256-1 at 30-31.

**C. Mr. Huang’s Request for Sanctions Is Meritless**

Finally, Mr. Huang objects to Plaintiffs’ description of him as a “serial objector” and seeks unspecified sanctions for what he calls a “false ad hominem.” Dkt. No. 257 at 6. Mr. Huang appears to take offense to the term “serial objector,” which he wrongly equates to being accused of extortion. No one has accused Mr. Huang of extortion. But the Court should be aware that Mr. Huang has a history of objecting to class action settlements and, in many cases, Mr. Huang’s objections have been found meritless.<sup>12</sup> Class Counsel’s description of Mr. Huang and his arguments was and remains accurate, and it certainly is not a basis for sanctions.

In any event, Mr. Huang failed to comply with any of Rule 11’s procedural requirements, which independently warrants denying his sanctions request. *E.g.*, *Phillips v. Mabus*, 319 F.R.D. 36, 40 (D.D.C. 2016) (denying sanctions requests that were “not stand-alone motions but rather

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<sup>12</sup> *See, e.g.*, *Huang v. Spector*, 142 S. Ct. 431 (2021) (denying Huang’s petition for certiorari to the United States Supreme Court); *Huang v. Schultz*, 141 S. Ct. 252 (2020) (same); *In re Equifax*, 999 F.3d at 1264 (“We are aware of no court that has adopted Mr. Huang’s idea that a district court is somehow divested of jurisdiction (and thus lacks authority to approve the settlement) once parties agree to settle a class action.”); *McDonald v. Edward D. Jones & Co.*, 791 F. App’x 638 (8th Cir. 2020) (affirming class action settlement; overruling Huang’s objections); *Smith v. Costa Del Mar, Inc.*, 2022 WL 252397, at \*3 n.3 (M.D. Fla. Jan. 27, 2022) (denying Huang’s motion; “Huang is not a member of the class, has not stated a cognizable interest in these proceedings, and filed what is essentially an objection well past the objection deadline”); *Larson v. Allina Health Sys.*, 2020 WL 583082, at \*2 (D. Minn. Feb. 6, 2020) (Huang’s “Motion for Leave to File Amicus Curiae seeks to ‘correct [the] use of [the] class-action device[ ] so that absentee will see less abuse while settling[.] (sic)’”; “Ultimately, the Court does not consider Huang’s proposed involvement to be timely, useful, or otherwise helpful to the Court.”).

are tacked on to their briefs in opposition to the motions to strike, and the requests were not served ... 21 days prior to the requests being presented to the Court”).

These assertions are an unfortunate distraction from the relevant questions of whether the proposed settlements and fee motion should be approved. Because, on the substance, Mr. Huang’s objections are without merit, Plaintiffs submit that they should be rejected.<sup>13</sup>

## VII. CONCLUSION

For these reasons, Plaintiffs respectfully request that the Court: (1) certify the proposed Settlement Class; (2) grant final approval of the proposed class action settlements with Bank of America, Wells Fargo, and Chase; (3) approve of the proposed Plan of Allocation; and (4) reject Mr. Huang’s objections and grant the attorneys’ fees, expenses, and services awards requested in Plaintiffs’ Fee Motion (Dkt. No. 256).

DATED this 25<sup>th</sup> day of March, 2022.

Respectfully submitted,

HAGENS BERMAN SOBOL SHAPIRO LLP

By:       /s/ Steve W. Berman      

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<sup>13</sup> Because Class Counsel have now responded to the only objection to Plaintiffs’ Motion for Award of Attorneys’ Fees, Reimbursement of Litigation Expenses, and Service Awards for Class Representatives (Dkt. No. 256), that motion is now ripe for adjudication as well, and Plaintiffs respectfully request that it be granted. *See* Dkt. No. 265-25, [Proposed] Order Granting *Mackmin* Consumer Plaintiffs’ Motion for Award of Attorneys’ Fees, Reimbursement of Litigation Expenses, and Service Awards for Class Representatives.

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**UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA**

*Mackmin, et al. v. Visa Inc., et al.*

Case No. 1:11-cv-01831 (RJL)

**DECLARATION OF ERIC  
SCHACHTER IN SUPPORT OF  
PLAINTIFFS' MOTION FOR FINAL  
APPROVAL OF SETTLEMENTS**

This Document Relates to:  
All Plaintiff Actions

I, Eric Schachter, hereby declare as follows: I am a Vice President with A.B. Data, Ltd. ("A.B. Data"). I am fully familiar with the facts contained herein based upon my personal knowledge, and if called as a witness, could and would testify competently thereto. I submit this declaration at the request of Co-Lead Class Counsel in connection with the above-captioned action (the "Action").

1. As detailed in the Declaration of Linda V. Young in Support of Plaintiffs' Motion dated October 25, 2021 (the "Notice Declaration"), and pursuant to the Court's Preliminary Approval Order Granting Preliminary Approval of Settlements With The Bank of America, Chase, and Wells Fargo Defendants and Directing Notice to the Class dated November 12, 2021, A.B. Data was responsible for implementing the Court-approved Notice Plan. The Notice Plan was designed to provide notice to potential Settlement Class Members. The Settlement Class is defined as follows:

All individuals and entities that paid an unreimbursed ATM Access Fee directly to any Bank Defendant or Alleged Bank Co-Conspirator for a Foreign ATM Transaction using an ATM card issued by a financial institution in the United States to withdraw cash at an ATM located in the United States at any time from

October 1, 2007, to the date of the Preliminary Approval Order [November 12, 2021].

2. As detailed in the Notice Declaration, the Notice Plan featured a combination of: i) direct email notice to potential Settlement Class Members; ii) a digital advertising campaign on numerous digital and social media platforms; iii) a news release disseminated via *PR Newswire*; iv) a publication notice in *People* magazine; and v) a toll-free telephone number and case-specific website to address potential Settlement Class Member inquiries.

#### **Direct Notice**

3. Settling Defendants have provided names and contact information that includes an email address for approximately 100 million potential Settlement Class Members. A.B. Data worked directly with Plaintiffs and Settling Defendants to ensure that all data provided by the Settling Defendants will be handled with the appropriate safeguards and protocols in place to protect the privacy of each potential Settlement Class Member. A.B. Data has shared its internal data security protocols and procedures with the parties, and we have affirmatively agreed to treat the data provided by Settling Defendants as high security data subject to multiple layers of encryption.

4. The data provided by Settling Defendants has been electronically processed to consolidate duplicate records, and the unique potential Settlement Class Member names and contact information are being stored in our secure notice database for purposes of providing notice.

5. In advance of initiating the email campaign, A.B. Data performed several tasks to maximize deliverability and avoid SPAM and junk filters. These tasks included running the list of recipient email addresses through a deliverability analysis to ensure the email addresses are valid, and working with our contacts at the email service providers to develop sending strategies to achieve optimal deliverability. A.B. Data also incorporated certain best practices to maximize deliverability, such as ensuring no inclusion of words or phrases known to trigger SPAM or junk filters, not including attachments to the email, and sending the emails in tranches over a period of weeks.

6. Of the 99,597,265 email addresses received from the Banks, a total of 87,685,557 unique email addresses remained after the data review and validation efforts.

7. On December 10, 2021, A.B. Data began to send the Email Notice by email to potential Settlement Class Members with a known email address in the unique data set addressed above. Based on our records, those emails were successfully delivered to 59,271,528 or 67% of the unique email addresses. The delivery rate is due to the subject matter of the case, and the volume of emails sent. A.B. Data worked with email technical consultants to address email deliverability throughout the initial Email Notice. A true and correct copy of the Email Notice is attached as **Exhibit A**.

### **Digital Media**

8. To supplement direct notice efforts, beginning on December 10, 2021, A.B. Data caused digital banner and newsfeed ads to appear on various websites and social media platforms. These banner ads were placed on the Google Display Network

and on social media channels such as Facebook, Instagram, and YouTube. These ads appeared on both desktop and mobile formats.

9. Targeted advertisements were delivered to potential Settlement Class Members using their known contact information. These ads were placed in “premium positioning” on websites and social media sites, and were specifically designed to be readable, noticeable, and widely disseminated.

10. A.B. Data also used Google AdWords, where identified target phrases and keywords relevant to the Class are used in searches on Google, then links to the Settlement website will appear on the search result pages.

11. Over 630,400,000 impressions have been delivered, resulting in over 546,962 clicks to the Settlement website and case-specific Facebook page that was created as a landing page for the links in the Facebook and Instagram newsfeed ads. A sample of the digital banner and newsfeed ads are attached as **Exhibit B**.

### **Earned Media**

12. On December 10, 2021, A.B. Data disseminated a news release via *PR Newswire*'s US1 Newswire distribution list to announce the Settlements. This news release distributed via *PR Newswire* went to the news desks of approximately 10,000 newsrooms, including those of print, broadcast, and digital websites across the United States. The news release was also translated and published to *PR Newswire*'s U.S. Hispanic media contacts and Hispanic news websites. News about the Settlements was also sent via Twitter to the followers of *PR Newswire* and A.B. Data. A copy of the news release is attached as **Exhibit C**.



### **Print Media**

13. A.B. Data published notice in the January 3, 2022, edition of *People* magazine. To reach the older age ranges of the Settlement Class, as well as those who are light users of digital and social media, the Email Notice, formatted as a 1/3-page ad, was published one time in *People* magazine. *People* has a broad national readership with a weekly audience of more than 26 million readers. A copy of the ad is attached as **Exhibit D**.

### **Website and Telephone**

14. To assist potential Settlement Class Members in understanding the terms of the Settlement and their rights, A.B. Data established a case-specific toll-free telephone number (877-311-3724) and a case-specific website ([www.atmclassaction.com](http://www.atmclassaction.com)).

15. On December 10, 2021, A.B. Data established a case-specific toll-free telephone number with an interactive voice response (“IVR”) system which provided summary information to frequently asked questions. This also provided callers the opportunity to speak with a live customer support representative. As of today’s date, a total of 3,619 calls have been placed to the toll-free number, with 2,742 of those being transferred to a representative.

16. On December 10, 2021, A.B. Data established a case-specific website, [www.atmclassaction.com](http://www.atmclassaction.com). The website address appeared on the Email Notice, Long-Form Notice, and in *PR Newswire* and *People* magazine. The website includes case-specific information, including relevant deadlines and downloadable versions of the Complaint,

Settlement Agreement, Long-Form Notice, and other relevant documents, including the motion for attorneys' fees. A copy of the Long-Form Notice is attached as **Exhibit E**. The website also includes functionality for Settlement Class Members to submit an online claim quickly and easily. To date, the website has 705,852 hits.

### **Claims**

17. Settlement Class Members who opted to receive their share of money from the Settlement are required to have their Claim Forms submitted online at the Settlement Website on or before May 11, 2022, or postmarked by May 11, 2022. As of this date, a total of 273,191 Claims have been received. These Claims are under review, and the final count has not yet been determined and is subject to change until all Claims have been finalized after the Claims deadline. A copy of the Claim Form is attached as **Exhibit F**.

18. A.B. Data worked with Co-Lead Counsel to draft an email reminder to file a Claim, which was sent to Settlement Class Members with a valid email. A.B. Data began sending these emails on March 16, 2022, and will send them through April 20, 2022, prior to the May 11, 2022 Claims deadline ordered by the Court. A copy of the Email Reminder is attached as **Exhibit G**.

### **Requests for Exclusion and Objections**

19. The notices provide that Settlement Class Members may request exclusion by sending a written request to the Settlement Administrator that was postmarked by March 11, 2022. As of the date of this declaration, A.B. Data has received 17 requests for exclusion from the Settlement Class. Attached hereto as **Exhibit H** is a list of requests for exclusion.

20. The deadline to object to the Settlement was March 11, 2022. The Notice informed Settlement Class Members that objections were to be mailed directly to the Court. As of the date of this declaration, A.B. Data has been made aware of one objection.

**Conclusion**

21. Based on my individual expertise and experience and that of my A.B. Data colleagues, that the Notice Plan effectively reached an estimated 80% of the target audience and thus potential Settlement Class Members, delivered plain language notices designed to capture potential Settlement Class Members' attention, and provided them with information about the settlement in an informative and easy to understand manner.

22. In sum, I believe that the Notice Program in this Action as described herein has provided the best notice practicable under the circumstances, is consistent with the requirements set forth in Rule 23 of the Federal Rules of Civil Procedure, and is consistent with, and indeed exceeds, other similar court-approved practicable notice programs.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25th day of March 2022 in Milwaukee, Wisconsin.



ERIC SCHACHTER

# EXHIBIT A

**From:** [ATM Surcharge Class Action Settlement](#)  
**To:**  
**Subject:** COURT APPROVED LEGAL NOTICE Friday,  
**Date:** December 10, 2021 3:51:52 PM

---

## **Used An ATM Card And Were Assessed A Surcharge? You Could Get Money From \$67 Million Class Action Settlements**

This class action alleges Defendants violated federal antitrust laws by adopting restraints that allegedly inflated the ATM surcharges paid by the Class. Defendants deny these allegations. The Court has not decided who is right.

JP Morgan, Wells Fargo, and Bank of America (“Settling Defendants”) have agreed to Settlements resolving the claims.

### **Am I included?**

You are a Settlement Class Member if, at any time between October 1, 2007 and November 12, 2021, you paid a surcharge to withdraw cash from a bank ATM in the United States. You are excluded from the Settlement Class if all of your surcharged ATM transactions were (a) reimbursed, or (b) conducted on cards issued by financial institutions located outside of the United States. A more detailed notice, including the exact Settlement Class definition and exceptions to Settlement Class membership, is available at [www.ATMClassAction.com](http://www.ATMClassAction.com).

### **What does the Settlement provide?**

The Settlements provide for the payment of \$66,740,000 in cash to resolve the claims.

### **How can I get a payment?**

To receive money from this Settlement, you must complete a Claim Form that asks you to state under oath that you were assessed ATM surcharges. You are not required to provide documentation with the Claim Form, but the Settlement Administrator reserves the right to request your bank statements or other documentation supporting your claim. Visit [www.ATMClassAction.com/claims](http://www.ATMClassAction.com/claims) to fill out a Claim Form online or download one that can be mailed. To be eligible for payment, Claim Forms must be submitted electronically or postmarked no later than May 11, 2022.

Please note your Notice ID Number is 10293-85736. You will be requested to provide your Notice ID Number on your Claim Form, which will be used to expedite the validation of your claim submission.

## What are my rights?

If you are a Settlement Class Member, even if you do nothing, you will be bound by the Court's decisions and judgments concerning the Settlements. If you want to keep your right to sue the Settling Defendants regarding ATM surcharges, you must exclude yourself from the Settlement Class in writing by March 11, 2022. If you stay in the Settlement Class, you may object to the Settlements in writing by March 11, 2022. The Settlement Agreements, along with details on how to exclude yourself or object, are available at [www.ATMClassAction.com](http://www.ATMClassAction.com). The U.S. District Court for the District of Columbia is scheduled to hold a hearing on May 17, 2022, at 3:00 p.m., at 333 Constitution Avenue N.W., Courtroom 18, Washington D.C. 20001, to consider whether to approve the Settlements. Class Lead Counsel will also request at the hearing, or at a later date, attorneys' fees of up to 33% of the Settlement Fund, plus reimbursement of costs and expenses, for investigating the facts, litigating the case, and negotiating the Settlements. You or your own lawyer may appear and speak at the hearing at your own expense, but you don't have to. The hearing may be conducted electronically or moved to a different date or time without additional notice, so it is a good idea to check [www.ATMClassAction.com](http://www.ATMClassAction.com) for additional information. Please do not contact the Court about this case.

If the case against the other Defendants is not dismissed, settled, or resolved by legal motion, plaintiffs will have to prove their claims against the other Defendants at trial. Trial dates have not yet been set. The Court has appointed the law firms of Hagens Berman Sobol Shapiro LLP; Quinn Emanuel Urquhart & Sullivan, LLP; and Mehri & Skalet, PLLC as Class Lead Counsel to represent Settlement Class Members.

[Unsubscribe](#)

# EXHIBIT B



*Mackmin et al. v. Visa Inc. et al.*

Banner Ads

**\$67 MILLION SETTLEMENTS**  
**You Could GET MONEY**  
If You Used an  
**ATM Card to Withdraw CASH**  
**FILE YOUR CLAIM NOW >**  
ATMClassAction.com

A banner advertisement with a yellow top bar containing the text '\$67 MILLION SETTLEMENTS'. Below this, on a blue background, is the text 'You Could GET MONEY'. To the left is an image of an ATM. To the right of the ATM is the text 'If You Used an ATM Card to Withdraw CASH'. At the bottom right is a yellow button with the text 'FILE YOUR CLAIM NOW >' and the website 'ATMClassAction.com' below it.

**\$67 MILLION SETTLEMENTS**  
**YOU COULD GET MONEY**  
IF YOU USED AN  
**ATM Card to Withdraw CASH**  
**FILE YOUR CLAIM NOW >**  
ATMClassAction.com

A banner advertisement with a blue top bar containing the text '\$67 MILLION SETTLEMENTS'. Below this, on a blue background, is the text 'YOU COULD GET MONEY'. To the left is an image of an ATM. To the right of the ATM is the text 'IF YOU USED AN ATM Card to Withdraw CASH'. At the bottom right is a white button with the text 'FILE YOUR CLAIM NOW >' and the website 'ATMClassAction.com' below it.

**\$67 MILLION SETTLEMENTS**  
**You Could GET MONEY**  
If You Used an  
**ATM Card to Withdraw CASH**  
**File Your CLAIM NOW >>**  
ATMClassAction.com

A banner advertisement with a blue and green background. At the top is the text '\$67 MILLION SETTLEMENTS'. Below this is the text 'You Could GET MONEY'. To the left is an image of an ATM. To the right of the ATM is the text 'If You Used an ATM Card to Withdraw CASH'. At the bottom right is a white button with the text 'File Your CLAIM NOW >>' and the website 'ATMClassAction.com' below it.

Mobile Ads

**\$67 MILLION SETTLEMENTS**  
If You Used an  
**ATM Card to Withdraw CASH**  
**FILE CLAIM >**  
ATMClassAction.com

A horizontal mobile banner advertisement with a blue background. On the left is the text '\$67 MILLION SETTLEMENTS'. Below it is 'If You Used an'. To the right is the text 'ATM Card to Withdraw CASH'. Further right is a yellow button with the text 'FILE CLAIM >' and the website 'ATMClassAction.com' below it.

**\$67 MILLION SETTLEMENTS**  
If You Used An  
**ATM Card to Withdraw CASH**  
**FILE CLAIM NOW >**  
ATMClassAction.com

A horizontal mobile banner advertisement with a blue background. On the left is the text '\$67 MILLION SETTLEMENTS'. Below it is 'If You Used An'. To the right is the text 'ATM Card to Withdraw CASH'. Further right is a white button with the text 'FILE CLAIM NOW >' and the website 'ATMClassAction.com' below it.

**\$67 MILLION SETTLEMENTS**  
If You Used an  
**ATM Card to Withdraw CASH**  
**FILE CLAIM NOW**  
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A horizontal mobile banner advertisement with a blue and green background. On the left is the text '\$67 MILLION SETTLEMENTS'. Below it is 'If You Used an'. To the right is the text 'ATM Card to Withdraw CASH'. Further right is a white button with the text 'FILE CLAIM NOW' and the website 'ATMClassAction.com' below it.



## Facebook Ads

### ATM Surcharge Class Action Settlements

Sponsored

You Could Get Money if You Used an ATM Card to Withdraw Cash and Were Assessed a Surcharge.



The advertisement features a blue background. On the left is a realistic illustration of a silver ATM with a screen and keypad. To the right of the ATM, a white arrow-shaped callout box contains the text "\$67 MILLION SETTLEMENTS" in bold black letters. Below the image, a white text box contains the text: "To receive money from these Settlements, you must complete a Claim Form found at ATMClassAction.com". A "Learn More" button is located to the right of this text box.



Comments Shares

Like Comment Share

### ATM Surcharge Class Action Settlements

Sponsored

You Could Get Money if You Used an ATM Card to Withdraw Cash and Were Assessed a Surcharge.



The advertisement features a green background. On the left is a stylized illustration of a green ATM with a screen and keypad. To the right of the ATM, a white arrow-shaped callout box contains the text "\$67 MILLION SETTLEMENTS" in bold black letters. Below the image, a white text box contains the text: "To receive money from these Settlements, you must complete a Claim Form found at ATMClassAction.com". A "Learn More" button is located to the right of this text box.



Comments Shares

Like Comment Share



[abdataclassaction.com](http://abdataclassaction.com)

New York | Washington, D.C. | West Palm Beach | Milwaukee | Tel Aviv

# EXHIBIT C

**Hagens Berman Sobol Shapiro LLP, Quinn Emanuel Urquhart & Sullivan, LLP, and Mehri & Skalet, PLLC Announce \$67 Million Settlements for Persons and Entities Who Withdrew Money from an ATM**

Washington D.C. / December 10, 2021 / PR Newswire --

**Used An ATM Card And Were Assessed A Surcharge?  
You Could Get Money From \$67 Million Class Action Settlements**

This class action alleges Defendants violated federal antitrust laws by adopting restraints that allegedly inflated the ATM surcharges paid by the Class. Defendants deny these allegations. The Court has not decided who is right.

JP Morgan, Wells Fargo, and Bank of America (“Settling Defendants”) have agreed to Settlements resolving the claims.

**Am I included?**

You are a Settlement Class Member if at any time on or after October 1, 2007 you paid a surcharge to withdraw cash from a bank ATM in the United States. You are excluded from the Settlement Class if all of your surcharged ATM transactions were (a) reimbursed, or (b) conducted on cards issued by financial institutions located outside of the United States. A more detailed notice, including the exact Settlement Class definition and exceptions to Settlement Class membership, is available at [www.ATMClassAction.com](http://www.ATMClassAction.com).

**What does the Settlement provide?**

The Settlements provide for the payment of \$66,740,000 in cash to resolve the claims.

**How can I get a payment?**

To receive money from this Settlement, you must complete a Claim Form that asks you to state under oath that you were assessed ATM surcharges. You are not required to provide documentation with the Claim Form, but the Settlement Administrator reserves the right to request your bank statements or other documentation supporting your claim. Visit [www.ATMClassAction.com/claims](http://www.ATMClassAction.com/claims) to fill out a Claim Form online or download one that can be mailed. To be eligible for payment, Claim Forms must be submitted electronically or postmarked no later than May 11, 2022.

**What are my rights?**

If you are a Settlement Class Member, even if you do nothing, you will be bound by the Court’s decisions and judgments concerning the Settlements. If you want to keep your right to sue the Settling Defendants regarding ATM surcharges, you must exclude yourself from the Settlement Class in writing by March 11, 2022. If you stay in the Settlement Class, you may object to the Settlements in writing by March 11, 2022. The Settlement Agreements, along with details on how to exclude yourself or object, are available at [www.ATMClassAction.com](http://www.ATMClassAction.com). The U.S. District Court for the District of Columbia is scheduled to hold a hearing on May 17, 2022, at 3:00 p.m., at 333 Constitution Avenue N.W., Courtroom 18, Washington D.C. 20001, to consider whether to approve the Settlements. Class Lead Counsel will also request at the hearing, or at a later date, attorneys’ fees of up to 33% of the Settlement Fund, plus reimbursement of costs and expenses,

for investigating the facts, litigating the case, and negotiating the Settlements. You or your own lawyer may appear and speak at the hearing at your own expense, but you don't have to. The hearing may be conducted electronically or moved to a different date or time without additional notice, so it is a good idea to check [www.ATMClassAction.com](http://www.ATMClassAction.com) for additional information. Please do not contact the Court about this case.

If the case against the other Defendants is not dismissed, settled, or resolved by legal motion, plaintiffs will have to prove their claims against the other Defendants at trial. Trial dates have not yet been set. The Court has appointed the law firms of Hagens Berman Sobol Shapiro LLP; Quinn Emanuel Urquhart & Sullivan, LLP; and Mehri & Skalet, PLLC as Class Lead Counsel to represent Settlement Class Members.

Source: Hagens Berman Sobol Shapiro LLP, Quinn Emanuel Urquhart & Sullivan, LLP, and Mehri & Skalet, PLLC

Contact: Ashley Klann, [pr@hbsslaw.com](mailto:pr@hbsslaw.com), 206-268-9363

## **Hagens Berman Sobol Shapiro LLP, Quinn Emanuel Urquhart & Sullivan, LLP y Mehri & Skalet, PLLC anuncian acuerdos por USD 67 millones para personas y entidades que hubiesen retirado dinero de un cajero automático**

Washington D.C. / 10 de diciembre de 2021 / PR Newswire --

### **¿Utilizó una tarjeta de cajero automático y le cobraron un recargo? Podría recibir dinero en virtud de un Acuerdo de demanda colectiva por USD 67 millones**

En esta demanda colectiva, se sostiene que los Demandados infringieron las leyes federales antimonopolio al adoptar restricciones que presuntamente aumentaron los recargos en cajeros automáticos pagado por el Grupo de demandantes. Los Demandados niegan estas afirmaciones. El Tribunal no decidió quién tiene razón.

JP Morgan, Wells Fargo y Bank of America (los “Demandados conciliadores”) han aceptado los Acuerdos que resuelven los reclamos.

#### **¿Estoy incluido?**

Es Miembro del grupo de demandantes si, en cualquier momento a partir del 1 de octubre de 2007, hubiese pagado algún recargo al retirar dinero en efectivo de un cajero automático de un banco en los Estados Unidos de Norteamérica. Está excluido del Grupo de demandantes si todas las transacciones en cajeros automáticos con recargo se hubiesen (a) reembolsado o (b) realizado con tarjetas emitidas por instituciones financieras con sede fuera de los Estados Unidos de Norteamérica. En [www.ATMClassAction.com](http://www.ATMClassAction.com) se encuentra disponible un aviso más detallado que incluye la definición precisa del Grupo de demandantes y las excepciones a la participación en el Grupo.

#### **¿Qué dispone el Acuerdo?**

El Acuerdo dispone el pago de USD 66,740,000 en efectivo para resolver los reclamos.

#### **¿Cómo puedo recibir el pago?**

Para recibir dinero en virtud de este Acuerdo, debe completar un Formulario de reclamo en el que deberá declarar bajo juramento que se le aplicaron recargos en cajeros automáticos. No está obligado a suministrar documentación con el Formulario de reclamo, no obstante, el Administrador del acuerdo se reserva el derecho a solicitarle los extractos bancarios u otra documentación que justificase su reclamo. Visite [www.ATMClassAction.com/claims](http://www.ATMClassAction.com/claims) para completar un Formulario de reclamo en línea o descargar uno que puede enviar por correo postal. Para que tengan derecho a recibir el pago, los Formularios de reclamo se deben presentar de manera electrónica o deben estar matasellados antes del 11 de mayo de 2022, inclusive.

#### **¿Cuáles son mis derechos?**

Si fuese Miembro de grupo de demandantes, aunque no hiciera nada, quedará vinculado por las resoluciones y sentencias que el Tribunal dictase en relación con los Acuerdos. Si deseara conservar su derecho a demandar a los Demandados conciliadores en relación con los recargos en cajeros automáticos, debe excluirse por escrito del Grupo de demandantes antes del 11 de marzo de 2022. Si decidiese permanecer en el Grupo de demandantes, puede presentar objeciones a los

Acuerdos antes del 11 de marzo de 2022. En [www.ATMClassAction.com](http://www.ATMClassAction.com) se encuentran disponibles los Acuerdos, junto con los detalles sobre cómo excluirse o presentar una objeción. El Tribunal de distrito de los Estados Unidos de Norteamérica para el distrito de Columbia ha programado la celebración de una audiencia el 17 de mayo de 2022, a las 3:00 p. m., en 333 Constitution Avenue N.W., Courtroom 18, Washington D.C. 20001, para considerar si aprueba los Acuerdos. El Abogado principal de Grupo de demandantes también solicitará en la audiencia, o en una fecha posterior, los honorarios de los abogados por un monto de hasta el 33 % del Fondo del acuerdo, más el reembolso de los costos y gastos, por investigar los hechos, litigar el caso y negociar los Acuerdos. Usted o su propio abogado pueden comparecer e intervenir en la audiencia por su propia cuenta, pero no está obligado a hacerlo. La audiencia se podrá celebrar de manera electrónica o cambiar para otra fecha u hora sin que mediase notificación adicional, por lo tanto, le recomendamos que consulte [www.ATMClassAction.com](http://www.ATMClassAction.com) para mayor información. Le solicitamos que no se comunique con el Tribunal en relación con este caso.

Si el caso contra los otros Demandados no se desestimase, no se llegase a un acuerdo o no se resolviese mediante una solicitud legal, los demandantes tendrán que probar sus reclamos contra los otros Demandados en el juicio. Aún no se han programado las fechas del juicio. El Tribunal ha designado a los bufetes de abogados Hagens Berman Sobol Shapiro LLP; Quinn Emanuel Urquhart & Sullivan, LLP y Mehri & Skalet, PLLC como los Abogados principales del Grupo de demandantes para que representasen a los Miembro del grupo.

Fuente: Hagens Berman Sobol Shapiro LLP, Quinn Emanuel Urquhart & Sullivan, LLP y Mehri & Skalet, PLLC

Contacto: Ashley Klann, [pr@hbsslaw.com](mailto:pr@hbsslaw.com) 206-268-9363

# EXHIBIT D

People picks

## The Best of Benedict Cumberbatch!

Check out these performances by the Oscar-touted star of Netflix's *The Power of the Dog*



**Doctor Strange**  
MOVIE | FANTASY

Cumberbatch is a neurosurgeon turned mystical, dapper-goateed superhero in one of the Marvel Universe's most visually trippy adventures. (Disney+)



**Sherlock**  
TV | MYSTERY

Possibly the greatest of all Sherlock Holmes, Cumberbatch was definitely the most nervily sexy. He played the sleuth for four seasons on PBS, winning an Emmy. (Amazon)



**Patrick Melrose**  
TV | DRAMA

In this disturbing British miniseries, based on Edward St Aubyn's novels, he plays an acid-tongued addict left reeling after an abusive childhood. (Showtime)



**CBS | Good Sam**

A new kind of family medicine

**DRAMA** Dr. Sam Griffith (Sophia Bush), her hospital's chief of surgery, contends with a work situation that should have been headed off by HR. She landed the job because her predecessor—who happens to be her brilliant father (Jason Isaacs)—is in a coma after a shooting. Then Pop comes to and starts making the rounds, spouting off diagnoses like a know-it-all. The tone is light, fun, not terribly urgent. (Jan. 5, 10 p.m.)

### Used An ATM Card And Were Assessed A Surcharge?

#### You Could Get Money From \$67 Million Class Action Settlements

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#### What are my rights?

If you are a Settlement Class Member, even if you do nothing, you will be bound by the Court's decisions and judgments concerning the Settlements. If you want to keep your right to sue the Settling Defendants regarding ATM surcharges, you must exclude yourself from the Settlement Class in writing by March 11, 2022. If you stay in the Settlement Class, you may object to the Settlements in writing by March 11, 2022. The Settlement Agreements, along with details on how to exclude yourself or object, are available at [www.ATMClassAction.com](http://www.ATMClassAction.com). The U.S. District Court for the District of Columbia is scheduled to hold a hearing on May 17, 2022, at 3:00 p.m., at 333 Constitution Avenue N.W., Courtroom 18, Washington D.C. 20001, to consider whether to approve the Settlements. Class Lead Counsel will also request at the hearing, or at a later date, attorneys' fees of up to 33% of the Settlement Fund, plus reimbursement of costs and expenses, for investigating the facts, litigating the case, and negotiating the Settlements. You or your own lawyer may appear and speak at the hearing at your own expense, but you don't have to. The hearing may be conducted electronically or moved to a different date or time without additional notice, so it is a good idea to check [www.ATMClassAction.com](http://www.ATMClassAction.com) for additional information. Please do not contact the Court about this case.

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**SQUID GAME'S LEE JUNG-JAE**  
My 'Unbelievable' Ride and What's Next



**Keanu Reeves & Carrie-Anne Moss**  
On Their 24-Year Friendship



**HARRY & MEGHAN**  
Meet Baby Lili!

# People



# Betty White Turns 100!

**People**  
Exclusive Interview

**'Funny Never Gets Old'**

The comedy legend shares her secrets for happiness—and her celebrity crush

**Plus!** Friends Ryan Reynolds, Carol Burnett, Sandra Bullock & more toast the Golden Girl

January 10, 2022

\$5.99



0 74470 10227 4

# EXHIBIT E

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENTS**

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

*A federal court authorized this notice. This is not a solicitation from a lawyer.***Used An ATM Card And Were Assessed A Surcharge?  
You Could Get Money From \$67 Million Class Action Settlements**

- Please read this Notice and the Settlement Agreements available at [www.ATMClassAction.com](http://www.ATMClassAction.com) carefully. Your legal rights may be affected whether you act or do not act. This Notice is a summary. To obtain more specific details concerning the Settlements, please read the Settlement Agreements.
- This class action alleges Defendants violated federal antitrust laws by adopting restraints that inflated the ATM surcharges (also called ATM access fees) paid by the Settlement Class. Defendants deny these allegations. The Court has not decided who is right.
- JP Morgan, Wells Fargo, and Bank of America (“Settling Defendants” or “Bank Defendants”) have agreed to Settlements resolving the claims against them.
- Visit [www.ATMClassAction.com](http://www.ATMClassAction.com) to make a claim. You can also opt out of, comment on, or object to the Settlements.

<b>SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS</b>		<b>DEADLINE</b>
<b>SUBMIT A CLAIM FORM FOR PAYMENT</b>	You must submit a valid claim in order to receive compensation under these Settlements.	May 11, 2022
<b>EXCLUDE YOURSELF</b>	You can exclude yourself from the Settlements by submitting a Request for Exclusion by mailing a letter to the Settlement Administrator saying you want to opt out. This is the only option that allows you to keep your legal right to sue the Settling Defendants for claims related to this case.  If you exclude yourself, you will <u>not</u> be eligible to receive compensation from these Settlements.	March 11, 2022
<b>OBJECT TO THE SETTLEMENTS AND/OR ATTEND A HEARING</b>	You can write the Court about why you like or do not like the Settlements or object to Court approval, but you can’t ask the Court to order larger Settlements. You can also ask to speak to the Court at the hearing on May 17, 2022 about the fairness of the Settlements, with or without your own attorney.	March 11, 2022
<b>DO NOTHING</b>	If you take no action, you get no payment and you give up your legal right to continue to sue the Settling Defendants for claims related to this case.	No Deadline

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## **BASIC INFORMATION**

### **1. Why is there a notice?**

A Court authorized this notice because you have a right to know how the proposed Settlements may affect your rights. This notice explains the nature of the litigation, the general terms of the proposed Settlements, and what they may mean to you. This notice also explains the ways you may participate in, or exclude yourself from, the Settlements.

### **2. What is this lawsuit about?**

A class action lawsuit was brought on behalf of ATM cardholders who used a bank ATM owned by an entity different from the entity that issued the ATM card and were assessed an ATM surcharge. The lawsuit alleges the Defendants violated federal antitrust laws by participating in an unlawful agreement that allegedly had the effect of increasing the amount of ATM surcharges paid by the Class. The Defendants deny these allegations. The Court has not decided who is right.

### **3. Who are the Defendants in the lawsuit?**

Three Defendants have agreed to settle the lawsuit – JPMorgan & Chase Co. (“JP Morgan”); Wells Fargo & Co. and Wells Fargo Bank (“Wells Fargo”); and Bank of America, N.A. and Bank of America Corp. (“Bank of America”). These Defendants are collectively referred to as the “Settling Defendants.”

The lawsuit is continuing against the remaining Defendants, namely: Visa Inc.; Visa U.S.A. Inc.; Visa International Service Association; Plus System, Inc.; Mastercard Inc.; Mastercard International Inc. d/b/a Mastercard Worldwide; and NB Holdings Corp. These Defendants are collectively referred to as the “Non-Settling Defendants.”

### **4. Why is this a class action?**

Even if you have not filed your own lawsuit against Defendants regarding the allegations described herein, you can obtain the benefits provided by these Settlements because the litigation is proceeding as a class action.

In a class action, one or more people file a lawsuit to assert legal claims on behalf of themselves and other persons who have experienced the same or similar circumstances. Here, two persons who were assessed ATM surcharges are named as Plaintiffs in a class action complaint against the Defendants. They serve as Settlement Class Representatives to represent their personal interests and the interests of all the Settlement Class Members.

Judge Richard J. Leon of the United States District Court for the District of Columbia presides over this litigation. The case is *Andrew Mackmin, et al., v. Visa Inc., et al.*, No. 1:11-cv-01831.

## 5. Why are there Settlements?

Settlements avoid the costs and uncertainty of a trial and related appeals, while providing benefits to Settlement Class Members when the Settlements become final. The Court has not decided in favor of Plaintiffs or Defendants. The Settlement Class Representatives and Class Lead Counsel think the Settlements are in the best interests of everyone affected.

## SETTLEMENT CLASS MEMBERSHIP

## 6. How do I know if I can participate in the Settlements?

You are a Settlement Class Member, and you are affected by these Settlements, if you are:

- An individual or entity that paid an unreimbursed ATM Access Fee directly to any Bank Defendant or Bank Co-Conspirator for a Foreign ATM Transaction using an ATM card issued by a financial institution in the United States to withdraw cash at an ATM located in the United States at any time from October 1, 2007 to the date of the Preliminary Approval Order, which was on November 12, 2021.

ATM Access Fee means the fee assessed by an ATM operator to a cardholder for completing a Foreign ATM Transaction. ATM Access Fees are also referred to as “surcharges.” Bank Defendant means JP Morgan, Wells Fargo, or Bank of America. Bank Co-Conspirator means a bank that is a member of the Visa and/or MasterCard ATM networks. Foreign ATM Transaction means an ATM transaction in which the cardholder uses an ATM that is owned by an entity different from the entity that issued the ATM card used for that ATM transaction. Specifically excluded from the Settlement Class are Defendants; Released Parties; the officers, directors, or employees of any Defendant or Released Party; any entity in which any Defendant or Released Party has a controlling interest; any affiliate, legal representative, heir, or assign of any Defendant or Released Party and any person acting on their behalf. Also excluded from the Settlement Class are any federal, state, or local governmental entities, Class Lead Counsel, and any judicial officer presiding over the Action and the members of his/her immediate family and judicial staff.

## THE SETTLEMENT BENEFITS

## 7. What do the Settlements provide?

The Settling Defendants will collectively pay approximately \$67,000,000—Bank of America (\$26,420,000), Wells Fargo (\$20,820,000), and JP Morgan (\$19,500,000)—into a Settlement Fund. After deductions for attorneys’ fees, litigation costs, and other expenses, the Fund will be distributed to Class Members who submit valid claims.

## **8. How much money can I get from the Settlements?**

You must file a timely, valid claim in order to receive monetary compensation. Each claim will be eligible to receive a pro rata share of the Net Settlement Fund, after deductions for attorneys’ fees, litigation costs, and other Court-approved expenses, based on the number of claims that are submitted. Because the amount of each payment depends on the number of approved claims, nobody can know in advance how much the payment will be.

## **HOW TO GET A PAYMENT—MAKING A CLAIM**

### **9. How can I get a payment?**

To receive money from these Settlements, you must complete a Claim Form that asks you to state under oath that you were assessed ATM surcharges.

You can fill out a Claim Form online at [www.ATMClassAction.com](http://www.ATMClassAction.com).

If you prefer a paper Claim Form, you can ask for one by contacting the Settlement Administrator by telephone at 877-311-3724 or by email at [info@ATMClassAction.com](mailto:info@ATMClassAction.com), or by U.S. Mail at ATM Surcharge Settlement, P.O. Box 170500, Milwaukee, WI 53217.

### **10. What is the deadline for submitting a Claim Form?**

To be eligible for payment, Claim Forms must be submitted electronically or postmarked no later than May 11, 2022.

### **11. When and how will I get my payment?**

The Court is scheduled to hold a hearing on May 17, 2022, to decide whether to approve the Settlements. The hearing may be held electronically or moved to a different date or time without additional notice, so it is a good idea to check [www.ATMClassAction.com](http://www.ATMClassAction.com) for additional information. If the Court approves the Settlements, there may be an appeal of that decision. It is hard to estimate how long it might take for any appeals to be resolved. If the Settlements are approved and no appeals are filed, the Settlement Administrator anticipates that payments will be sent out within 6 months.

Settlement payments will be digitally sent to you via email. Please ensure you provide a current, valid email address on the Claim Form. When you receive the email notifying you of your payment, you will be provided with a number of digital payment options such as PayPal or a virtual debit card. For many, this is the easiest and quickest option to receive money.

You will also have the opportunity to request that a check be mailed to you by the Settlement Administrator.

Updates regarding the Settlements and when payments will be made will be posted on the Settlement website, [www.ATMClassAction.com](http://www.ATMClassAction.com).

## **12. What happens if my contact information changes after I submit a claim?**

If, after you submit a Claim Form, you change your mailing address or email address, it is your responsibility to inform the Settlement Administrator of your updated information. Notify the Settlement Administrator of any changes to your mailing address or email address by writing:

ATM Surcharge Settlement  
P.O. Box 170500  
Milwaukee, WI 53217  
[info@ATMClassAction.com](mailto:info@ATMClassAction.com)

## **13. What happens if some of the money from these Settlements is not claimed?**

The Settling Defendants are not entitled to retain any part of the Settlement Funds that is not paid out or distributed as part of the administration of the Settlements for any reason. To the extent, if any, that an unpaid or undistributed part of the Settlement Amount is held by the Settlement Administrator at the completion of the administration of the Settlements, such remaining funds will be directed to a court-approved “next best” recipient.

## **LEGAL RIGHTS RESOLVED THROUGH THE SETTLEMENTS**

## **14. What am I giving up if I stay in the Settlement Class?**

If you are a Settlement Class Member and you make a claim, or if you do nothing, you will be releasing all of your legal claims relating to the Settling Defendants’ conduct described herein and will be bound by the Court’s decisions and judgments concerning the Settlements. The Released Parties are Settling Defendants and each entity’s past, present, and future direct and indirect parents (including holding companies), subsidiaries, affiliates, associates (all as defined in Securities and Exchange Commission Rule 12b-2 promulgated pursuant to the Securities Exchange Act of 1934, as amended), divisions, predecessors, successors, and each of their respective officers, directors, employees, agents, attorneys, legal or other representatives, trustees, heirs, executors, administrators, advisors, and assigns. Released Parties do not include any of the other Non-Settling Defendants.

07069-00001/12354321.1

These Settlements affect your legal rights even if you do nothing.  
Questions? Go to [www.ATMClassAction.com](http://www.ATMClassAction.com) or call 877-311-3724



This notice provides only a summary of the claims being released. The specific details of the claims being released by Settlement Class Members who do not exclude themselves from the Settlements are set forth in the Settlement Agreements, which may be viewed at [www.ATMClassAction.com](http://www.ATMClassAction.com).

## THE LAWYERS REPRESENTING YOU

### 15. Do I have a lawyer in the case?

Yes. The Court appointed the law firms of Hagens Berman Sobol Shapiro LLP, Quinn Emanuel Urquhart & Sullivan, LLP, and Mehri & Skalet PLLC to represent you and the other Settlement Class Members. These attorneys are called Class Lead Counsel. You will not be charged for their services.

**HAGENS BERMAN  
SOBOL SHAPIRO LLP**  
STEVE BERMAN  
1301 Second Avenue  
Suite 2000  
Seattle, WA 98101  
Telephone: 206-623-7292

**QUINN EMANUEL  
URQUHART &  
SULLIVAN, LLP**  
STEPHEN NEUWIRTH  
51 Madison Avenue  
22nd Floor  
New York, NY 10010  
Telephone: 212-849-7165

**MEHRI & SKALET,  
PLLC**  
STEVEN A. SKALET  
1250 Connecticut Avenue,  
NW, Suite 300  
Washington, DC 20036  
Telephone: (202) 822-5100

### 16. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Lead Counsel is working on your behalf. If you want your own lawyer, you may hire one, but you will be responsible for any payment for that lawyer's services. For example, you can ask your own lawyer to appear in Court for you if you want someone other than Class Lead Counsel to speak for you. You may also appear for yourself without a lawyer.

### 17. How will the lawyers be paid?

You do not have to pay Class Lead Counsel. Class Lead Counsel have not been paid for their services since this case began. They will seek an award of attorneys' fees out of the Settlement Fund, as well as reimbursement for litigation costs they advanced in pursuing the claims. The fees will compensate Class Lead Counsel for investigating the facts, litigating the case, and negotiating and administering the Settlements. Class Lead Counsel's attorneys' fee request will not exceed 33 percent of the Settlement Amount of \$66,740,000. Additionally, Class Lead Counsel will seek reimbursement of their out-of-pocket litigation expenses as part of their application for attorney's fees, which will be posted to the Settlement website 14 days before the objection deadline.

Class Lead Counsel will also ask the Court to approve service award payments not to exceed \$10,000 to each of the individual Class Representatives, who are Andrew Mackmin and Sam Osborn.

The costs of providing this notice and administering the Settlements are being paid from the Settlement Fund.

## EXCLUDING YOURSELF FROM THE SETTLEMENTS

If you don't want monetary compensation from the Settlements, and you want to keep your right, if any, to sue the Settling Defendants on your own about the legal issues in this case, then you must take steps to get out of the Settlements. This is called excluding yourself from—or “opting out” of—the Class.

### 18. How do I exclude myself from the Settlements?

If you want to keep the right to sue or continue to sue the Settling Defendants based on claims these Settlements resolve, you must take steps to exclude yourself from the Settlement Class. This is sometimes called “opting out.” If you exclude yourself, however, you will not be eligible to receive a monetary payment from the Settlements.

You may opt out of the Settlements by mailing a letter to the Settlement Administrator with the following information:

- Your full name and mailing address, telephone number, and/or email address;
- The statement, “I wish to exclude myself from the Settlement Class and do not wish to participate in the Settlements in *Andrew Mackmin, et al., v. Visa Inc., et al.*, No. 1:11-cv-01831” or substantially similar clear and unambiguous language; and
- Your handwritten signature. An attorney's signature, or a typed signature, is not sufficient.

Your letter must be sent First Class mail, postmarked by March 11, 2022, to:

ATM Surcharge Settlement  
ATTN: EXCLUSIONS  
P.O. Box 173001  
Milwaukee, WI 53217

Your exclusion letter must be signed by you, personally, and not your lawyer or anyone else acting on your behalf. “Mass” or “class” opt-outs made on behalf of multiple persons or classes of persons will be deemed invalid.

You cannot exclude yourself by mailing a notification to any other location or after March 11, 2022. You cannot exclude yourself by telephone or by email.

If you submit a Claim Form and also a Request for Exclusion, the Request for Exclusion will be deemed invalid.

**19. If I don't exclude myself, can I sue the Settling Defendants for the same thing later?**

No. Unless you opt out, you give up the right to sue the Settling Defendants for the claims the Settlements resolve. You must exclude yourself from the Class if you want to try to pursue your own lawsuit.

**20. What happens if I exclude myself?**

If you exclude yourself, you will not have any rights as a member of the Settlement Class under the Settlements; you will not receive any payment as part of the Settlements; you will not be bound by any further orders or judgments in this case; and you will keep the right, if any, to sue on the claims alleged in the case at your own expense.

**21. If I exclude myself, am I still represented by Class Lead Counsel?**

No. Class Lead Counsel represents the members of the Settlement Class. If you exclude yourself from the Settlement Class, you are not represented by Class Lead Counsel.

## **COMMENTING ON OR OBJECTING TO THE SETTLEMENTS**

**22. How do I tell the Court that I like or don't like the Settlements?**

If you're a Settlement Class Member and do not opt out of the Settlements, you can comment on or object to the Settlements, including to tell the Court that you like or don't like the Settlements. By filing an objection, however, you are asking the Court to deny approval of the Settlements. You can't ask the Court to order larger Settlements; the Court can only approve or deny the Settlements.

If the Court denies approval, no Settlement payments will be sent out and the lawsuit against Settling Defendants will continue. If that is what you want to happen, you must object.

To comment on or object to the Settlements, you must mail a letter containing the following information:

- The name and case number of this lawsuit, *Andrew Mackmin, et al., v. Visa Inc., et al.*, No. 1:11-cv-01831;
- Your full name and mailing address, and email address or telephone number;
- An explanation of why you believe you are a Settlement Class Member;
- If you are objecting, a statement whether the objection applies only to the objector, or to a specific subset of the Class, or to the entire Class;
- All reasons for your objection or comment, stated with specificity;
- A statement identifying the number of class action settlements you have objected to or commented on in the last five years;

- Whether you intend to personally appear and/or testify at the Final Approval Hearing;
- The name and contact information of any and all attorneys representing, advising, or assisting you, including any counsel who may be entitled to compensation for any reason related to your objection or comment;
- Whether any attorney will appear on your behalf at the Final Approval Hearing, and if so the identity of that attorney;
- The identity of any persons who wish to be called to testify at the Final Approval Hearing; and
- Your handwritten or electronically imaged written (e.g., “DocuSign”) signature. An attorney’s signature, or a typed signature, is not sufficient.

Your objection must be submitted directly to the Court either by mailing it to the United States District Court for the District of Columbia, 333 Constitution Avenue N.W., Washington D.C. 20001, or by filing it in person at the United States District Court for the District of Columbia. To be considered, the objection must be filed or postmarked by March 11, 2022.

### **23. What’s the difference between excluding yourself and objecting?**

Excluding yourself from the Settlement Class means that you are no longer a Settlement Class Member and don’t want the Settlements to apply to you. Once you are excluded, you lose any right to receive any benefits from the Settlements or to object to any aspect of the Settlements because the case no longer affects you.

You object to the Settlements when you disagree with some aspect of the Settlements and think the Court should not give Final Approval to the Settlements. An objection, like a comment, allows your views to be heard in Court.

## **DOING NOTHING**

### **24. What happens if I do nothing at all?**

If you do nothing and the Court grants Final Approval, you’ll be a member of the Settlement Class, but you will receive no money from this Settlements, and you won’t be able to sue the Settling Defendants for the conduct alleged in this case.

## **THE COURT’S FAIRNESS HEARING**

### **25. When and where will the Court decide whether to approve the Settlements?**

The Court will hold a Fairness Hearing at 3:00 p.m. on May 17, 2022, at the U.S. District Court for the District of Columbia 333 Constitution Avenue N.W., Washington D.C. 20001, Courtroom

18. At this hearing, the Court will consider whether the Settlements are fair, reasonable, and adequate. If there are objections, the Court will consider them.

The Court may also decide how much to pay to Class Lead Counsel in fees and expense reimbursements. After the hearing, the Court will decide whether to approve the Settlements.

The Court may hold the Fairness Hearing electronically, reschedule the Fairness Hearing, or change any of the deadlines described in this notice. The date of the Fairness Hearing may change without further notice to the Settlement Class Members. Be sure to check the website, [www.ATMClassAction.com](http://www.ATMClassAction.com), for news of any such changes. You can also access the case docket via the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.dcd.uscourts.gov>.

### **26. Do I have to come to the Fairness Hearing?**

No. Class Lead Counsel will answer any questions the Court may have. You may attend at your own expense if you wish. If you send an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

### **27. May I speak at the hearing?**

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must include a statement in your written objection that you intend to appear at the hearing. Be sure to include your name, address, and signature as well.

You cannot speak at the hearing if you exclude yourself from the Class.

## **GETTING MORE INFORMATION**

### **28. How do I get more information?**

This notice summarizes the proposed Settlements—more details are in the Settlement Agreements and other important case documents. You can get a copy of the Settlement Agreements, view other case documents, and get additional information and updates by visiting [www.ATMClassAction.com](http://www.ATMClassAction.com).

All of the case documents that have been filed publicly in this case are also available online through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.dcd.uscourts.gov>. This case is called *Andrew Mackmin, et al., v. Visa Inc., et al.* and the case number is No. 1:11-cv-01831. You may also obtain case documents by visiting the office of the Clerk of the Court for the United States District Court for the District of Columbia, 333 Constitution Avenue N.W., Washington D.C. 20001, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding court-observed holidays.

You can get additional information or request a copy of the Settlement Agreements by calling toll-free 877-311-3724 or writing to the Settlement Administrator by email at [info@ATMClassAction.com](mailto:info@ATMClassAction.com) or mail to ATM Surcharge Settlement, P.O. Box 170500, Milwaukee, WI 53217.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO  
INQUIRE ABOUT THIS SETTLEMENTS OR THE CLAIMS PROCESS.

# EXHIBIT F

# ATM SURCHARGE SETTLEMENT

## CLAIM FORM

### INSTRUCTIONS

This class action alleges Defendants violated federal antitrust laws by adopting restraints that allegedly inflated the ATM surcharges paid by the Class. Defendants deny these allegations.

You are a Settlement Class Member if at any time on or after October 1, 2007 you paid a surcharge to withdraw cash from a bank ATM in the United States. You are excluded from the Settlement Class if all of your surcharged ATM transactions were (a) reimbursed, or (b) conducted on cards issued by financial institutions located outside of the United States.

**To be eligible for payment you must submit a valid claim no later than May 11, 2022.**

**Settlement payments will be digitally sent to you via email.** Please ensure you provide a current, valid email address and mobile phone number with your claim submission. If the email address or mobile phone number you include with your submission becomes invalid for any reason, it is your responsibility to provide accurate contact information to the Settlement Administrator to receive a payment. When you receive the email and/or mobile phone text notifying you of your Settlement payment, you will be provided with a number of digital payment options such as PayPal or a virtual debit card, to immediately receive your Settlement payment. You will also at that time have the option to request a paper check.

The information provided on this Claim Form will be used solely by the Court-approved Settlement Administrator for the purposes of administering the Settlements and will not be provided to any third party or sold for marketing purposes.



**CLAIM FORM****NOTICE ID NUMBER (IF EMAIL NOTICE SENT TO YOU)**

**NAME\***

FIRST NAME LAST NAME

**STREET ADDRESS\*****APT**

<input type="text"/>	<input type="text"/>
----------------------	----------------------

**CITY\*****STATE\*****ZIP\***

<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------

**MOBILE PHONE NUMBER\***

XXX-XXX-XXXX

**EMAIL ADDRESS\***

**VERIFY EMAIL ADDRESS\***


Please ensure you provide a current, valid email address and mobile phone number with your claim submission. If the email address or mobile phone number you include with your submission becomes invalid for any reason, it is your responsibility to provide the Settlement Administrator with a current, valid email address and mobile phone number for payment.

**ATM SURCHARGE INFORMATION**

**HAVE YOU PAID AN UNREIMBURSED SURCHARGE TO WITHDRAW CASH FROM AN ATM IN THE UNITED STATES AT ANY POINT ON OR AFTER OCTOBER 1, 2007?\***

- YES  
 NO

**[IF YES] WERE ANY OF THESE SURCHARGES PAID TO A BANK TO USE AN ATM OPERATED BY THAT BANK?\***

- YES  
 NO

**[IF YES] WERE ANY OF THESE SURCHARGED BANK ATM TRANSACTIONS CONDUCTED WITH AN ATM CARD ISSUED BY A FINANCIAL INSTITUTION (INCLUDING ANY BANK OR CREDIT UNION) IN THE UNITED STATES?\***

- YES  
 NO

**[IF YES] ESTIMATE THE NUMBER OF TIMES BETWEEN OCTOBER 1, 2007 AND THE NOVEMBER 12, 2021 THAT YOU PAID AN UNREIMBURSED SURCHARGE TO WITHDRAW CASH FROM A BANK ATM IN THE UNITED STATES USING AN ATM CARD ISSUED BY A UNITED STATES FINANCIAL INSTITUTION.\***

**“AS STATED BELOW, THIS CLAIM FORM IS SUBMITTED UNDER PENALTY OF PERJURY, AND THE SETTLEMENT ADMINISTRATOR RESERVES THE RIGHT TO REQUEST BANK STATEMENTS OR OTHER DOCUMENTATION SUPPORTING YOUR CLAIM.”**

\*Denotes required field

**CERTIFICATION**

By signing this claim submission, I certify, under penalty of perjury, that the information included with this claim submission is accurate and complete to the best of my knowledge, information, and belief. If I am submitting this claim submission on behalf of a claimant, I certify that I am authorized to submit this claim submission on the individual’s behalf. I am, or the individual on whose behalf I am submitting this claim submission is, a member of the Settlement Class, and have not submitted a request to exclude myself, or “opt-out of,” the Settlements. I agree and consent to be communicated with electronically via email and/or mobile phone text (message & data rates may apply). I agree to furnish additional information regarding this claim submission if so requested to do so by the Settlement Administrator.

**SIGNATURE**

**DATE**

	<i>mm/dd/yyyy</i>
--	-------------------

# EXHIBIT G

**From:** [ATM Surcharge Class Action Settlement](#)  
**To:**  
**Subject:** ATM Surcharge Settlement Reminder [Important Legal Notice]  
**Date:** Wednesday, March 16, 2022 4:27:11 PM

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You were recently e-mailed a Court Authorized Notice of a proposed class action Settlement *Andrew Mackmin, et al., v. Visa Inc., et al.*, No. 1:11-cv-01831.

**You are likely eligible to file a claim to receive payment, and if you have not already filed a claim, please do so by clicking on the File a Claim Button below.**

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**To receive a payment from the Settlement Fund, you must submit a Claim by May 11, 2022.** You can submit your claim online at the Settlement Website, [www.atmclassaction.com](http://www.atmclassaction.com), on or before 11:59 p.m. Eastern time on **May 11, 2022**.

Detailed information is available at the Settlement Website [www.atmclassaction.com](http://www.atmclassaction.com). You may also call the Settlement Administrator toll-free at 1-877-311-3724, mail to:

ATM Surcharge Settlement  
P.O. Box 170500  
Milwaukee, WI 53217

[Unsubscribe](#)

# EXHIBIT H

**ATM Fee's  
Exclusion Report**

Name	Exclusion ID	Postmark Date	Exclusion Statement	Address	Phone Number	Signature	Notes
1) Andrew F. Rosbury	145188798	1/24/2022	Y	[REDACTED]	N/A	Y	Paper Exclusion
2) Tony Rollins	145188799	2/7/2022	Y	[REDACTED]	[REDACTED]	N	Emailed Exclusion
3) Jon Neill	145188800	2/7/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
4) Marcus G Ravazzar	145188801	2/8/2022	Y	[REDACTED]	N/A	Y	Mailed Exclusion (Did not provide full address)
5) Jozef Hatala	145188802	2/7/2022	Y	[REDACTED]	N/A	Y	Mailed Exclusion
6) Amber K Lee	145188803	2/12/2022	Y	[REDACTED]	N/A	Y	Mailed Exclusion
7) Stephen Auerbach	145188804	2/19/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
8) Maria Elena Esparz	145188805	2/22/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
9) Santiago Fernando-	145188806	2/22/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
10) Judy Wilson	145188807	2/27/2022	Y	N/A	N/A	N	Emailed Exclusion
11) Alexander Cohen	145188808	3/4/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
12) Ricardo LaCroix	145188809	3/11/2022	Y	N/A	N/A	N	Emailed Exclusion
13) Ryan Lawrence Tut	145188810	3/11/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
14) Jaimi Inskeep Tuttle	145188811	3/11/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
15) Donald Machado	145188812	2/15/2022	Y	N/A	N/A	N	Emailed Exclusion
16) Frank Story	145188813	2/16/2022	Y	N/A	N/A	N	Emailed Exclusion
17) Jerilyn Phippeny	145188814	2/15/2022	Y	N/A	N/A	N	Emailed Exclusion

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

ANDREW MACKMIN, *et al.*,

*Plaintiffs,*

v.

VISA INC., *et al.*,

*Defendants.*

Civil Action No. 1:11-cv-1831-RJL

Assign Date: 8/4/2015

Description: Antitrust – Class Action

**[PROPOSED] ORDER GRANTING *MACKMIN* CONSUMER PLAINTIFFS' MOTION  
FOR FINAL APPROVAL OF SETTLEMENTS  
WITH THE BANK OF AMERICA, CHASE, AND WELLS FARGO DEFENDANTS**

This matter has come before the Court to determine whether there is any cause why this Court should not approve the *Mackmin* Consumer Plaintiffs’ (“Plaintiffs”) settlements with Bank of America, National Association; NB Holdings Corporation; and Bank of America Corporation (“Bank of America Defendants”); Chase Bank USA, N.A.; JPMorgan Chase & Co.; and JPMorgan Chase Bank, N.A. (“Chase Defendants”); and Wells Fargo & Company and Wells Fargo Bank, N.A. (“Wells Fargo Defendants”), (collectively, “Settling Defendants”); and approve Plaintiffs’ Plan of Allocation. The Court, having reviewed Plaintiffs’ Motion for Final Approval of Settlements with the Bank of America, Chase, and Wells Fargo Defendants (“Motion”), the Settlement Agreements, the pleadings and other papers on file in this action, the statements of counsel and the parties, and the objections of Shiyang Huang (Dkt Nos. 254, 257), hereby finds that the Settlement Agreements and Plan of Allocation should be approved. Accordingly, the Court enters this Order of Final Approval.

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

1. The Court has jurisdiction over the subject matter of this litigation, and all actions within this litigation (collectively, the “Action”) and over the parties to the Settlement Agreements, including all members of the Settlement Class and the Settling Defendants.
2. For purposes of this Order, except as otherwise set forth herein, the Court incorporates the definitions contained in the Settlement Agreements. *See* Dkt. No. 252, Order Granting Preliminary Approval of Settlement with the Bank of America, Chase, and Wells Fargo Defendants and Directing Notice to the Class, Ex. A (Bank of America Settlement Agreement), Ex. B (Chase Settlement Agreement), Ex. C (Wells Fargo Settlement Agreement). The Court hereby finally approves and confirms the settlements set forth in the Settlement Agreements, and finds that said settlements are, in all respects, fair, reasonable, and adequate to the Settlement Class pursuant to Rule 23 of the Federal Rules of Civil Procedure, including with respect to each of the factors enumerated in Rule 23(e)(2).



3. The following class is certified for settlement purposes only, pursuant to Rule 23 of the Federal Rules of Civil Procedure:

All individuals and entities that paid an unreimbursed ATM Access Fee directly to any Bank Defendant or Alleged Bank Co-Conspirator for a Foreign ATM Transaction using an ATM card issued by a financial institution in the United States to withdraw cash at an ATM located in the United States at any time from October 1, 2007 to November 12, 2021 (the “Class Period”).

4. The settlement class shall be referred to herein as the “Settlement Class.”

5. The Court finds the prerequisites to a class action under Federal Rule of Civil Procedure 23(a) have been satisfied for settlement purposes only by the Settlement Class in that:

- (a) there are at least millions of geographically dispersed settlement class members, making joinder of all members impracticable;
- (b) there are questions of law and fact common to the settlement class which predominate over individual issues;
- (c) the claims or defenses of the class representative are typical of the claims or defenses of the settlement class;
- (d) the Class Representatives will fairly and adequately protect the interests of the settlement class, and have retained counsel experienced in antitrust class action litigation who have, and will continue to, adequately represent the settlement class; and
- (e) resolution through class settlements is superior to individual settlements.

6. The Court finds that this Action may be maintained as a class action under Federal Rule of Civil Procedure 23(b)(3), for settlement purposes only, because: (i) questions of fact and law common to members of the Settlement Class predominate over any questions affecting only the claims of individual members; and (ii) a class action is superior to other available methods for the fair and efficient adjudication of this controversy.

7. Pursuant to Federal Rule of Civil Procedure 23(g), the Court hereby confirms that Hagens Berman Sobol Shapiro LLP, Quinn Emanuel Urquhart & Sullivan, LLP, and Mehri &

Skalet, PLLC are appointed as Settlement Class Counsel, and that the named Plaintiffs, Andrew Mackmin and Sam Osborn, are appointed to serve as the Class Representatives on behalf of the Settlement Class.

8. Plaintiffs' notice of the Class Settlements to the Settlement Class was the best notice practicable under the circumstances. The notice satisfied due process and provided adequate information to the Settlement Class of all matters relating to the Class Settlements, and fully satisfied the requirements of Federal Rules of Civil Procedure 23(c)(2) and (e)(1).

9. Certain members of the Settlement Class timely and validly requested exclusion from the Settlement Class, and therefore they are excluded from the Settlement Class. These persons and entities are reflected in the attached **Exhibit A** to this order. Such persons and entities are not included in or bound by this Order as it relates to the specific settlement or settlements for which they opted-out. Such persons and entities are not entitled to any recovery of the settlement proceeds obtained through these Class Settlements.

10. The Court finds that Plaintiffs' proposed Plan of Allocation, proposing to pay putative Class Members on a pro rata basis based on the number of claims that are submitted, is fair, reasonable, and adequate. The Plan of Allocation does not unfairly favor any Class Member, or group of Class Members, to the detriment of others.

11. The Court has reviewed and considered the objections of Shiyang Huang (Dkt Nos. 254, 257), and finds them to be without merit.

12. Without affecting the finality of this Order in any way, this Court hereby retains continuing, exclusive jurisdiction over the settlements and the Settlement Agreements, including:

- (a) implementation of these settlements and any distribution to members of the Settlement Class pursuant to further orders of this Court;
- (b) disposition of the Settlement Fund;
- (c) determining attorneys' fees, costs, expenses, and interest;

- (d) the Action until Final Judgment contemplated hereby has become effective and each and every act agreed to be performed by the parties all have been performed pursuant to the Settlement Agreements;
- (e) hearing and ruling on any matters relating to the plan of allocation of settlement proceeds;
- (f) all parties to the Action and Releasing Parties, for the purpose of enforcing and administering the Settlement Agreements and the mutual releases and other documents contemplated by, or executed in connection with, the Settlement Agreements; and
- (g) any other proceedings concerning the administration, interpretation, consummation, and enforcement of these settlements.

13. The Court finds, pursuant to Rules 54(a) and (b) of the Federal Rules of Civil Procedure, that Final Judgments of Dismissal with prejudice as to the Settling Defendants (“Judgments”) should be entered forthwith and further finds that there is no just reason for delay in the entry of the Judgments, as Final Judgments, in accordance with the Settlement Agreements.

**IT IS SO ORDERED.**

DATED: \_\_\_\_\_

---

HONORABLE RICHARD J. LEON  
UNITED STATES DISTRICT COURT JUDGE

Presented by:

HAGENS BERMAN SOBOL SHAPIRO LLP

By:     /s/ Steve W. Berman    

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*Interim Co-Lead Class Counsel  
for Mackmin Consumer Plaintiffs*

# **Exhibit A**

**ATM Fee's  
Exclusion Report**

Name	Exclusion ID	Postmark Date	Exclusion Statement	Address	Phone Number	Signature	Notes
1) Andrew F. Rosbury	145188798	1/24/2022	Y	[REDACTED]	N/A	Y	Paper Exclusion
2) Tony Rollins	145188799	2/7/2022	Y	[REDACTED]	[REDACTED]	N	Emailed Exclusion
3) Jon Neill	145188800	2/7/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
4) Marcus G Ravazzar	145188801	2/8/2022	Y	[REDACTED]	N/A	Y	Mailed Exclusion (Did not provide full address)
5) Jozef Hatala	145188802	2/7/2022	Y	[REDACTED]	N/A	Y	Mailed Exclusion
6) Amber K Lee	145188803	2/12/2022	Y	[REDACTED]	N/A	Y	Mailed Exclusion
7) Stephen Auerbach	145188804	2/19/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
8) Maria Elena Esparz	145188805	2/22/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
9) Santiago Fernando-	145188806	2/22/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
10) Judy Wilson	145188807	2/27/2022	Y	N/A	N/A	N	Emailed Exclusion
11) Alexander Cohen	145188808	3/4/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
12) Ricardo LaCroix	145188809	3/11/2022	Y	N/A	N/A	N	Emailed Exclusion
13) Ryan Lawrence Tut	145188810	3/11/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
14) Jaimi Inskeep Tuttle	145188811	3/11/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
15) Donald Machado	145188812	2/15/2022	Y	N/A	N/A	N	Emailed Exclusion
16) Frank Story	145188813	2/16/2022	Y	N/A	N/A	N	Emailed Exclusion
17) Jerilyn Phippeny	145188814	2/15/2022	Y	N/A	N/A	N	Emailed Exclusion

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

ANDREW MACKMIN, *et al.*,

*Plaintiffs,*

v.

VISA INC., *et al.*,

*Defendants.*

Civil Action No. 1:11-cv-1831-RJL

Assign Date: 8/4/2015

Description: Antitrust – Class Action

**[PROPOSED] FINAL JUDGMENT OF DISMISSAL WITH PREJUDICE AS TO  
DEFENDANTS BANK OF AMERICA, NATIONAL ASSOCIATION; NB HOLDINGS  
CORPORATION; AND BANK OF AMERICA CORPORATION**



This matter has come before the Court to determine whether a final judgment of dismissal should be entered as to Defendants Bank of America, National Association; NB Holdings Corporation; and Bank of America Corporation (“Bank of America Defendants”) in light of the settlement with the *Mackmin* Consumer Plaintiffs (“Plaintiffs”). The Court, having reviewed the settlement agreement between Plaintiffs and the Bank of America Defendants and Plaintiffs’ Motion for Final Approval of Settlements with the Bank of America, Chase, and Wells Fargo Defendants (“Final Approval Motion”), and finding no just reason for delay, hereby directs entry of Final Judgment under Federal Rule of Civil Procedure 54(b), which shall constitute a final adjudication of this case on the merits as to members of the Settlement Class and the Bank of America Defendants pursuant to the terms of the Settlement Agreement Between Plaintiffs and the Bank of America Defendants (“Settlement Agreement”) (*see* Dkt. No. 252, Ex. A).

Good cause appearing therefore:

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

1. The Court has jurisdiction over the subject matter of this litigation, and all actions within this litigation (collectively, “Action”) and over the parties to the Settlement Agreement, including all members of the Settlement Class and the Bank of America Defendants.

2. For purposes of this Judgment, except as otherwise set forth herein, the Court adopts and incorporates the definitions contained in the Settlement Agreement as though they were fully set forth in this Final Judgment. Specifically, “Settlement Class,” as defined in the Settlement Agreement, means:

All individuals and entities that paid an unreimbursed ATM Access Fee directly to any Bank Defendant or Alleged Bank Co-Conspirator for a Foreign ATM Transaction using an ATM card issued by a financial institution in the United States to withdraw cash at an ATM located in the United States at any time from October 1, 2007 to November 12, 2021 (the “Class Period”).

3. Those persons and entities identified in the list attached hereto as **Exhibit A** are validly excluded from the Class. Such persons and entities are not included in or bound by this Judgment. Such persons and entities are not entitled to any recovery of the settlement proceeds obtained in connection with the Settlement Agreement.

4. The Court finds the prerequisites to a class action under Rule 23(a) have been satisfied for settlement purposes only by the Settlement Class in that:

a. There are at least millions of putative members of the Settlement Class, making joinder of all members impracticable;

b. There are questions of fact and law that are common to all members of the Settlement Class;

c. The claims of the Class Representatives are typical of those of the Settlement Class; and

d. Plaintiffs Andrew Mackmin and Sam Osborn (“Class Representatives”) have and will fairly and adequately protect the interests of the members of the Settlement Class and have retained counsel experienced in complex antitrust class action litigation who have and will continue to adequately advance the interests of the Settlement Class.

5. The Court has found that this Action may be maintained as a class action under Rule 23(b)(3), for settlement purposes only, because: (i) questions of fact and law common to the members of the Settlement Class predominate over any questions affecting only the claims of individual members; and (ii) a class action is superior to other available methods for the fair and efficient adjudication of this controversy.

6. Pursuant to Rule 23(g), the Court hereby confirms that Hagens Berman Sobol Shapiro LLP, Quinn Emanuel Urquhart & Sullivan, LLP, and Mehri & Skalet, PLLC are

appointed as Settlement Class Counsel, and that Plaintiffs Andrew Mackmin and Sam Osborn are appointed to serve as Class Representatives on behalf of the Settlement Class.

7. Upon the Effective Date of Settlement, the Released Parties shall be discharged and released from the Released Claims, regardless of whether any such Releasing Party executes and delivers a proof of claim, and without respect to any rights afforded under California Civil Code § 1542 and/or any other similar, comparable, or equivalent laws. As of the Effective Date, all Releasing Parties shall be permanently barred and enjoined from instituting, commencing, prosecuting or asserting any Released Claim against any of the Released Parties as defined in the Settlement Agreement, or from assisting any third party in commencing or maintaining any suit against any Released Party related in any way to any of the Released Claims, including without respect to any rights afforded under California Civil Code § 1542 and/or any other similar, comparable, or equivalent laws.

8. The Court has finally approved the settlement between the Settlement Class and Bank of America Defendants in the total amount of \$26,420,000, and has found that said settlement is fair, reasonable, and adequate pursuant to Rule 23 of the Federal Rules of Civil Procedure.

9. This Court hereby dismisses on the merits and with prejudice this Action against the Bank of America Defendants, including the Claims of the Plaintiffs and the Settlement Class, with each party to bear its own costs and attorneys' fees, except as provided in the Settlement Agreement.

10. Without affecting the finality of the Judgment in any way, this Court hereby retains continuing, exclusive jurisdiction over the settlement and the Settlement Agreement, including: (a) implementation of this settlement and any distribution to members of the

Settlement Class pursuant to further orders of this Court; (b) disposition of the Settlement Fund; (c) determining attorneys' fees, costs, expenses, and interest; (d) the Action until the Final Judgment contemplated hereby has become effective and each and every act agreed to be performed by the parties all have been performed pursuant to the Settlement Agreement; (e) hearing and ruling on any matters relating to distribution of settlement proceeds; (f) all parties to the Action and Releasing Parties, for the purpose of enforcing and administering the Settlement Agreement and the mutual releases and other documents contemplated by, or executed in connection with the Settlement Agreement; and (g) any other proceedings concerning the administration, interpretation, consummation, and enforcement of this settlement.

11. This document constitutes a final judgment and separate document for purposes of Federal Rule of Civil Procedure 58(a).

12. The Court finds that, pursuant to Federal Rules of Civil Procedure 54(a) and (b), Final Judgment should be entered, and further finds that there is no just reason for delay in the entry of Final Judgment, as to the parties to the Settlement Agreement. Accordingly, the Clerk is hereby directed to enter Final Judgment forthwith.

**IT IS SO ORDERED.**

DATED: \_\_\_\_\_

---

HONORABLE RICHARD J. LEON  
UNITED STATES DISTRICT COURT JUDGE

Presented by:

HAGENS BERMAN SOBOL SHAPIRO LLP

By:     /s/ Steve W. Berman    

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*Interim Co-Lead Counsel  
for Mackmin Consumer Plaintiffs*

# **Exhibit A**

**ATM Fee's  
Exclusion Report**

Name	Exclusion ID	Postmark Date	Exclusion Statement	Address	Phone Number	Signature	Notes
1) Andrew F. Rosbury	145188798	1/24/2022	Y	[REDACTED]	N/A	Y	Paper Exclusion
2) Tony Rollins	145188799	2/7/2022	Y	[REDACTED]	[REDACTED]	N	Emailed Exclusion
3) Jon Neill	145188800	2/7/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
4) Marcus G Ravazzar	145188801	2/8/2022	Y	[REDACTED]	N/A	Y	Mailed Exclusion (Did not provide full address)
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8) Maria Elena Esparz	145188805	2/22/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
9) Santiago Fernando-	145188806	2/22/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
10) Judy Wilson	145188807	2/27/2022	Y	N/A	N/A	N	Emailed Exclusion
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13) Ryan Lawrence Tut	145188810	3/11/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
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17) Jerilyn Phippeny	145188814	2/15/2022	Y	N/A	N/A	N	Emailed Exclusion



**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

ANDREW MACKMIN, *et al.*,

*Plaintiffs,*

v.

VISA INC., *et al.*,

*Defendants.*

Civil Action No. 1:11-cv-1831-RJL

Assign Date: 8/4/2015

Description: Antitrust – Class Action

**[PROPOSED] FINAL JUDGMENT OF DISMISSAL WITH PREJUDICE AS TO  
DEFENDANTS CHASE BANK USA, N.A.; JPMORGAN CHASE & CO.; AND  
JPMORGAN CHASE BANK, N.A.**

This matter has come before the Court to determine whether a final judgment of dismissal should be entered as to Defendants Chase Bank USA, N.A.; JPMorgan Chase & Co.; and JPMorgan Chase Bank, N.A. (“Chase Defendants”) in light of the settlement with the *Mackmin* Consumer Plaintiffs (“Plaintiffs”). The Court, having reviewed the settlement agreement between Plaintiffs and the Chase Defendants and Plaintiffs’ Motion for Final Approval of Settlements with the Bank of America, Chase, and Wells Fargo Defendants (“Final Approval Motion”), and finding no just reason for delay, hereby directs entry of Final Judgment under Federal Rule of Civil Procedure 54(b), which shall constitute a final adjudication of this case on the merits as to members of the Settlement Class and the Chase Defendants pursuant to the terms of the Settlement Agreement Between Plaintiffs and the Chase Defendants (“Settlement Agreement”) (*see* Dkt. No. 252, Ex. B).

Good cause appearing therefore:

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

1. The Court has jurisdiction over the subject matter of this litigation, and all actions within this litigation (collectively, “Action”) and over the parties to the Settlement Agreement, including all members of the Settlement Class and the Chase Defendants.

2. For purposes of this Judgment, except as otherwise set forth herein, the Court adopts and incorporates the definitions contained in the Settlement Agreement as though they were fully set forth in this Final Judgment. Specifically, “Settlement Class,” as defined in the Settlement Agreement, means:

All individuals and entities that paid an unreimbursed ATM Access Fee directly to any Bank Defendant or Alleged Bank Co-Conspirator for a Foreign ATM Transaction using an ATM card issued by a financial institution in the United States to withdraw cash at an ATM located in the United States at any time from October 1, 2007 to November 12, 2021 (the “Class Period”).

3. Those persons and entities identified in the list attached hereto as **Exhibit A** are validly excluded from the Class. Such persons and entities are not included in or bound by this Judgment. Such persons and entities are not entitled to any recovery of the settlement proceeds obtained in connection with the Settlement Agreement.

4. The Court finds the prerequisites to a class action under Rule 23(a) have been satisfied for settlement purposes only by the Settlement Class in that:

a. There are at least millions of putative members of the Settlement Class, making joinder of all members impracticable;

b. There are questions of fact and law that are common to all members of the Settlement Class;

c. The claims of the Class Representatives are typical of those of the Settlement Class; and

d. Plaintiffs Andrew Mackmin and Sam Osborn (“Class Representatives”) have and will fairly and adequately protect the interests of the members of the Settlement Class and have retained counsel experienced in complex antitrust class action litigation who have and will continue to adequately advance the interests of the Settlement Class.

5. The Court has found that this Action may be maintained as a class action under Rule 23(b)(3), for settlement purposes only, because: (i) questions of fact and law common to the members of the Settlement Class predominate over any questions affecting only the claims of individual members; and (ii) a class action is superior to other available methods for the fair and efficient adjudication of this controversy.

6. Pursuant to Rule 23(g), the Court hereby confirms that Hagens Berman Sobol Shapiro LLP, Quinn Emanuel Urquhart & Sullivan, LLP, and Mehri & Skalet, PLLC are

appointed as Settlement Class Counsel, and that Plaintiffs Andrew Mackmin and Sam Osborn are appointed to serve as Class Representatives on behalf of the Settlement Class.

7. Upon the Effective Date of Settlement, the Released Parties shall be discharged and released from the Released Claims, regardless of whether any such Releasing Party executes and delivers a proof of claim, and without respect to any rights afforded under California Civil Code § 1542 and/or any other similar, comparable, or equivalent laws. As of the Effective Date, all Releasing Parties shall be permanently barred and enjoined from instituting, commencing, prosecuting or asserting any Released Claim against any of the Released Parties as defined in the Settlement Agreement, or from assisting any third party in commencing or maintaining any suit against any Released Party related in any way to any of the Released Claims, including without respect to any rights afforded under California Civil Code § 1542 and/or any other similar, comparable, or equivalent laws.

8. The Court has finally approved the settlement between the Settlement Class and Chase Defendants in the total amount of \$19,500,000, and has found that said settlement is fair, reasonable, and adequate pursuant to Rule 23 of the Federal Rules of Civil Procedure.

9. This Court hereby dismisses on the merits and with prejudice this Action against the Chase Defendants, including the Claims of the Plaintiffs and the Settlement Class, with each party to bear its own costs and attorneys' fees, except as provided in the Settlement Agreement.

10. Without affecting the finality of the Judgment in any way, this Court hereby retains continuing, exclusive jurisdiction over the settlement and the Settlement Agreement, including: (a) implementation of this settlement and any distribution to members of the Settlement Class pursuant to further orders of this Court; (b) disposition of the Settlement Fund; (c) determining attorneys' fees, costs, expenses, and interest; (d) the Action until the Final

Judgment contemplated hereby has become effective and each and every act agreed to be performed by the parties all have been performed pursuant to the Settlement Agreement; (e) hearing and ruling on any matters relating to distribution of settlement proceeds; (f) all parties to the Action and Releasing Parties, for the purpose of enforcing and administering the Settlement Agreement and the mutual releases and other documents contemplated by, or executed in connection with the Settlement Agreement; and (g) any other proceedings concerning the administration, interpretation, consummation, and enforcement of this settlement.

11. This document constitutes a final judgment and separate document for purposes of Federal Rule of Civil Procedure 58(a).

12. The Court finds that, pursuant to Federal Rules of Civil Procedure 54(a) and (b), Final Judgment should be entered, and further finds that there is no just reason for delay in the entry of Final Judgment, as to the parties to the Settlement Agreement. Accordingly, the Clerk is hereby directed to enter Final Judgment forthwith.

**IT IS SO ORDERED.**

DATED: \_\_\_\_\_

---

HONORABLE RICHARD J. LEON  
UNITED STATES DISTRICT COURT JUDGE

Presented by:

HAGENS BERMAN SOBOL SHAPIRO LLP

By:     /s/ Steve W. Berman    

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*Interim Co-Lead Counsel  
for Mackmin Consumer Plaintiffs*

# **Exhibit A**



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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

ANDREW MACKMIN, *et al.*,

*Plaintiffs,*

v.

VISA INC., *et al.*,

*Defendants.*

Civil Action No. 1:11-cv-1831-RJL

Assign Date: 8/4/2015

Description: Antitrust – Class Action

**[PROPOSED] FINAL JUDGMENT OF DISMISSAL WITH PREJUDICE AS TO  
DEFENDANTS WELLS FARGO & COMPANY AND WELLS FARGO BANK, N.A.**

This matter has come before the Court to determine whether a final judgment of dismissal should be entered as to Defendants Wells Fargo & Company and Wells Fargo Bank, N.A. (“Wells Fargo Defendants”) in light of the settlement with the *Mackmin* Consumer Plaintiffs (“Plaintiffs”). The Court, having reviewed the settlement agreement between Plaintiffs and the Wells Fargo Defendants and Plaintiffs’ Motion for Final Approval of Settlements with the Bank of America, Chase, and Wells Fargo Defendants (“Final Approval Motion”), and finding no just reason for delay, hereby directs entry of Final Judgment under Federal Rule of Civil Procedure 54(b), which shall constitute a final adjudication of this case on the merits as to members of the Settlement Class and the Wells Fargo Defendants pursuant to the terms of the Settlement Agreement Between Plaintiffs and the Wells Fargo Defendants (“Settlement Agreement”) (*see* Dkt. No. 252, Ex. C).

Good cause appearing therefore:

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

1. The Court has jurisdiction over the subject matter of this litigation, and all actions within this litigation (collectively, “Action”) and over the parties to the Settlement Agreement, including all members of the Settlement Class and the Wells Fargo Defendants.

2. For purposes of this Judgment, except as otherwise set forth herein, the Court adopts and incorporates the definitions contained in the Settlement Agreement as though they were fully set forth in this Final Judgment. Specifically, “Settlement Class,” as defined in the Settlement Agreement, means:

All individuals and entities that paid an unreimbursed ATM Access Fee directly to any Bank Defendant or Alleged Bank Co-Conspirator for a Foreign ATM Transaction using an ATM card issued by a financial institution in the United States to withdraw cash at an ATM located in the United States at any time from October 1, 2007 to November 12, 2021 (the “Class Period”).

3. Those persons and entities identified in the list attached hereto as **Exhibit A** are validly excluded from the Class. Such persons and entities are not included in or bound by this Judgment. Such persons and entities are not entitled to any recovery of the settlement proceeds obtained in connection with the Settlement Agreement.

4. The Court finds the prerequisites to a class action under Rule 23(a) have been satisfied for settlement purposes only by the Settlement Class in that:

a. There are at least millions of putative members of the Settlement Class, making joinder of all members impracticable;

b. There are questions of fact and law that are common to all members of the Settlement Class;

c. The claims of the Class Representatives are typical of those of the Settlement Class; and

d. Plaintiffs Andrew Mackmin and Sam Osborn (“Class Representatives”) have and will fairly and adequately protect the interests of the members of the Settlement Class and have retained counsel experienced in complex antitrust class action litigation who have and will continue to adequately advance the interests of the Settlement Class.

5. The Court has found that this Action may be maintained as a class action under Rule 23(b)(3), for settlement purposes only, because: (i) questions of fact and law common to the members of the Settlement Class predominate over any questions affecting only the claims of individual members; and (ii) a class action is superior to other available methods for the fair and efficient adjudication of this controversy.

6. Pursuant to Rule 23(g), the Court hereby confirms that Hagens Berman Sobol Shapiro LLP, Quinn Emanuel Urquhart & Sullivan, LLP, and Mehri & Skalet, PLLC are

appointed as Settlement Class Counsel, and that Plaintiffs Andrew Mackmin and Sam Osborn are appointed to serve as Class Representatives on behalf of the Settlement Class.

7. Upon the Effective Date of Settlement, the Released Parties shall be discharged and released from the Released Claims, regardless of whether any such Releasing Party executes and delivers a proof of claim, and without respect to any rights afforded under California Civil Code § 1542 and/or any other similar, comparable, or equivalent laws. As of the Effective Date, all Releasing Parties shall be permanently barred and enjoined from instituting, commencing, prosecuting or asserting any Released Claim against any of the Released Parties as defined in the Settlement Agreement, or from assisting any third party in commencing or maintaining any suit against any Released Party related in any way to any of the Released Claims, including without respect to any rights afforded under California Civil Code § 1542 and/or any other similar, comparable, or equivalent laws.

8. The Court has finally approved the settlement between the Settlement Class and Wells Fargo Defendants in the total amount of \$20,820,000, and has found that said settlement is fair, reasonable, and adequate pursuant to Rule 23 of the Federal Rules of Civil Procedure.

9. This Court hereby dismisses on the merits and with prejudice this Action against the Wells Fargo Defendants, including the Claims of the Plaintiffs and the Settlement Class, with each party to bear its own costs and attorneys' fees, except as provided in the Settlement Agreement.

10. Without affecting the finality of the Judgment in any way, this Court hereby retains continuing, exclusive jurisdiction over the settlement and the Settlement Agreement, including: (a) implementation of this settlement and any distribution to members of the Settlement Class pursuant to further orders of this Court; (b) disposition of the Settlement Fund;

(c) determining attorneys' fees, costs, expenses, and interest; (d) the Action until the Final Judgment contemplated hereby has become effective and each and every act agreed to be performed by the parties all have been performed pursuant to the Settlement Agreement; (e) hearing and ruling on any matters relating to distribution of settlement proceeds; (f) all parties to the Action and Releasing Parties, for the purpose of enforcing and administering the Settlement Agreement and the mutual releases and other documents contemplated by, or executed in connection with the Settlement Agreement; and (g) any other proceedings concerning the administration, interpretation, consummation, and enforcement of this settlement.

11. This document constitutes a final judgment and separate document for purposes of Federal Rule of Civil Procedure 58(a).

12. The Court finds that, pursuant to Federal Rules of Civil Procedure 54(a) and (b), Final Judgment should be entered, and further finds that there is no just reason for delay in the entry of Final Judgment, as to the parties to the Settlement Agreement. Accordingly, the Clerk is hereby directed to enter Final Judgment forthwith.

**IT IS SO ORDERED.**

DATED: \_\_\_\_\_

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HONORABLE RICHARD J. LEON  
UNITED STATES DISTRICT COURT JUDGE

Presented by:

HAGENS BERMAN SOBOL SHAPIRO LLP

By:     /s/ Steve W. Berman    

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*Interim Co-Lead Counsel  
for Mackmin Consumer Plaintiffs*



# **Exhibit A**

**ATM Fee's  
Exclusion Report**

Name	Exclusion ID	Postmark Date	Exclusion Statement	Address	Phone Number	Signature	Notes
1) Andrew F. Rosbury	145188798	1/24/2022	Y	[REDACTED]	N/A	Y	Paper Exclusion
2) Tony Rollins	145188799	2/7/2022	Y	[REDACTED]	[REDACTED]	N	Emailed Exclusion
3) Jon Neill	145188800	2/7/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
4) Marcus G Ravazzar	145188801	2/8/2022	Y	[REDACTED]	N/A	Y	Mailed Exclusion (Did not provide full address)
5) Jozef Hatala	145188802	2/7/2022	Y	[REDACTED]	N/A	Y	Mailed Exclusion
6) Amber K Lee	145188803	2/12/2022	Y	[REDACTED]	N/A	Y	Mailed Exclusion
7) Stephen Auerbach	145188804	2/19/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
8) Maria Elena Esparz	145188805	2/22/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
9) Santiago Fernando-	145188806	2/22/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
10) Judy Wilson	145188807	2/27/2022	Y	N/A	N/A	N	Emailed Exclusion
11) Alexander Cohen	145188808	3/4/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
12) Ricardo LaCroix	145188809	3/11/2022	Y	N/A	N/A	N	Emailed Exclusion
13) Ryan Lawrence Tut	145188810	3/11/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
14) Jaimi Inskeep Tuttle	145188811	3/11/2022	Y	[REDACTED]	[REDACTED]	Y	Mailed Exclusion
15) Donald Machado	145188812	2/15/2022	Y	N/A	N/A	N	Emailed Exclusion
16) Frank Story	145188813	2/16/2022	Y	N/A	N/A	N	Emailed Exclusion
17) Jerilyn Phippeny	145188814	2/15/2022	Y	N/A	N/A	N	Emailed Exclusion