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10 UNITED STATES DISTRICT COURT  
11 SOUTHERN DISTRICT OF CALIFORNIA

12 JAMES WALTERS, MICHELLE DIXON,  
13 DEANA POLCARE and CHARLES  
14 POWELL, on behalf of themselves and all  
15 others similarly situated,

16 Plaintiffs,

17 vs.

18 TARGET CORP.,

19 Defendant.

CASE NO. 3:16-cv-1678-L-MDD

20 **NOTICE OF MOTION AND**  
21 **PLAINTIFFS' UNOPPOSED**  
22 **MOTION FOR FINAL APPROVAL**  
23 **OF CLASS SETTLEMENT,**  
24 **APPLICATION FOR ATTORNEYS'**  
25 **FEES AND COSTS AND SERVICE**  
26 **AWARDS**

Judge: Hon. M. James Lorenz

Place: Courtroom 5B

Hearing Date: June 22, 2020 at 10:30am

27 TO THE HONORABLE COURT, ALL PARTIES, AND THEIR COUNSEL  
28 OF RECORD, PLEASE TAKE NOTICE that on **June 22, 2020**, at **10:30 a.m.**, or as  
soon thereafter as the matter may be heard, in Courtroom 5B, before the Honorable  
M. James Lorenz, Plaintiffs and Class Counsel will, and hereby do, respectfully request  
that the Court grant Final Approval of the Settlement for which the Court granted

1 Preliminary Approval on December 6, 2019, the terms of which are more specifically  
2 described in the Memorandum of Points and Authorities filed in support of this  
3 Motion.

4 This Motion is based upon this Notice of Motion and Unopposed Motion; the  
5 accompanying Memorandum of Points and Authorities; the Settlement Agreement; the  
6 Joint Declaration of Jeff Ostrow, Jeffrey Kaliel and Hassan Zavareei in Support of Final  
7 Approval; the Declaration of Cameron Azari; Plaintiff's and Class Counsel's  
8 Application for Attorneys' Fees and Costs and Service Awards; other pleadings and  
9 papers on file in this Action; and other such evidence or argument as may be presented  
10 to the Court at the hearing on this Motion.

11 Defendant, Target Corp., does not oppose this Motion.

12 Dated: May 22, 2020

13  
14 /s/ Jeff Ostrow  
15 Jeff Ostrow (*pro hac vice*)  
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**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
PLAINTIFFS' UNOPPOSED  
MOTION FOR FINAL APPROVAL  
OF CLASS SETTLEMENT AND  
FOR CERTIFICATION OF  
SETTLEMENT CLASS**

Judge: Hon. M. James Lorenz

Place: Courtroom 5B

Hearing Date: June 22, 2020 at 10:30am

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## I. INTRODUCTION

Plaintiffs, James Walters, Michelle Dixon, Deana Polcare and Charles Powell, through Class Counsel, respectfully submit this Memorandum of Points and Authorities in Support of their Unopposed Motion for Final Approval of Class Settlement and for Certification of Settlement Class, Application for Attorneys' Fees and Costs and Service Awards.<sup>1</sup> The Settlement Agreement and Release,<sup>2</sup> attached as **Exhibit A**, if approved, will resolve all claims against Defendant Target Corp. The Agreement provides substantial relief for the Settlement Class and the terms of the Settlement are well within the range of reasonableness and consistent with applicable law.

Given the material risks inherent in this novel action, the Settlement is an excellent result for the Settlement Class providing Settlement Value of \$8,222,330.00, consisting of: (1) a Cash Settlement Fund of \$5,000,000.00; and (2) a Debt Reduction Cash Amount of \$3,222,830.00. These benefits will automatically be distributed or credited to Settlement Class Members without the requirement for a claims process or reversion to Target. In addition to the common fund and debt relief, there is significant non-monetary injunctive relief, which includes Target's agreement: (a) not to implement or assess RPFs, or any equivalent fee, in connection with TDC transactions less than \$7.00; (b) that any RPFs charged will be the lesser of the RPF disclosed by the TDC Agreement or the amount of the TDC transaction that was returned unpaid; and (c) to modify the TDC Agreement to provide additional information to TDC holders

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<sup>1</sup> Pursuant to this Court's requirement in the Amended Order Granting Motion for Preliminary Approval, Plaintiffs and Class Counsel filed an Unopposed Motion and Memorandum in Support of their Application for Attorneys' Fees and Costs and Service Awards on February 14, 2020. [DE #162 and #165].

<sup>2</sup> All capitalized terms in this memorandum shall have the same meanings as those defined in the Agreement.

1 regarding how they may incur RPFs from Target and non-sufficient funds or overdraft  
2 fees from their financial institutions in connection with the use of the TDC.

3 There were no objections to the Settlement and only seven opt-outs.  
4 Consequently, it is clear that the Settlement Class fully supports the Settlement. Based  
5 on the controlling legal standards and supporting facts, Final Approval is clearly  
6 warranted. In support of the Motion, Plaintiffs submit a Joint Declaration from Class  
7 Counsel, Jeff Ostrow, Jeffrey Kaliel, and Hassan Zavareei, and a Declaration from the  
8 Settlement Administrator, Cameron Azari, attached as ***Exhibits B*** and ***C***, respectively.  
9 Therefore, Plaintiffs and Class Counsel respectfully request that the Court: (1) grant  
10 Final Approval of the Settlement; (2) certify for settlement purposes the Settlement  
11 Class pursuant to Federal Rules of Civil Procedure 23(b)(3); (3) appoint Plaintiffs as  
12 Class Representatives; (4) appoint Kopelowitz Ostrow Ferguson Weiselberg Gilbert,  
13 Kaliel PLLC, and Tycko & Zavareei LLP as Class Counsel; and (5) enter Final Judgment  
14 dismissing the Action with prejudice.

## 15 **II. STATEMENT OF FACTS**

### 16 **A. BACKGROUND**

17 This case is a putative class action focused on Target's alleged breach of the TDC  
18 Agreement and deceptive marketing of the TDC which resulted in consumers being  
19 assessed RPFs by Target when their transactions get returned unpaid by their bank.  
20 Plaintiffs allege that Target processes TDC transactions unlike a traditional bank-issued  
21 debit card. While a true bank-issued debit card immediately approves or denies  
22 transactions based on available account balances, withdraws or holds funds for  
23 approved purchases, and has no fee penalties for declined insufficient funds  
24 transactions—the TDC has none of those properties. Indeed, the TDC does not even  
25 attempt funds deduction or notify consumers' banks for one to two days after a  
26

1 purchase, at minimum, and sometimes as many as five days or more. Plaintiffs allege  
 2 that Target omits and misrepresents the risks of using the TDC, resulting in Plaintiffs  
 3 and consumers' surprise that use of the card can cause massive fee penalties when the  
 4 checking account to which the TDC is linked has insufficient funds. Additionally,  
 5 Plaintiffs allege that Target misrepresents the nature of TDC by the product's very name  
 6 and in its marketing materials. Further, they allege that the TDC Agreement fails to  
 7 properly describe how the TDC functions, including that the card operates on the  
 8 slower Automated Clearinghouse Network, not the debit card networks, causing  
 9 customers to incur fees that are consumers do not with a true "debit card."

#### 10 **B. HISTORY OF THE LITIGATION**

11 On June 29, 2016, Plaintiff Walters filed this case - the California Action - seeking  
 12 monetary damages, restitution and injunctive relief from Target, based on its alleged  
 13 breach of the TDC Agreement and California law. [DE #1]. Plaintiff amended his  
 14 complaint on August 15, 2016. [DE #3].

15 On September 14, 2016, Target moved to dismiss the California Action under  
 16 Federal Rule of Civil Procedure 12(b)(6), on the basis that the Amended Complaint  
 17 failed to state a cause of action [DE #8], which motion was granted in part and denied  
 18 by the Court on February 14, 2017. [DE #13].

19 On June 26, 2017, Target filed a Motion for Reconsideration of the Court's order  
 20 on its Motion to Dismiss. [DE # 30]. On October 19, 2017, the Court issued an order  
 21 granting in part and denying in part the Motion for Reconsideration. [DE #32].

22 On March 8, 2018, Target filed its Amended Answer to the First Amended  
 23 Complaint, asserting 14 affirmative defenses. [DE #59].

24 Thereafter, the Parties engaged in extensive fact and class discovery. Joint Decl.  
 25 ¶ 8. Target produced nearly 5,000 pages of documents that Class Counsel reviewed. *Id.*

1 Target deposed Plaintiff Walters and Class Counsel took eight depositions of Target's  
2 representatives and employees, and of third parties involved in processing TDC  
3 transactions. *Id.* The Parties also retained experts and exchanged expert reports. *Id.* ¶ 9.

4 On September 7, 2018, after the close of fact discovery, Target filed a Motion  
5 for Summary Judgment, which Plaintiff Walters opposed and remained pending at the  
6 time the parties agreed to the Settlement. [DE #90, #118].

7 On September 12, 2018, Plaintiff Walters filed a Motion for Class Certification,  
8 which Target opposed. [DE # 98, #130].

9 On September 12, 2018, Plaintiffs Dixon and Powell filed the Minnesota Action  
10 alleging wrongdoing by Target similar to that alleged in the California Action.  
11 [Minnesota Action DE #1]. An Amended Complaint in the Minnesota Action on  
12 January 22, 2019, added Plaintiff Polcare and a count for violating New York General  
13 Business Law § 349. [Minnesota Action DE #19].

14 On March 14, 2019, the Parties mediated the Action in Los Angeles, California,  
15 with Robert J. Meyer, Esq., a well-respected neutral. Joint Decl. ¶ 13. The case did not  
16 settle that day, but with Mr. Meyer's assistance, the Parties continued negotiations for  
17 several weeks, agreeing to the Settlement's material terms in April of 2019. *Id.* at 15.

18 On April 29, 2019, the Parties filed a Notice of Settlement advising the Court  
19 that the Parties had reached an agreement to settle the Action. [DE #148]. The Parties  
20 also filed a Notice of Settlement in the Minnesota Action, resulting in an order staying  
21 that case pending the settlement approval process in this case. [Minnesota Action DE  
22 # 30, #31]. On June 14, 2019, the Parties signed the Agreement.

23 On June 19, 2019, Plaintiff Walters filed a Motion for Preliminary Approval of  
24 Class Settlement and Certification of Settlement Class. [DE #155]. The Court entered  
25 an Order Granting the Motion for Preliminary Approval on December 2, 2019, and an  
26

Amended Order Granting the Motion for Preliminary Approval on December 6, 2019. [DE #161 and #162].

On February 14, 2020, pursuant to the Court's Amended Order Granting Preliminary Approval, Class Counsel filed its Application for Attorneys' Fees and Costs, and Service Awards. [DE #165].

On May 14, 2020, Plaintiffs filed their Second Amended Complaint adding Plaintiffs Dixon, Polcare and Powell to this action. [DE #170].

### **C. SUMMARY OF THE SETTLEMENT TERMS.**

The following is a summary of the material terms of the Settlement.

#### **1. The Settlement Class.**

The Settlement Class is an opt-out class under Rule 23(b)(2) and (3) of the Federal Rule of Civil Procedure. The Settlement Class is defined as:

All TDC holders in the United States who, within the Class Period, incurred at least one RPF in connection with their TDC, that was not refunded or waived.

Agreement ¶2.1(a). "Class Period" means the period between June 29, 2012, and the date of the Preliminary Approval Order. *Id.* at ¶1.6.

#### **2. Relief for the Benefit of the Settlement Class.**

##### **a. *Monetary Relief and Allocation and Distribution of Benefits***

The Settlement Value of the Agreement consists of the Cash Settlement Amount of \$5,000,000.00 and the Debt Reduction Cash Amount of \$3,222,330.00. Agreement ¶2.2(b)(1)-(2). The \$8,222,330.00 is all for the direct benefit of the Settlement Class Members – there will be no reversion to Target. *Id.* at ¶2.2(b)(7).

The Cash Settlement Amount will be used to pay: (a) Settlement Class Member Cash Payments; (b) any Court awarded attorneys' fees and litigation expenses and costs; (c) any Court awarded Class Representative Service Awards; and (d) any Administrative

Costs. *Id.* at ¶2.2(b)(5); 2.5(a); 3.1; 3.2. Pursuant to the terms of the Preliminary Approval Order, Target fully funded the Settlement Fund. Joint Decl. ¶ 18.

Settlement Class Members do not have to submit claims or take any other affirmative step to receive their benefits under the Settlement. *Id.* at ¶ 19. Instead, upon the Effective Date, Target and the Settlement Administrator will automatically distribute the Settlement Class Member Cash Payments and credit the Debt Reduction Payments. *Id.*

Each Settlement Class Member who paid at least one RPF, that was assessed during the Class Period and not refunded or charged off, shall be entitled to receive a *pro rata* share of the first paid RPF from the Net Settlement Fund based on the dollar amount of the first RPF paid by the Settlement Class Member. Agreement ¶2.2(b)(5). To determine the exact amount of the Settlement Class Member Cash Payment, the Net Settlement Fund will be divided by the number of Settlement Class Members who paid at least one RPF that was not refunded or waived. *Id.* Payments to Settlement Class Members from the Net Settlement Fund shall be by check mailed by the Settlement Administrator. *Id.* at ¶2.7(b).

For each Settlement Class Member who incurred an RPF during the Class Period, but has not yet paid it at the time the Settlement Class Member Cash Payments are to be distributed, the Debt Reduction Cash Amount shall be used by Target to make Debt Reduction Payments toward the outstanding balance on the Settlement Class Member's TDC account in an amount of 25% of the first RPF that was assessed and not paid. *Id.* ¶2.2(b)(6). No Debt Reduction Payment shall be considered an admission by any Settlement Class Member that the underlying debt is valid. *Id.*

In the event there are any funds remaining in the Settlement Fund Account after the distributions required by the Settlement Agreement are completed, said funds shall:

(a) be distributed to Settlement Class Members who cashed their checks via a secondary distribution, if economically feasible; or (b) through a residual *cy pres* program benefitting the National Endowment for Financial Education. *Id.* at ¶2.2(b)(7); 3.4.

***b. Practice Changes***

Target has agreed to make two practice changes and to make modifications to the language in the TDC Agreement. Each will provide benefits to the Settlement Class and future customers resulting in significant monetary savings. Joint Decl. ¶ 26. First, Target agrees not to implement or assess RPFs, or any equivalent fee, in connection with TDC transactions that are less than \$7.00, for a period of two years after the Effective Date. Agreement *Id.* at ¶2.2(a)(1). Second, beginning on or before the Effective Date, and for a minimum of two years, Target agrees that any RPFs charged will be the lesser of the RPF as disclosed by the TDC Agreement or the amount of the TDC transaction that was returned unpaid. *Id.* at ¶2.2(a)(2). Third, the Parties have worked collaboratively to amend the TDC Agreement to provide additional information to TDC holders regarding how they may incur RPFs from Target and non-sufficient funds or overdraft fees from their banks or credit unions in connection with the use of the TDC. *Id.* at ¶2.2(a)(3). Additionally, the Parties have agreed upon significant changes to the TDC Agreement that will inform TDC holders how the TDC processes their transactions to help them avoid these fees from Target and their linked banks and credit unions. Target is working upon implementation of these revised disclosures. Joint Decl. ¶ 26.

***c. Settlement Administrator and Administration Costs***

The Court-approved Settlement Administrator is Epiq Systems. Epiq is a leading class action administration firm in the United States. Joint Decl. ¶ 34. From the date of the Preliminary Approval Order, Epiq has been administering the Notice and



1 administration of the Settlement and has fully complied with all requirements and  
 2 conditions set forth therein. *Id.* All Administrative Costs have been paid out of, and will  
 3 continue to be paid from, the Cash Settlement Fund. As previously represented to the  
 4 Court, those Costs are estimated to total less than \$600,000.00. *Id.*

5 **d. Settlement Class Member Release.**

6 In exchange for the benefits conferred by the Settlement, upon the Effective  
 7 Date of the Agreement, all Settlement Class Members will release Target from claims  
 8 relating to the subject matter of the action. Agreement at ¶ 2.4(a). The detailed release  
 9 language can be found in the Agreement. In addition, the named Plaintiffs will provide  
 10 a general release to Target. *Id.* at ¶ 2.4(c).

11 **e. The Notice and Administration Program.**

12 As discussed more fully below in Section III.C., the Notice Program was properly  
 13 completed pursuant to the Court's Preliminary Approval Order. Joint Decl. ¶ 37. Based  
 14 upon the information Target had about the Settlement Class, it apprised Settlement  
 15 Class members of the following: a description of the material terms of the Settlement;  
 16 a date by which persons in the Settlement Class may exclude themselves from or opt-  
 17 out of the Settlement Class; a date by which members of the Settlement Class may  
 18 object to the Settlement; the date upon which the Final Approval Hearing will occur;  
 19 and the address of the Settlement Website at which persons in the Settlement Class may  
 20 access the Agreement and other related documents and information.

21 The program was designed to and did provide the best notice practicable under  
 22 the circumstances. *Id.* at ¶ 35. It more than satisfied all applicable requirements of law,  
 23 including, but not limited to, Federal Rule of Civil Procedure 23 and constitutional due  
 24 process. *Id.* at ¶ 36.



### 1 III. ARGUMENT

#### 2 A. The Legal Standard for Final Approval

3 Fed. R. Civ. P. 23(e) requires court approval before a class action can be  
 4 dismissed via a settlement binding class members. The Settlement's proponents (lead  
 5 plaintiffs and defendant), have the burden of presenting evidence showing that the  
 6 Settlement should be approved, and the action dismissed. *See, e.g., Officers for Justice v.*  
 7 *Civil Svc. Comm'n of the City and County of San Francisco*, 688 F.2d 615, 625 (9th Cir. 1982);  
 8 *see also Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992) (finding  
 9 settlement to be a preferred method for resolving disputes, particularly "where complex  
 10 class action litigation is concerned"). "The Ninth Circuit maintains a 'strong judicial  
 11 policy' that favors the settlement of class actions." *Cohorst v. BRE Props.*, No. 3:10-CV-  
 12 2666-JM-BGS, 2011 U.S. Dist. LEXIS 151719, at \*33 (S.D. Cal. Nov. 9, 2011) (citing  
 13 *In re Pacific Enters. Sec. Litig.*, 47 F.3d. 373, 378 (9th Cir. 1995)). "Voluntary conciliation  
 14 and settlement are the preferred means of dispute resolution in complex class action  
 15 litigation." *Dennis v. Kellogg Co.*, 09-CV-1786-L (WMc), 2013 U.S. Dist. LEXIS 64577,  
 16 at \*4 (S.D. Cal. May 3, 2013) (Lorenz, J.) (citations omitted).

17 "Adequate notice is critical to court approval of a class settlement under Rule  
 18 23(e)." *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1025 (9th Cir. 1998). Also, Rule 23(e)  
 19 "requires the district court to determine whether a proposed settlement is  
 20 fundamentally fair, adequate, and reasonable." *Id.* at 1026. "Settlement is the offspring  
 21 of compromise; the question we address is not whether the final product could be  
 22 prettier, smarter, or snazzier, but whether it is fair, adequate, and free from collusion."  
 23 *Id.* at 1027. The Court balances the *Hanlon* factors in deciding the Settlement is fair,  
 24 adequate, and reasonable:

- 25 (1) the strength of plaintiffs' case; (2) the risk, expense, complexity, and  
 26 likely duration of further litigation; (3) the risk of maintaining class action

status throughout the trial; (4) the amount offered in settlement; (5) the extent of discovery completed, and the stage of the proceedings; (6) the experience and views of counsel; (7) the presence of a governmental participant; and (8) the reaction of the class members to the proposed settlement.

*Gutierrez-Rodriguez v. R.M. Galicia, Inc.*, No. 16-CV-0182 H BLM, 2017 U.S. Dist. LEXIS 170982, at \*15 (S.D. Cal. Oct. 16, 2017). “The relative degree of importance to be attached to any particular factor will depend upon . . . the nature of the claim(s) advanced, the type(s) of relief sought, and the unique facts and circumstances presented by each individual case.” *Woo v. Home Loan Grp., L.P.*, No. 07-CV-202 H (POR), 2008 U.S. Dist. LEXIS 65144, at \*8 (S.D. Cal. Aug. 25, 2008) (quoting *Officers for Justice*, 688 F.2d at 625).

Additionally, “[s]ubsection (e)(2) was added to Rule 23 as a part of the 2018 amendments. Fed. R. Civ. Proc. 23, *Advisory Comm. Notes*. Prior to the amendment, the analysis was guided by the *Churchill* factors.”<sup>3</sup> *Dashnaw v. New Balance Ath., Inc.*, No. 17cv159-L(JLB), 2019 U.S. Dist. LEXIS 126183, at \*15 n.7 (S.D. Cal. July 29, 2019) (Lorenz, J.). The amended Rule 23(e)(2) factors that this Court must consider are:

- (A) the class representatives and class counsel have adequately represented the class;
- (B) the proposal was negotiated at arm’s length;
- (C) the relief provided for the class is adequate, taking into account:
  - (i) the costs, risks, and delay of trial and appeal;
  - (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
  - (iii) the terms of any proposed award of attorney’s fees, including timing of payment; and
  - (iv) any agreement required to be identified under Rule 23(e)(3); and
- (D) the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2). “While the Ninth Circuit has yet to address the amendment to Rule 23(e)(2) . . . the factors in amended Rule 23(e)(2) generally encompass the list of

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<sup>3</sup> The *Churchill* factors are the *Hanlon* factors by another name.

relevant factors previously identified by the Ninth Circuit.” *Graves v. United Indus. Corp.*, No. 2:17-cv-06983-CAS-SKx, 2020 U.S. Dist. LEXIS 33781, at \*13 (C.D. Cal. Feb. 24, 2020) (alteration in original) (internal citations omitted). “The goal of the 2018 amendment ‘was not to displace any factor, but rather to focus . . . on the core concerns . . . that should guide the decision whether to approve the propos[ed settlement].” *Dashnaw*, 2019 U.S. Dist. LEXIS 126183, at \*15 n.7. (quoting Fed. R. Civ. Proc. 23, *Advisory Comm. Notes*). “Accordingly, the Court applies the framework set forth in Rule 23 with guidance from the Ninth Circuit’s precedent, bearing in mind the Advisory Committee’s instruction not to let ‘[t]he sheer number of factors’ distract the Court and parties from the ‘central concerns’ underlying Rule 23(e)(2).” *Graves*, 2020 U.S. Dist. LEXIS 33781, at \*13-14. (alteration in original) (internal citations omitted). When a court exercises its discretion to approve a settlement, the Ninth Circuit has instructed:

[T]he court’s intrusion upon what is otherwise a private consensual agreement negotiated between the parties to a lawsuit must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.

*Officers for Justice*, 688 F.2d at 625. “The proposed settlement is not to be judged against a hypothetical or speculative measure of what *might* have been achieved by the negotiators.” *Id.* (emphasis in original).

## **B. This Settlement Satisfies the Criteria for Final Approval**

As detailed below, each of the relevant *Hanlon* factors evidences that the Settlement is fair, reasonable and adequate; consequently, supporting the request for Final Approval. The Settlement is also the product of good-faith, informed, and arms-length negotiations between competent counsel, as the Settlement was reached in the absence of collusion in conjunction with using an experienced and highly regarded mediator, Robert Meyer, Esq. of JAMS. A full day formal mediation served as the

1 foundation for the eventual resolution of this action. Although the Parties did not settle  
 2 that day, much progress was made, with the Parties continuing their settlement  
 3 discussions for several weeks with the assistance of Mr. Meyer. Joint Decl. ¶ 12. “The  
 4 assistance of an experienced mediator in the settlement process confirms that the  
 5 settlement is non-collusive.” *E.g., Todd v. STARR Surgical Co.*, CV 14-5263 MWF  
 6 (GJSx), 2017 WL 4877417, at \*2 (C.D. Cal. Oct. 24, 2017) (quoting *Satchell v. Fed. Express*  
 7 *Corp.*, No. C 03 2878 SI, 2007 WL 1114010, at \*4 (N.D. Cal. Apr. 13, 2007)). As such,  
 8 the Court should give a presumption of fairness to arms-length settlements reached by  
 9 experienced counsel. *Rodriguez v. West Pub’g Corp.*, 563 F.3d 948, 965 (9th Cir. 2009)  
 10 (“We put a good deal of stock in the product of an arms-length, non-collusive  
 11 negotiated resolution . . .”).

### 12 ***1. Strength of Plaintiffs’ Case***

13 Confident in the strength of their case, Plaintiffs and Class Counsel are  
 14 nevertheless pragmatic regarding Target’s various class certification and merits defenses  
 15 and recognize the risks inherent to litigation of this magnitude. Joint Decl. ¶ 23. Plaintiff  
 16 Walters faced the risk on Target’s Motion for Summary Judgment, his Motion for Class  
 17 Certification, at trial, or on a subsequent appeal based on Target’s various theories and  
 18 defenses advanced. *Id.* The same risks would be present in the Minnesota Action were  
 19 it to proceed. *Id.*

20 Each risk, by itself, could have impeded Plaintiffs’ and the Settlement Class’  
 21 successful prosecution of these claims at trial and in an eventual appeal—resulting in  
 22 zero benefit to the Settlement Class. *Dennis v. Kellogg Co.*, 09-CV-1786-L (WMc), 2013  
 23 U.S. Dist. LEXIS 163118, at \*9 (S.D. Cal. Nov. 14, 2013) (Lorenz, J.) (“[T]he settlement  
 24 avoids the risks of extreme results on either end, i.e., complete or no recovery. Thus, it  
 25 is plainly reasonable for the parties at this stage to agree that the actual recovery realized  
 26

and risks avoided here outweigh the opportunity to pursue potentially more favorable results through full adjudication”). Under the circumstances, Plaintiffs and Class Counsel appropriately determined that the Settlement outweighs the gamble of continued litigation. Joint Decl. ¶ 27. Moreover, even if Plaintiffs prevailed at trial, any recovery could be delayed for years by an appeal. *McPhail v. First Command Fin. Plan., Inc.*, No. 05cv179-IEG-JMA, 2009 U.S. Dist. LEXIS 26544, at \*13 (S.D. Cal. Mar. 30, 2009) (likelihood that appellate proceedings could delay class recovery favors settlement approval). This Settlement provides substantial relief without further delay. *Id.* at ¶ 24.

## ***2. The Risk, Expense, Complexity, and Likely Duration of Further Litigation.***

The traditional means for handling claims like those at issue here would tax the court system, require a massive expenditure of public and private resources, and—given the relatively small value of the claims of the individual members of the Settlement Class—could be impracticable. *Id.* at ¶ 25. No doubt continued litigation here would be difficult, expensive, and time consuming. *Id.* Recovery by any means other than settlement would likely require additional years of litigation in this Court, the District of Minnesota, and the Circuit Courts of Appeals for the Eighth and Ninth Circuits. *Id.*; *See McPhail*, 2009 U.S. Dist. LEXIS 26544, at \*12-13 (noting potential complexity and possible duration of trial weighs in favor of granting final approval, and that post-judgment appeal would require many years to resolve and delay payment to class members). The Settlement provides immediate and substantial benefits to hundreds of thousands of Target customers. Joint Decl. ¶ 28. The proposed Settlement is the best vehicle for the Settlement Class to timely and efficiently receive the agreed upon relief.

## ***3. The Risk of Maintaining Class Action Status Throughout Trial.***

Whether the Actions would have been tried as a class action is also relevant in assessing the Settlement’s fairness. As the Court had not yet certified a class when the

Agreement was executed, it is unclear whether certification would have been granted. *Id.* ¶ 29. Target has vigorously opposed Plaintiff Walter’s Motion for Class Certification, and “would surely [have] challenge[d] class certification on appeal” in the event of an adverse judgment. *Rodriguez v. West Pub. Corp.*, No. CV05-3222, 2007 WL 2827379, at \*8 (C.D. Cal. Sept. 10, 2007) (finding the likelihood that a certification decision would be appealed meant this factor weighed in favor of approval), *rev’d on other grounds*, 563 F.3d 948 (9th Cir. 2009). The Parties would expend significant resources in further litigation. Joint Decl. ¶ 29. Accordingly, this factor weighs in favor of final approval.

#### ***4. The Amount Offered in the Settlement.***

The Settlement is squarely within the range of appropriateness for approval. As discussed above, the Settlement is the product of arm’s-length negotiations conducted by the Parties’ experienced counsel and under the supervision of a reputable and skilled mediator. As a result of these negotiations, the Parties have reached a Settlement that Class Counsel believes to be fair, reasonable, and in the Settlement Class’ best interest. Class Counsel’s assessment in this regard is entitled to considerable deference.

In light of the risks faced here, the \$8,222,330.00 Settlement Value itself is a great result. When considering the practice changes and Target’s commitment to modify the TDC Agreement, the result is even better. These benefits are especially valuable given the complexity of the litigation and the significant barriers that would loom in the absence of settlement, including rulings on the Motion for Summary Judgment and Motion for Class Certification, and assuming Plaintiffs could overcome these obstacles, likely trial and appeals in the event of a Plaintiffs’ verdict.

Analyzing Target’s classwide data, Class Counsel estimates that the best-case scenario is that damages would be approximately \$25,000,000.00. Joint Decl. ¶ 26. Target, on the other hand, would argue that damages, if not zero, are at best no more



1 than 50% of Plaintiffs' calculation. *Id.* Taking into account only the Cash Settlement  
 2 Amount of \$5,000,000.00, the Settlement Class is recovering approximately 20% or  
 3 40% (depending upon the opposing models) of its most probable damages, without the  
 4 risk of further litigation. *Id.* When taking into account the Debt Reduction Cash  
 5 Amount, the Settlement Class ends up recovering approximately 33% or 66% of its  
 6 most probable damages, without the further risks of litigation. *Id.* The Settlement Class  
 7 is also obtaining the benefit of fewer RPFs during the two-year period that Target has  
 8 agreed to bind itself to the practice change. Furthermore, the upcoming changes to the  
 9 TDC Agreement will help Settlement Class Members and other customers avoid future  
 10 RPFs because they will better understand how the TDC operates. *Id.*

11 Courts in this Circuit routinely grant final approval to settlements providing  
 12 between 5-10% of maximum potential damages. "It is well-settled law that a cash  
 13 settlement amounting to only a fraction of the potential recovery does not per se render  
 14 the settlement inadequate or unfair." *Officers for Justice v. Civil Serv. Comm'n*, 688 F.2d at  
 15 628. *See also Bravo v. Gale Triangle, Inc.*, 2017 WL 708766, \*10 (C.D. Cal. Feb.16, 2017)  
 16 (approving a settlement where net recovery was approximately 7.5% of the projected  
 17 maximum recovery amount); *Roberti v. OSI Sys.*, No. CV-13-09174 MWF (MRW), 2015  
 18 U.S. Dist. LEXIS 164312, at \*12-13 (C.D. Cal. Dec. 8, 2015) (approving settlement of  
 19 8.8% of maximum potential recovery); *Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245,  
 20 256 (N.D. Cal 2015) (approving settlement where gross recovery to the class was  
 21 approximately 8.5% of maximum recovery amount); *Custom LED, LLC v. eBay, Inc.*,  
 22 No. 12-cv-00350-JST, 2014 U.S. Dist. LEXIS 87180, at \*13-14 (N.D. Cal. June 24,  
 23 2014) (noting courts have held recovery of only 3% of maximum potential recovery is  
 24 fair and reasonable in face of real possibility of recovering nothing absent settlement);  
 25 *In re Omnivision Techs.*, 559 F. Supp. 2d 1036, 1042 (N.D. Cal. 2007) (approving  
 26

1 settlement of 9% of maximum potential recovery).

2 These are all significant achievements considering the obstacles that Plaintiffs  
3 faced in the litigation. *See Jaffe v. Morgan Stanley & Co.*, No. C 06-3903 THE, 2008 WL  
4 346417, at \*9 (N.D. Cal. Feb. 7, 2008) (“a sizeable discount is to be expected in  
5 exchange for avoiding uncertainties, risks, and costs that come with litigation a case to  
6 trial. Again, the issue is not whether the settlement “could be better,” but whether it  
7 falls within the range of appropriate settlements. *Hanlon*, 150 F.3d at 1027.”).

8 The \$8,222,330.00 Settlement Value and significant savings from the practice  
9 changes are fair and reasonable in light of Target’s defenses, and the challenging and  
10 unpredictable litigation path Plaintiffs would have faced absent settlement.

#### 11 ***5. The Extent of Discovery Completed and Stage of the Proceedings.***

12 The Parties completed more than enough discovery in order to have sufficiently  
13 informed opinions to guide their settlement negotiations and decisions. “In regards to  
14 class action settlements, ‘formal discovery is not a necessary ticket to the bargaining  
15 table where the parties have sufficient information to make an informed decision about  
16 settlement.’” *Linney v. Cellular Alaska P’ship*, 151 F.3d 1234, 1239 (9th Cir. 1998) (internal  
17 quotations omitted) Here, the Parties completed fact discovery in the California Action,  
18 with Target producing nearly 5,000 pages. Further, Parties completed numerous fact  
19 depositions of Target employees and were in the expert discovery phase when  
20 settlement was reached. Joint Decl. ¶¶ 8-11. Clearly, the Parties had completed far more  
21 than the minimal informal discovery necessary to settle the Action.

22 As noted above, the review and analysis of the information provided during the  
23 extensive discovery phase positioned Class Counsel to confidently evaluate the  
24 strengths and weaknesses of Plaintiffs’ claims and prospects for success at class  
25 certification, summary judgment, and trial. *Id.* at ¶ 12.



1 In addition, the Parties briefed motions to dismiss, for reconsideration, class  
 2 certification, and summary judgment. Thus, the Settlement was reached after  
 3 considerable investigation and careful consideration. The Parties were fully aware of the  
 4 issues and risks associated with the respective claims and defenses. The record provides  
 5 sufficient information to determine that Settlement at this juncture is fair and  
 6 appropriate; consequently, this factor also weighs in favor of granting Final Approval.

7 ***6. The Experience and Views of Counsel.***

8 Class Counsel possesses extensive knowledge of and experience in prosecuting  
 9 class actions in courts throughout the United States, including this one. *Id.* at ¶ 32. Class  
 10 Counsel has successfully litigated and resolved many consumer class actions against  
 11 major corporations, including those against financial institutions for the assessment of  
 12 improper fees, recovering hundreds of millions of dollars. *Id.* Class Counsels'  
 13 experience, resources and knowledge is extensive and formidable. *Id.*

14 Here, Class Counsel's expertise allowed it to build a novel case that has not been  
 15 attempted before. *Id.* at ¶ 33. Because Class Counsel has litigated many complex  
 16 consumer cases involving financial services, credit cards, debit cards, including working  
 17 extensively with experts to uncover the methodologies behind the assessment of fees,  
 18 they were able to successfully litigate and settle this matter. *Id.* Employing this  
 19 experience and skill, Class Counsel aggressively and swiftly worked to litigate, then  
 20 resolve, this case in an efficient manner. Class Counsel is qualified to represent the  
 21 Settlement Class and will, along with the Class Representatives, vigorously protect the  
 22 interests of the Settlement Class. *Id.*

23 A great deal of weight is accorded to the recommendation of counsel, who are  
 24 the most closely acquainted with the facts of the underlying litigation. *In re Immune*  
 25 *Response Sec. Litig.*, 497 F. Supp. 2d 1166, 1174 (S.D. Cal. 2007); *Nat'l Rural Telecomm.*

1 *Coop. v. DirectTV, Inc.*, 221 F.R.D. at 528 (C.D. Cal. Jan. 5, 2004). Through the lens of  
 2 its significant experience litigating class claims and familiarity with this case, Class  
 3 Counsel is of the opinion that the Settlement in this case is fair and reasonable. Joint  
 4 Decl. at ¶ 30.

5 ***7. The Presence of a Governmental Participant.***

6 No governmental actor is relevant to this action, rendering this factor immaterial  
 7 to the settlement approval process.

8 ***8. The Reaction of the Class Members to the Proposed Settlement.***

9 The Settlement Class had an overwhelmingly positive reaction to the Settlement.  
 10 Through the date of filing this motion, there were only seven Settlement Class members  
 11 who opted-out and zero Settlement Class Members who objected.

12 **C. Notice to the Class Was Adequate and Satisfied Rule 23 and Due**  
 13 **Process**

14 In addition to having personal jurisdiction over the Plaintiffs, who are parties to  
 15 this Action, the Court also has personal jurisdiction over all members of the Settlement  
 16 Class because they received the requisite notice and due process. *See Phillips Petroleum*  
 17 *Co. v. Shutts*, 472 U.S. 797, 811-12 (1985) (citing *Mullane v. Cent. Hanover Bank & Trust*  
 18 *Co.*, 339 U.S. 306, 314-15 (1950)). “The class must be notified of a proposed settlement  
 19 in a manner that does not systematically leave any group without notice.” *In re Immune*  
 20 *Response Sec. Litig.*, 497 F. Supp. 2d at 1170 (quoting *Officers for Justice*, 688 F.2d at 624).

21 The Notice Program was completed pursuant to this Court’s Preliminary  
 22 Approval Order instructions, which consisted of three parts: (1) Email Notice which  
 23 was designed to reach those Settlement Class members for which Target maintained  
 24 email addresses; (2) direct mail Postcard Notice to all Settlement Class members for  
 25 whom Target did not provide an email address and those who were sent an email that  
 26 was returned undeliverable after multiple attempts; and (3) a detailed Long Form Notice

1 containing more detail than the two other notices that has been available on the  
2 Settlement website ([www.targetdebitcardsettlement.com](http://www.targetdebitcardsettlement.com)) and via U.S. mail upon  
3 request. Joint Decl. ¶ 37; Azari Decl. ¶¶ 7, 18). Each facet of the Notice Program was  
4 properly accomplished. Azari Decl. *passim*.

5 The Settlement Administrator received the data files with Settlement Class  
6 information on December 26, 2019, identifying the Settlement Class members' names,  
7 last known addresses and email addresses. Azari Decl. ¶ 10. Email Notice was timely  
8 completed as per the requirements of the Agreement. Azari Decl. ¶¶ 11-12. From  
9 February 14, 2020, the Settlement Administrator timely and successfully sent 477,756  
10 emails to Settlement Class members for which Target maintained addresses. *Id.* at ¶ 11.  
11 Following completion of the initial Email Notice effort, 30,634 Email Notices were  
12 deemed undeliverable. *Id.* at ¶ 12. On the same date as the Email Notice was sent,  
13 Postcard Notice was mailed to 549,692 Settlement Class members. *Id.* at ¶ 13. Prior to  
14 mailing, all mailing addresses were checked against the National Change of Address  
15 database maintained by the United States Postal Service. *Id.* at ¶ 14. On March 25, 2020,  
16 30,634 Post Card Notices were mailed to Settlement Class members whose emails were  
17 undeliverable. *Id.* ¶ 13. As of April 24, 2020, the Settlement Administrator re-mailed  
18 44,824 postcards to new addresses for Settlement Class members whose postcards had  
19 initially returned undeliverable. *Id.* at ¶ 15. Following the Postcard Notice remailing,  
20 there were only 13,219 Settlement Class members whose Postcard Notices were  
21 returned undeliverable. *Id.* at ¶ 16. The result of the Notice Program was that 98.7% of  
22 the Settlement Class received notice of the Settlement. *Id.*

23 In addition, the Settlement Website, containing detailed information and  
24 important filings relating to the Settlement, was established on February 3, 2020. Azari  
25 Decl. ¶ 18. It allowed Settlement Class members to obtain detailed information about  
26

1 the Action and the Settlement. *Id.* As of April 24, 2020, the Settlement Website had  
 2 41,709 unique visitors to the website with 70,776 page views. *Id.*

3 On February 3, 2020, the Settlement Administrator established and maintained  
 4 an automated toll-free telephone line, available 24 hours a day, 7 days a week, for  
 5 Settlement Class members to call to listen to answers to frequently asked questions and  
 6 to request Long Form Notices be sent via mail. *Id.* at ¶ 19. As of April 24, 2020, the  
 7 toll-free number received 4,029 telephone calls representing 11,228 minutes of use. *Id.*  
 8 As of the same date, the Settlement Administrator had mailed out 79 Long Form  
 9 Notices to Settlement Class members. *Id.* at ¶ 17. The Settlement Administrator also  
 10 established a post office box for Settlement Class members to contact the Settlement  
 11 Administrator by mail with any specific questions or requests. *Id.* at ¶ 20. Lastly, the  
 12 Settlement Administrator worked with Class Counsel to communicate with Settlement  
 13 Class members who had questions the Settlement Administrator could answer. Joint  
 14 Decl. ¶ 37.

15 In this Circuit, it has long been the case that a notice of settlement pursuant to  
 16 Fed. R. Civ. P. 23(c)(2) is satisfactory if it “generally describes the terms of the  
 17 settlement in sufficient detail to alert those with adverse viewpoints to investigate and  
 18 to come forward and be heard.” *Churchill Vill., L.L.C. v. GE*, 361 F.3d 566, 575 (9th  
 19 Cir. 2004) (citing *Mendoza v. Tucson Sch. Dist. No.1*, 623 F.3d 1338, 1352 (9th Cir. 1980)).  
 20 Here, the Notice Program satisfied these content requirements. Thus, the Notice  
 21 Program in this case was adequate and satisfied Rule 23 requirements and due process.

#### 22 **D. Notice Pursuant to the Class Action Fairness Act (CAFA)**

23 CAFA requires settling defendants give notice of a proposed class settlement to  
 24 appropriate state and federal officials. 28 U.S.C. § 1715(b). The CAFA Notice of  
 25 Proposed Settlement must supply the information and documents set forth in 28 U.S.C.

§ 1715(b)(1)-(8). As detailed in the Declaration of Stephanie J. Fiereck, Esq, attached to the Declaration of Cameron Azari as Attachment 2, the Settlement Administrator sent CAFA Notice on behalf of Target to 52 government officials on June 28, 2019. The CAFA Notice was mailed by certified mail to 51 government officials, including the Attorney Generals of each of the 50 states and the District of Columbia. The CAFA Notice was also sent by United Parcel Service to the United States Attorney General.

### **E. Certification of the Settlement Class Is Appropriate**

For settlement purposes, Plaintiffs respectfully request that the Court certify the Settlement Class defined above, and in paragraph 1.26 of the Agreement. “Confronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems . . . for the proposal is that there be no trial.” *Amchem Products, Inc. v. Windsor*, 521 U.S. 591, 620 (1997). For purposes of this Settlement only, Target does not oppose class certification. For the reasons set forth below, certification is appropriate under Rule 23(a) and (b)(3).

Certification under Fed. R. Civ. P. 23(a) requires that: (1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class. Under Fed. R. Civ. P. 23(b)(3), certification is appropriate if questions of law or fact common to the members of the class predominate over individual issues of law or fact and if a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

Rule 23(a)’s numerosity requirement is satisfied because the Settlement Class consists of hundreds of thousands of TDC holders, and joinder of all such persons is impracticable. Joint Decl. ¶ 40. *See* Fed. R. Civ. P. 23(a)(1). *See Gutierrez-Rodriguez*, 2017

1 U.S. Dist. LEXIS 170982 at \*10 (noting damages settlement class containing 61,939  
 2 satisfies numerosity); *Gutierrez v. Wells Fargo Bank, N.A.*, No. C 07-05923 WHA, 2008  
 3 WL 4279550, \*14 (N.D. Cal. Sept. 11, 2008) (“Given the large number of checking  
 4 account customers at Wells Fargo, the numerosity requirement is met.”).

5 “Commonality requires the plaintiff to demonstrate that the class members ‘have  
 6 suffered the same injury,’” and the plaintiff’s common contention “must be of such a  
 7 nature that it is capable of classwide resolution – which means that determination of its  
 8 truth or falsity will resolve an issue that is central to the validity of each one of the  
 9 claims in one stroke.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 349-350 (2011)  
 10 (citation omitted). “All questions of fact and law need not be common to satisfy the  
 11 rule.” *Hanlon*, 150 F.3d 1019. However, “[t]he existence of shared legal issues with  
 12 divergent factual predicates is sufficient’ to meet the requirements of Rule 23(a)(2).”  
 13 *Gutierrez*, 2008 WL 4279550 at \*14 (quoting *Hanlon*, 150 F.3d at 1019). Here,  
 14 commonality is satisfied by common questions of law and fact—centering on whether  
 15 Target’s systematic practices in processing TDC transactions violates the TDC  
 16 Agreement and whether the TDC Agreement and TDC marketing is deceptive—that are  
 17 alleged to have injured all Settlement Class members in the same way, and that would  
 18 generate common answers central to the claims’ viability were the Action to be tried.

19 For similar reasons, Plaintiffs’ claims are reasonably coextensive with those of  
 20 the absent members of the Settlement Class, such that the Rule 23(a)(3) typicality  
 21 requirement is satisfied. *See Gutierrez*, 2008 WL 4279550 at \*15. The Ninth Circuit  
 22 interprets typicality permissively. *Hanlon*, 150 F.3d at 1020. It is sufficient for the named  
 23 plaintiff’s claims to arise from the same remedial and legal theories as the class claims.  
 24 *Malta*, 2013 U.S. Dist. LEXIS 15731, at \*7; *Arnold v. United Artists Theater, Inc.*, 158  
 25 F.R.D. 439, 449 (N.D. Cal. 1994). Plaintiffs are typical of absent members of the  
 26



1 Settlement Class because they were subjected to the same practices and claim to have  
 2 suffered from the same injuries, and because they will benefit equally from the relief.

3 Plaintiffs and Class Counsel satisfy the Rule 23(a)(4) adequacy of representation  
 4 requirement, which “serves to uncover conflicts of the interest between named parties  
 5 and the class they seek to represent.” *Gutierrez*, 2008 WL 4279550 at \*15. *See also*  
 6 *Gutierrez-Rodriguez*, 2017 U.S. Dist. LEXIS 170982 at \*12-13 (noting no conflict of  
 7 interest between plaintiff and the purported class members, and plaintiff and class  
 8 counsel’s vigorous prosecution of the class’s interests). Adequacy requires that class  
 9 representatives do not have conflicts of interest with other class members and that the  
 10 named plaintiffs and their counsel will vigorously prosecute the action for the class.  
 11 *Hanlon*, 150 F.3d at 1020. Here, Plaintiffs’ interests are coextensive with, not  
 12 antagonistic to, the Settlement Class’ interests because Plaintiffs and the absent  
 13 Settlement Class members have the same interest in the relief the Settlement affords.  
 14 Those absent members have no diverging interests. Further, Plaintiffs’ qualified and  
 15 competent counsel have extensive experience and expertise prosecuting complex class  
 16 actions, including consumer class actions similar to the instant case. Joint Decl. ¶ 41.  
 17 Class Counsel has devoted substantial time and resources to the case and has vigorously  
 18 protected the interests of the Settlement Class. *Id.* at ¶¶ 6, 33.

19 Certification is further appropriate because the questions of law or fact common  
 20 to members of the Settlement Class predominate over any questions affecting only  
 21 individual members, and a class action is superior to other available methods for the  
 22 fair and efficient adjudication of the Action. *See* Fed. R. Civ. P. 23(b)(3). The  
 23 “predominance inquiry tests whether proposed class members are sufficiently cohesive  
 24 to warrant adjudication by representation.” *Hanlon*, 150 F.3d at 1022 (quoting *Amchem*,  
 25 521 U.S. at 623). *See also* *Gutierrez*, 2008 WL 4279550 at \*14 (predominance satisfied  
 26

1 “when common questions present a significant portion of the case and can be resolved  
 2 for all members of the class in a single adjudication”). Plaintiffs readily satisfy  
 3 predominance because liability questions common to all members of the Settlement  
 4 Class substantially outweigh any possible issues that are individual to each Settlement  
 5 Class member. Joint Decl. ¶ 42. For example, each Settlement Class member’s  
 6 relationship with Target arises from an agreement that is the same or substantially  
 7 similar in all relevant respects to other Settlement Class members’ agreements. *Id.* Most  
 8 importantly, each was subjected to the same marketing of the TDC and the same policy  
 9 and procedures for processing TDC transactions. *Id.*

10 Conditional certification pursuant to Rule 23(b)(2) is also warranted.  
 11 Certification under that rule is appropriate where the defendant has “acted or refused  
 12 to act on grounds that apply generally to the class, so that final injunctive relief or  
 13 corresponding declaratory relief is appropriate respecting the class as a whole.” Fed. R.  
 14 Civ. P. 23(b)(2). “In other words, Rule 23(b)(2) applies only when a single injunction or  
 15 declaratory judgment would provide relief to each member of the class.” *Wal-Mart*, 564  
 16 U.S. at 360. “These requirements are unquestionably satisfied when members of a  
 17 putative class seek uniform injunctive or declaratory relief from policies or practices  
 18 that are generally applicable to the class as a whole. . . . That inquiry does not require  
 19 an examination of the viability or bases of the class members’ claims for relief, does not  
 20 require that the issues common to the class satisfy a Rule 23(b)(3)-like predominance  
 21 test, and does not require a finding that all members of the class have suffered identical  
 22 injuries.” *Parsons v. Ryan*, 754 F.3d 657, 688 (9th Cir. 2014) (citing *Rodriguez v. Hayes*, 591  
 23 F.3d 1105, 1125 (9th Cir. 2010)).

24 Here, Target’s policies and procedures have been applied and continue to be  
 25 applied uniformly to the Settlement Class. Joint Decl. ¶ 42. Target has agreed, subject  
 26



1 to Final Approval, to change its business practices in a manner to be applied uniformly  
2 to the Settlement Class.

3 Further, resolution of hundreds of thousands of claims in one action is far  
4 superior to individual lawsuits, because it promotes consistency and efficiency of  
5 adjudication. *See* Fed. R. Civ. P. 23(b)(3). For these reasons, the Court should certify  
6 the Settlement Class.

#### 7 **IV. CONCLUSION**

8 Based on the foregoing, Plaintiffs respectfully requests that the Court: (1) grant  
9 Final Approval to the Settlement; (2) certify for settlement purposes the proposed  
10 Settlement Class, pursuant to Rule 23(b)(3) and (e) of the Federal Rules of Civil  
11 Procedure; (3) appoint James Walters, Michelle Dixon, Deana Polcare and Charles  
12 Powell as Class Representatives; (4) appoint as Class Counsel Kopelowitz Ostrow  
13 Ferguson Weieselberg Gilbert; Kaliel PLLC, and Tycko & Zavareei LLP; (5) award  
14 Class Representatives Service Awards in the amount of **\$10,000.00** for Class  
15 Representative Walters and **\$3,000.00** each for Class Representatives Dixon, Polcare,  
16 and Powell; (7) award attorneys' fees to Class Counsel in an amount of **\$2,466,699.00**;  
17 (8) award Class Counsel reimbursement of litigation expenses in the amount of  
18 **\$55,192.78**; and (9) enter final judgment dismissing this Action. A proposed Final  
19 Approval Order being submitted to the Court contemporaneously with the filing of this  
20 Motion pursuant to the Southern District of California Electronic Case Filing  
21 Administrative Policies and Procedures §2.h.

1 Dated: May 22, 2020

2 Respectfully submitted:

3 /s/ Jeff Ostrow

4 JEFF OSTROW (*pro hac vice*)

JOSHUA R. LEVINE (*pro hac vice*)

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# EXHIBIT A

## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Agreement”), dated as of June 18, 2019, is entered into by Plaintiffs, James Walters, Michelle Dixon, Charles Powell, and Deana Polcare (Plaintiffs Dixon, Powell, and Polcare will be referred to as “Minnesota Plaintiffs” and collectively with Plaintiff Walters, they shall be referred to as “Plaintiffs”) individually and on behalf of the Settlement Class defined herein, and Defendant Target Corporation (“Target”). Plaintiffs and Target are each individually a “Party” and are collectively the “Parties.” The Parties hereby agree to the following terms in full settlement of the actions entitled *Walters v. Target Corp.*, No. 3:16-cv-1678-L-MDD (S.D. Cal.) (“California Action”) and *Dixon, et al. v. Target Corp.*, No. 0:18-cv-02660 (D. Minn.) (“Minnesota Action”) (California Action and Minnesota Action collectively, the “Actions”), subject to Final Approval, as defined below, by the United States District Court for the Southern District of California (“Court”).

### **I RECITALS**

WHEREAS, on June 29, 2016, Plaintiff Walters filed the California Action and alleged that the TDC, as defined below, is deceptively marketed. Walters further alleged that Target breaches the TDC Agreement, defined below, as well as the duty of good faith and fair dealing by the manner in which Target processes TDC Transactions, defined below, and assesses RPFs, defined below, on consumers. Plaintiff Walters filed the First Amended Complaint on August 15, 2016. The First Amended Complaint asserted causes of action for (I) breach of contract, including the implied covenant of good faith and fair dealing; (II) unjust enrichment; (III) unconscionability; (IV) conversion; (V) violation of the “unfair” prong of California’s unfair competition law (“UCL”); (VI) violation of the “fraudulent” prong of the UCL; (VII) violation of the “unlawful” prong of the UCL; and (VIII) violation of the Consumers Legal Remedies Act;

WHEREAS, on September 14, 2016, Target moved to dismiss the California Action on the basis that the First Amended Complaint failed to state a cause of action, which motion was granted in part and denied in part by the Court on February 14, 2017. Plaintiff’s UCL, CLRA, and breach of the implied covenant of good faith and fair dealing claims survived;

WHEREAS, on June 26, 2017, Target filed a motion for reconsideration of the Court’s order on its motion to dismiss;

WHEREAS, on October 19, 2017, the Court issued an order granting in part and denying in part the motion for reconsideration, further limiting the scope of the good faith and fair dealing count;

WHEREAS, the Parties engaged in extensive fact and class discovery, retained experts, and exchanged expert reports;

WHEREAS, on September 7, 2018, Target filed a motion for summary judgment, which Plaintiff Walters opposed and remains pending;

WHEREAS, on September 12, 2018, Plaintiff Walters filed a motion for class certification, which Target opposed and remains pending;

WHEREAS, on September 12, 2018, Plaintiffs Dixon and Powell filed the Minnesota Action. On January 22, 2019, Plaintiffs Dixon, Powell, and Polcare filed the First Amended Class Action Complaint in which they alleged similar conduct by Target and included counts for: (I) violation of the Minnesota Consumer Fraud Act, Minn. Stat. §§ 325D.44, 325F.68; (II) violation of the Minnesota False Statements in Advertising Act; (III) breach of contract; (IV) violation of the Florida Deceptive and Unfair Trade Practices Act on behalf of Plaintiff Dixon and a Florida Subclass; (V) violation of the North Carolina Consumer Protection Law on behalf of Plaintiff Powell and a North Carolina Subclass; and (vi) violation of the New York General Business Law § 349 on behalf of Plaintiff Polcare and the New York Subclass;

WHEREAS, on April 18, 2019, Target filed an answer in the Minnesota Action and denied liability to Plaintiffs Dixon, Powell, and Polcare on any basis or in any amount;

WHEREAS, Target has denied, and continues to deny each and every claim and allegation of wrongdoing asserted in the Actions, and Target believes it would ultimately be successful in its defense of all claims asserted in the Actions;

WHEREAS, Target has nevertheless concluded that because further litigation involves risks and could be protracted and expensive, settlement of the Actions is advisable;

WHEREAS, Plaintiffs, individually and on behalf of the Settlement Class, as defined below, believe that the claims asserted in the Actions have merit and that there is evidence to support their claims;

WHEREAS, Plaintiffs nevertheless recognize and acknowledge the expense and length of continued litigation and legal proceedings necessary to prosecute the Actions through trial and through any appeals; and

WHEREAS, Plaintiffs have also, in consultation with their counsel, assessed the legal risks faced in the Actions, and on the basis of that assessment believe that the Settlement set forth in this Agreement, and as defined below, provides substantial benefits to Plaintiffs and the Settlement Class; is fair, reasonable, and adequate; and is in the best interests of Plaintiffs and the Settlement Class.

NOW THEREFORE, in light of the foregoing, for good and valuable consideration, the Parties agree that the Actions shall be fully and finally compromised, settled, released, and dismissed with prejudice, subject to the terms and conditions of this Agreement and subject to Final Approval as set forth herein.

## **II TERMS OF THE SETTLEMENT**

### **Section 1. Definitions**

In addition to the terms defined elsewhere in this Agreement, the following capitalized terms used in this Agreement shall have the meanings specified below:

1.1 “Administrative Costs” means all out-of-pocket costs and third-party expenses of the Settlement Administrator that are associated with providing notice of the Settlement to the Settlement Class, administering and distributing the Settlement Class Member Cash Payments to Settlement Class Members, or otherwise administering or carrying out the terms of the Settlement, including but not limited to postage and telecommunications costs. Administrative Costs shall include the Administrator’s hourly charges for administering the Settlement and providing notice.

1.2 “Adjustments” means, collectively, the Class Representative Service Awards, the Fee & Expense Award, and the amount of the Administrative Costs.

1.3 “First Amended Complaint” means the complaint filed in the California Action on August 15, 2016.

1.4 “Cash Settlement Amount” means the \$5,000,000 payable by Target to establish the Settlement Fund.

1.5 “Class Counsel” means Kopelowitz Ostrow Ferguson Weiselberg Gilbert, Kalief PLLC, and Tycko & Zavareei LLP.

1.6 “Class Period” means the period between June 29, 2012 and the date of the Preliminary Approval Order.

1.7 “Class Representatives” means the Plaintiffs in the Actions, James Walters, Michelle Dixon, Charles Powell, and Deana Polcare, individually or collectively, if and when the Court appoints them as representatives of the Settlement Class.

1.8 “Class Representative Service Awards” means the service awards that Plaintiffs will seek for their service to the Settlement Class in an amount not to exceed \$19,000 total.

1.9 “Debt Reduction Cash Amount” means twenty-five percent of the value of the RPFs that were the first RPFs incurred by Settlement Class Members during the Class Period and remain outstanding and unpaid as of the Effective Date.

1.10 “Debt Reduction Payment” or, plural, “Debt Reduction Payments,” means the credit to be given to a Settlement Class Member out of the Debt Reduction Cash Amount.

1.11 “Effective Date” shall mean the date when the last of the following has occurred: (1) the day following the expiration of the deadline for appealing Final Approval if no timely appeal is filed, or (2) if an appeal of Final Approval is taken, the date upon which all appeals (including any requests for rehearing or other appellate review), as well as all further appeals therefrom (including all petitions for certiorari) have been finally resolved without material change to the Final Approval Order, as determined by

Target, and the deadline for taking any further appeals has expired such that no future appeal is possible; or (3) such date as the Parties otherwise agree in writing.

1.12 “Fee & Expense Award” means the attorneys’ fees, costs and expenses that Class Counsel will seek from the Court as more fully described in Section 3.2.

1.13 “Final Approval” means entry of the Final Approval Order.

1.14 “Final Approval Hearing” means the date the Court holds a hearing on Plaintiffs’ motion seeking Final Approval.

1.15 “Final Approval Order” means the order the Court will enter granting Final Approval of the Settlement.

1.16 “Linked Deposit Account” means the deposit account linked to a consumer’s TDC from which the TDC withdraws funds to pay TDC Transactions.

1.17 “National Change of Address Database” means the change of address database maintained by the United States Postal Service.

1.18 “Net Settlement Fund” means the Cash Settlement Amount, less the Adjustments.

1.19 “Objection Deadline” means 130 days after Preliminary Approval (or other date as ordered by the Court).

1.20 “Opt-Out Deadline” means 130 days after Preliminary Approval (or other date as ordered by the Court).

1.21 “Preliminary Approval” means entry of the Preliminary Approval Order.

1.22 “Preliminary Approval Order” means the order entered by the Court granting Preliminary Approval of the Settlement, a proposed form of which is attached as *Exhibit D* hereto.

1.23 “RPF” or, plural, “RPFs,” means the Returned Payment Fee that Target applies to a TDC when a TDC transaction is returned unpaid by the customer’s financial institution holding the Linked Deposit Account.

1.24 “Settlement” means the settlement of the Actions by the Parties and the terms thereof contemplated by this Agreement.

1.25 “Settlement Administrator” means Epiq Systems.

1.26 “Settlement Class” means all TDC holders in the United States who, within the Class Period, incurred at least one RPF in connection with their TDC, that was not refunded or waived.

1.27 “Settlement Class member” means a person who falls within the definition of the Settlement Class.

1.28 “Settlement Class Member” means a person who falls within the definition of the Settlement Class and did not opt out of the Settlement.

1.29 “Settlement Class Member Cash Payment” means an award to a Settlement Class Member of funds from the Net Settlement Fund.

1.30 “Settlement Class Notices” means the notices given to the Settlement Class, which includes *Exhibits A, B, and C*, attached hereto.

1.31 “Settlement Fund” means the \$5,000,000 cash fund created by the deposit of the Cash Settlement Amount.

1.32 “Settlement Fund Account” means the account into which Target will deposit the Cash Settlement Amount.

1.33 “Settlement Value” means, collectively, the Cash Settlement Amount and the Debt Reduction Cash Amount.

1.34 “TDC” means the Target Debit Card.

1.35 “TDC Agreement” means the TDC terms and conditions as may be amended from time to time that all consumers accept when they open a TDC account.

1.36 “TDC Transaction” means a transaction with Target whether in a brick-and-mortar Target store or on Target’s website where a customer uses their TDC to make a purchase.

## **Section 2. The Settlement**

### **2.1 Conditional Certification of the Settlement Class**

(a) Solely for purposes of this Settlement, the Parties agree to certification of the following Settlement Class under Federal Rules of Civil Procedure 23(b)(2) and (b)(3):

All TDC holders in the United States who, within the Class Period, incurred at least one RPF in connection with their TDC, that was not refunded or waived.

(b) In the event that the Settlement does not receive Final Approval, or in the event the Effective Date does not occur, the Parties shall not be bound



by this definition of the Settlement Class, shall not be permitted to use it as evidence or otherwise in support of any argument or position in any motion, brief, hearing, appeal, or otherwise, and Target shall retain its right to object to the maintenance of the Actions as class actions and the suitability of the Plaintiffs to serve as class representatives.

## 2.2 Settlement Benefits

### (a) *Business Practice Changes*

(1) Beginning on or before the Effective Date, Target agrees not to implement or assess RFPs, or any equivalent fee, in connection with TDC transactions that are less than \$7.00, for a period of two years from the Effective Date. Nothing herein shall prohibit Target from continuing the practice change beyond the time period provided herein.

(2) Beginning on or before the Effective Date, Target agrees that any RFPs charged will be the lesser of the RFP as disclosed by the TDC Agreement or the amount of the TDC transaction that was returned unpaid, for a period of two years from the Effective Date. Nothing herein shall prohibit Target from continuing the practice change beyond the time period provided herein.

(3) The Parties will work collaboratively up to the time of Final Approval to amend the TDC Agreement to provide additional information to TDC Holders regarding how they may incur RPFs from Target and non-sufficient funds or overdraft fees from their banks and/or credit unions in connection with the use of the TDC, with Target maintaining final discretion regarding the amended disclosures.

### (b) *Monetary Relief*

(1) Settlement Amount. Target has agreed to pay \$5,000,000.00 in cash for the benefit of the Settlement Class; and

(2) Debt Reduction Cash Amount. For Settlement Class Members who did not pay the first RPF they incurred during the Class Period that was not refunded or waived, Target has agreed to waive twenty-five percent of that RPF, which amounts to approximately \$3,222,330.00.

(3) Escrow Account. Within 15 days following Preliminary Approval, Target shall deposit the Cash Settlement Amount into the Settlement Fund Account, which shall be held in an account selected by the Settlement Administrator.

(4) Class Member Monetary Relief. Each Settlement Class Member will receive relief from either the Cash Settlement Amount or Debt Reduction Cash Amount. If the Settlement Class Member paid the first RPF incurred during the Class Period, in whole or part, the Settlement Class Member shall be entitled only to the monetary relief in Section 2.2(b)(5). If the Settlement Class Member has not paid the first RPF incurred during the Class Period, the Settlement Class Member shall be entitled only to the monetary relief in Section 2.2(b)(6).

(5) Calculation of Settlement Class Member Cash Payments. Subject to the limitations set forth in Section 2.2(b)(4), each Settlement Class Member who has paid all or part of the first RPF he or she incurred during the Class Period shall be entitled to receive a Settlement Class Member Cash Payment from the Net Settlement Fund. Each Settlement Class Member Cash Payment shall be equal to the Settlement Class Member's *pro rata* share of the Net Settlement fund based on the dollar amount of the first RPF paid by the Settlement Class Member.

(6) Calculation of Debt Reduction Payments. Subject to the limitations set forth in Section 2.2(b)(4), for each Settlement Class Member who has not paid the first RPF he or she incurred during the Class Period at the time the Settlement Class Member Cash Payments are to be distributed, the Debt Reduction Cash Amount will be used by Target to reduce such outstanding RPF by twenty-five percent. Under no circumstances will Target be required to make any cash payments as a result of the Debt Reduction Payments. No Debt Reduction Payment shall be considered an admission by any Settlement Class Member that the underlying debt is valid.

(7) Complete Relief. In exchange for the releases described below, dismissal with prejudice of the Minnesota Action described below, and a final judgment in the California Action pursuant to the terms of this Settlement Agreement, Target agrees to make the business practice changes described in Section 2.2(a) and to pay the Cash Settlement Amount and Debt Reduction Cash Amount. The Parties agree that the Cash Settlement Amount and Debt Reduction Cash Amount represent the total amount that Target must pay to settle the claims of Settlement Class Members arising from both Actions, and that in no event shall Target be responsible for any payments, costs, expenses, or claims beyond these amounts. No portion of the Cash Settlement Amount shall revert to Target, except where the Settlement is terminated pursuant to the terms of the Agreement.

2.3 Amendment of the California Action and Dismissal of the Minnesota Action. It is the Parties' intent that this Agreement shall resolve the California Action and the Minnesota Action and any and all claims that were brought in both of the Actions. The Parties agree that members of the proposed class in the Minnesota Action are members of the proposed nationwide Settlement Class and shall receive the relief provided in the Agreement to resolve their claims against Target. Therefore, upon Preliminary Approval, the Parties further agree to move the Court in the California Action for leave to amend the First Amended Complaint to add the Minnesota Plaintiffs as plaintiffs in the California Action. It is the intent of the Parties that this will be effectuated for the sole purpose of bringing all Plaintiffs before the Court in the California Action to allow all of the Plaintiffs to be named as Class Representatives in the California Action for the purpose of Settlement only. The motions for Class Representative Service Awards and Fee & Expense Award in the California Action shall encompass and resolve the claims of the Minnesota Plaintiffs for class representative incentive awards, and for the Minnesota Plaintiffs' counsel's attorneys' fees and expense reimbursement. Pursuant to Federal Rule of Civil Procedure 41(A)(1)(ii), Plaintiffs Dixon, Powell, and Polcare will dismiss with prejudice the Minnesota Action within 10 days of the Effective Date. Target shall join in the Minnesota Plaintiffs' stipulation of dismissal.

## 2.4 Releases.

(a) *Settlement Class Member Release.* Upon the Effective Date, Plaintiffs and each Settlement Class Member, including any present, former, and future spouses, as well as the present, former, and future heirs, executors, estates, administrators, representatives, agents, attorneys, partners, successors, predecessors, and assigns of each of them, shall release, waive, and forever discharge Target and each of its present, former, and future parents, predecessors, successors, subsidiaries, assigns, assignees, affiliates, conservators, divisions, departments, subdivisions, owners, partners, principals, trustees, creditors, shareholders, joint venturers, co-venturers, officers, and directors (whether acting in such capacity or individually), attorneys, vendors, insurers, accountants, nominees, agents (alleged, apparent, or actual), representatives, employees, managers, administrators, and each person or entity acting or purporting to act for them or on their behalf (collectively, "Target Releasees") from any and all claims that: (a) arise from or relate to the conduct alleged in the Actions; (b) arise out of, relate to, or are in connection with the TDC or any fees assessed in connection with the TDC; or (c) arise out of, relate to, or are in connection with the administration of the Settlement ("Released Target Claims").

(b) *Unknown Claims.* With respect to the Released Target Claims, Plaintiffs and the Settlement Class Members shall be deemed to have, and by operation of the Settlement shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code (to the extent it is applicable, or any other similar provision under federal, state or local law to the extent any such provision is applicable), which reads:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

Thus, subject to and in accordance with this Agreement, even if the Plaintiffs and/or Settlement Class Members may discover facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of the Released Target Claims, Plaintiffs and each Settlement Class Member, upon entry of Final Approval of the Settlement, shall be deemed to have and by operation of the Final Approval Order, shall have, fully, finally, and forever settled and released all of the Released Target Claims. This is true whether such claims are known or unknown, suspected, or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts.

(c) *Named Plaintiffs Release.* In addition to the releases made by Plaintiffs and the members of the Settlement Class above, Plaintiffs Walters, Dixon, Powell, and Polcare, including each and every one of their respective agents, representatives, attorneys, heirs, assigns, or any other person acting on their behalf or for their benefit, and any person claiming through them, makes the additional following general release of all claims, known or unknown, in exchange and consideration of the Settlement set forth in this Agreement. These named Plaintiffs agree to a general release of the Target Releasees from all claims, demands, rights, liabilities, grievances, demands for arbitration, and causes of action of every nature and description whatsoever, known or unknown, pending or threatened, asserted or that might have been asserted, whether brought in tort or in contract, whether under state or federal or local law.

(d) *Covenant Not to Sue.* Plaintiffs Walters, Dixon, Powell, and Polcare and the Settlement Class Members covenant not to sue or otherwise assert any claims for deceptive practices against Target challenging Target's practices with respect to RPFs, including, but not limited to, the processing of TDC transactions and the marketing of the TDC, during the period of time the changes to business practices set forth in Section 2.2(a) remain in effect, but in no case beyond two years from the Effective Date. Nothing in this paragraph shall be construed as a covenant not to sue if Target does not properly change its business practices as set forth in Section 2.2(a).

## 2.5 Notice Procedures

(a) *Settlement Administrator.* The Parties have jointly selected Epiq Systems as the Settlement Administrator of the Settlement. Class Counsel will oversee the Settlement Administrator. The Settlement Administrator shall perform the duties, tasks, and responsibilities associated with providing notice and administering the Settlement. The Administrative Costs will be paid out of the Settlement Fund.

(b) *Provision of Information to Settlement Administrator.* Within 15 business days of Preliminary Approval, Target will provide the Settlement Administrator with the following information, which will be kept strictly confidential between the Settlement Administrator and Target, for each Settlement Class member: (i) name; (ii) last known e-mail address if available; (iii) last known mailing address; (iv) TDC Account Number, or some sort of unique identifier that can be used to identify each separate Settlement Class member; (v) the date and amount of the first RPF incurred by each Settlement Class member during the Class Period that has not been refunded or waived; and (vii) for each RPF in item number (v), an identifier that distinguishes whether the RPF was paid by the customer or remains due and owing. The Settlement Administrator shall use the data provided by Target to make the calculations required by the Settlement, and the Settlement Administrator shall share the calculations with Class Counsel. The Settlement Administrator shall use this information solely for the purpose of administering the Settlement.

(c) *Settlement Class Notices.* Within 70 days of Preliminary Approval, or by the time specified by the Court, the Settlement Administrator shall send

the Settlement Class Notices in the forms attached hereto as *Exhibits A, B, and C*, or in such form as is approved by the Court, to the Settlement Class.

(1) The Administrator shall send the “Email Notice,” attached hereto as *Exhibit A*, to all Settlement Class members for whom Target has provided the Settlement Administrator with an e-mail address.

(2) The Settlement Administrator shall send the “Postcard Notice,” attached hereto as *Exhibit B*, to all Settlement Class members for whom Target has not provided an email address and to all Settlement Class members to whom the Settlement Administrator sent the Email Notice via email but for whom the Settlement Administrator receives notice of an undeliverable email. The Postcard Notice shall be mailed after the Settlement Administrator updates mailing addresses provided by Target with the National Change of Address database and other commercially feasible means.

(3) The Settlement Administrator shall also maintain a website containing the Second Amended Complaint, the “Long Form Notice,” attached hereto as *Exhibit C*, Plaintiffs’ motion seeking Preliminary Approval, the Preliminary Approval Order, Plaintiffs’ motion seeking Final Approval, and the Final Approval Order until at least 120 days after Final Approval. The Settlement Administrator shall send the Long Form Notice by mail to any Settlement Class member who requests a copy.

(4) It will be conclusively presumed that the intended recipients received the Settlement Class Notices if the Settlement Administrator did not receive a bounce-back message and if mailed Settlement Class Notices have not been returned to the Settlement Administrator as undeliverable within fifteen days of mailing.

## 2.6 Opt-Outs and Objections.

As set forth below, Settlement Class members shall have the right to opt-out of the Settlement Class and the Settlement and Settlement Class Members shall have the right to object to the Settlement.

(a) *Requirements for Opting-Out.* If a Settlement Class member wishes to be excluded from the Settlement Class and the Settlement, that Settlement Class member is required to submit to the Settlement Administrator at the address listed in the Settlement Class Notices, a written, signed, and dated statement that he or she is opting-out of the Settlement Class and understands that he or she will not receive a Settlement Class Member Cash Payment or a Debt Reduction Payment from the Settlement of the Action. To be effective, this opt-out statement (i) must be postmarked by the Opt-Out Deadline; (ii) include the Settlement Class member’s name and TDC account number(s); and (iii) must be personally signed and dated by the Settlement Class member(s). The Settlement Administrator will, within 7 days of receiving any opt-out statement, provide counsel for the Parties with a copy of the opt-out statement. Any Settlement Class member who does not timely and validly request exclusion shall be a Settlement Class Member and shall be bound by the terms of this Agreement. The Settlement Class will not include any individuals who send timely and valid opt-out



statements, and individuals who opt-out are not entitled to receive a Settlement Class Member Cash Payment or Debt Reduction Payment under the Settlement.

(b) *Objections.* Any Settlement Class Member who has not submitted a timely opt-out form and who wishes to object to the fairness, reasonableness, or adequacy of the Settlement must send a written objection to the Clerk of the Court, Target's counsel, and Class Counsel by the Objection Deadline.

(1) To be valid and considered by the Court, an objection must (i) be postmarked no later than the Objection Deadline; (ii) be sent to the Clerk of Court, Class Counsel, and Target's counsel, by first class mail and postmarked no later than the Objection Deadline; (iii) include the case name and case number and the objector's name, address, telephone number, and signature; (iv) contain an explanation of the nature of the objection and citation to any relevant legal authority; (v) indicate the number of times the objector has objected to a class action settlement in the past 5 years and the caption for any such case(s); (vi) identify any counsel representing the objector; and (vii) indicate whether the objector (whether *pro se* or through representation) intends to testify at the Final Approval Hearing.

(2) Plaintiffs and Target may file responses to any objections that are submitted. Any Settlement Class Member who timely files and serves an objection in accordance with this section may appear at the Final Approval Hearing, either in person or through an attorney. Failure to adhere to the requirements of this section will bar a Settlement Class Member from being heard at the Final Approval Hearing, either individually or through an attorney, unless the Court otherwise orders.

(3) The Parties shall have the right to take discovery, including via subpoenas *duces tecum* and depositions, from any objector.

(c) *Waiver of Objections.* Except for Settlement Class members who opt-out of the Settlement Class in compliance with the foregoing, all Settlement Class Members will be deemed to be members of the Settlement Class for all purposes under this Agreement, the Final Approval Order, and the releases set forth in this Agreement and, unless they have timely asserted an objection to the Settlement, shall be deemed to have waived all objections and opposition to its fairness, reasonableness, and adequacy.

(d) *No Encouragement of Objections.* Neither the Parties nor any person acting on their behalf shall seek to solicit or otherwise encourage anyone to object to the Settlement or appeal from any order of the Court that is consistent with the terms of this Settlement.

## 2.7 Benefit Distribution.

(a) Within 10 days of Final Approval, the Settlement Administrator shall provide to Target: (1) a list of the Settlement Class Members who are entitled to receive Settlement Class Member Cash Payments, along with the unique identifier associated with and the amount of the Settlement Class Member Cash Payment due each such Settlement Class Member; and (2) a list of the Settlement Class Members who are

entitled to receive Debt Reduction Payments, along with the unique identifier associated with and the amount of debt to be forgiven for each such Settlement Class Member. The information provided by the Settlement Administrator shall be considered conclusive as to which individuals are entitled to receive Settlement Class Member Cash Payments or Debt Reduction Payments and as to the amounts.

(b) *Distribution of Settlement Class Member Cash Payments.* Within 30 days of the Effective Date, the Settlement Administrator shall send Settlement Class Member Cash Payments to all eligible Settlement Class Members from the Settlement Fund Account via check.

(c) *Mailing Addresses.* Prior to mailing Settlement Class Member Cash Payments, the Settlement Administrator shall attempt to update the last known addresses of the Settlement Class Members through the National Change of Address Database or similar databases. No skip-tracing shall be done as to any checks that are returned by the postal service with no forwarding address. Settlement Class Member Cash Payments returned with a forwarding address shall be re-mailed to the new address within 7 days. The Settlement Administrator shall not mail Settlement Class Member Check Payments to addresses from which Settlement Class Notices were returned as undeliverable.

(d) *Interest.* All interest on the funds in the Settlement Fund Account shall accrue to the benefit of the Settlement Class. Any interest shall not be subject to withholding and shall, if required, be reported appropriately to the Internal Revenue Service by the Settlement Administrator. The Settlement Administrator is responsible for the payment of all taxes on interest on the funds in the Settlement Fund Account.

(e) *Time for Depositing Settlement Class Member Cash Payment Checks.* If a Settlement Class Member's Cash Payment check is not deposited (or cashed) within 120 days after the check is mailed, (a) the check will be null and void; and (b) the Settlement Class Member will be barred from receiving a further Settlement Class Member Cash Payment under this Settlement.

(f) *Completion of Debt Reduction Payments.* Within 60 days of the Effective Date, Target shall make the Debt Reduction Payments as described in Section 2.2(b)(6). Within 105 days of the Effective Date, the Administrator shall send notifications of such Debt Reduction Payments to each eligible Settlement Class Member, which notice shall include the amount of the Debt Reduction Payment.

(g) *Deceased Settlement Class Members.* Any Settlement Class Member Cash Payment paid to a deceased Settlement Class Member shall be made payable to the estate of the deceased Settlement Class Member, provided that the Settlement Class Member's estate informs the Administrator of the Settlement Class Member's death at least 30 days before the date that Settlement Class Member Cash Payment checks are mailed and provides a death certificate confirming that the Settlement Class Member is deceased. If the Settlement Class Member's estate does not



inform the Administrator of the Settlement Class Member's death at least 30 days before the Settlement Class Member Cash Payment checks are mailed, the deceased Settlement Class Member will be barred from receiving a Settlement Class Member Cash Payment under this Settlement. In the event of any other complications arising in connection with the issuance or cashing of a refund check, the Administrator shall provide written notice to Class Counsel and Target's Counsel. Absent specific instructions from Class Counsel and Target's Counsel, the Administrator shall proceed to resolve the dispute using its best practices and procedures to ensure that the funds are fairly and properly distributed to the person or persons who are entitled to receive them.

(h) *Tax Obligations.* The Parties shall have no responsibility or liability for any federal, state, or other taxes owed by Settlement Class Members as a result of, or that arise from, any Settlement Class Member Cash Payment, Debt Reduction Payment or any other term or condition of this Agreement.

(i) *Tax Reporting.* The Administrator shall prepare, send, file, and furnish all tax information reporting forms required for payments made from the Settlement Fund Account as required by the Internal Revenue Service pursuant to the Internal Revenue Code and related Treasury Regulations. The Parties hereto agree to cooperate with the Administrator, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions set forth in this section.

### **Section 3. Service Awards and Class Counsel's Fee & Expense Award**

3.1 Class Representative Service Awards. Plaintiffs, through their counsel, shall each be entitled to apply to the Court for an award from the Settlement Fund for their participation in the Actions and their service to the Settlement Class. Based on their respective levels of participation in the Actions, Plaintiff Walters shall be entitled to apply for a Class Representative Service Award in an amount not exceeding \$10,000.00 in recognition of his service to the Settlement Class and Plaintiffs Dixon, Powell, and Polcare shall be entitled to apply for a Class Representative Service Award in an amount not exceeding \$3,000.00 in recognition of their service to the Settlement Class. Target shall not oppose or appeal such applications that do not exceed these amounts. The Class Representative Service Awards shall be paid from the Settlement Fund.

3.2 Fee & Expense Award. The Parties consent to the Court appointing Class Counsel in this Action for purposes of the Settlement. Class Counsel shall be entitled to apply to the Court for an award from the Settlement Fund not to exceed 30% of the Settlement Value to reimburse Class Counsel for attorneys' fees incurred in researching, preparing for, and litigating the Actions, and Class Counsel may also apply for reimbursement for costs and expenses incurred in the Actions. Target agrees not to oppose or appeal any such application that does not exceed 30% of the Settlement Value plus reimbursement for costs and expenses incurred in the Actions.

(a) The Fee & Expense Award shall constitute full satisfaction of any obligation on the part of Target to pay any person, attorney, or law firm for costs,

litigation expenses, attorneys' fees, or any other expense incurred on behalf of Plaintiffs or the Settlement Class in the Actions.

(b) The Settlement Administrator shall pay the Class Representative Service Awards to Plaintiffs and the Fee & Expense Award to Class Counsel from the Settlement Fund within 10 days of the Effective Date.

(c) In the event the Court approves the Settlement, but declines to award Class Representative Service Awards or Class Counsel's attorneys' fees or costs in the amount requested by Class Counsel, the Settlement will nevertheless be binding on the Parties to the extent permissible under applicable law.

3.3 Qualified Settlement Fund. The funds in the Settlement Fund Account shall be deemed a "qualified settlement fund" within the meaning of United States Treasury Reg. § 1.468B-1 at all times since creation of the Settlement Fund Account. All taxes (including any estimated taxes, and any interest or penalties relating to them) arising with respect to the income earned by the Settlement Fund Account or otherwise, including any taxes or tax detriments that may be imposed upon Target, Target's counsel, Plaintiffs and/or Class Counsel with respect to income earned by the Settlement Fund Account for any period during which the Settlement Fund Account does not qualify as a "qualified settlement fund" for the purpose of federal or state income taxes or otherwise (collectively "Taxes"), shall be paid out of the Settlement Fund Account. Target and Target's counsel and Plaintiffs and Class Counsel shall have no liability or responsibility for any of the Taxes. The Settlement Fund Account shall indemnify and hold Target and Target's counsel and Plaintiffs and Class Counsel harmless for all Taxes (including, without limitation, Taxes payable by reason of any such indemnification).

3.4 Residual. In the event that there is any residual in the Settlement Fund Account after the distributions required by this Agreement are completed, said funds shall in no circumstance revert to Target. At the election of Class Counsel and counsel for Target, and subject to the approval of the Court, the funds may be distributed to Settlement Class Members via a secondary distribution if economically feasible or through a residual *cy pres* program, National Endowment for Financial Education. Any residual secondary distribution or *cy pres* distribution shall be paid as soon as reasonably possible following the completion of distribution of funds to the Settlement Class Members.

#### **Section 4. Settlement Approval**

4.1 Preliminary Approval. On or before June 28, 2019, Plaintiffs will submit for the Court's consideration a motion seeking Preliminary Approval of the Settlement and apply to the Court for entry of the Preliminary Approval Order. In the event the Court does not enter the Preliminary Approval Order in materially the same form as *Exhibit D*, Target has the right to terminate this Agreement and the Settlement and will have no further obligations under the Agreement unless Target waives in writing its right to terminate the Agreement due to any changes or deviations from the form of the Preliminary Approval Order. In Plaintiffs' motion seeking Preliminary Approval, Plaintiffs

shall request that the Court approve the Settlement Class Notices. The Court will ultimately determine and approve the content and form of the Settlement Class Notices to be distributed to Settlement Class Members.

The Parties further agree that in Plaintiffs' motion seeking Preliminary Approval, Plaintiffs will request that the Court enter the following schedule governing the Settlement:

Event	Days after Entry of Preliminary Approval Order
Notice Complete	70 Days
Filing of Motion for Class Representative Service Awards and Fee & Expense Application	70 Days
Opt-Out Deadline	130 Days
Objection Deadline	130 Days
Filing of Motion for Final Approval	170 Days
Proposed Final Approval Hearing	200 Days (or when convenient for the Court)

4.2 Final Approval. Plaintiffs will submit for the Court's consideration, by the deadline set by the Court, a proposed Final Approval Order. The motion for Final Approval of this Settlement shall include a request that the Court enter the Final Approval Order and, if the Court grants Final Approval of the Settlement and incorporates the Agreement into the final judgment, that the Court dismiss the California Action with prejudice, subject to the Court's continuing jurisdiction to enforce the Agreement.

(a) In the event that the Court does not enter the Final Approval Order in materially the same form as what the Parties propose, Target has the right to terminate this Agreement and the Settlement and will have no further obligations under the Agreement unless Target waives in writing its right to terminate the Agreement due to any material changes or deviations from the form of the Final Approval Order. Notwithstanding the foregoing, changes to the legal reasoning or analysis in the Final Approval Order that does not affect the substance of the Parties' agreement, the scope of the releases given, or any other obligations of the Parties in this Agreement, shall not be considered material changes or deviations permitting Target to terminate this Agreement.

(b) In the event that the Effective Date does not come to pass, the Final Approval Order is vacated or reversed or the Settlement does not become final and binding, the Parties agree that the Court shall vacate any dismissal with prejudice.

4.3 Effect of Disapproval. If the Settlement does not receive Final Approval or the Effective Date does not come to pass, Target shall have the right to terminate this Agreement and the Settlement and will have no further obligations under the Agreement unless Target waives in writing its right to terminate the Agreement under this section. In addition, the Parties agree that if this Agreement becomes null and void, Target shall not be prejudiced in any way from opposing class certification in the Actions, and Plaintiffs and the Settlement Class members shall not use anything in this Agreement, in any terms sheet, or in the Preliminary Approval Order or Final Approval Order to support a motion for class certification or as evidence of any wrongdoing by Target. No Party shall be deemed to have waived any claims, objections, rights or defenses, or legal arguments or positions, including but not limited to, claims or objections to class certification, or claims or defenses on the merits. Additionally, the amended complaint required by Section 2.3 shall be void, and the First Amended Complaint shall be the operative complaint in the California Action. Each Party reserves the right to prosecute or defend the Actions in the event that this Agreement does not become final and binding.

4.4 Termination Based on Percentage of Opt-Outs. Target shall have the right to terminate the Settlement by serving on Class Counsel and filing with the Court a notice of termination within 15 days of the Opt-Out Deadline, if the number of persons in the Settlement Class who timely request exclusion from the Settlement Class equals or exceeds 2.5% of the Settlement Class.

## **Section 5. General Provisions**

5.1 Cooperation. The Parties agree that they will cooperate in good faith to effectuate and implement the terms and conditions of this Settlement.

5.2 Extensions of Time. Unless otherwise ordered by the Court, the Parties may jointly agree to reasonable extensions of time to carry out any of the provisions of this Agreement.

5.3 Judicial Enforcement. If the Court enters the Final Approval Order, then the Court shall have continuing authority and jurisdiction to enforce this Agreement. The Parties shall have the authority to seek enforcement of this Agreement and any of its aspects, terms, or provisions under any appropriate mechanism, including contempt proceedings. The Parties will confer in good faith prior to seeking judicial enforcement of this Agreement.

5.4 Effect of Prior Agreements. This Agreement constitutes the entire agreement and understanding of the Parties with respect to the Settlement of the Actions, contains the final and complete terms of the Settlement of the Actions and supersedes all prior agreements between the Parties regarding Settlement of the Actions. The Parties agree that there are no representations, understandings, or agreements relating to the Settlement of the Actions other than as set forth in this Agreement. Each Party acknowledges that it has not executed this Agreement in reliance upon any

promise, statement, representation, or warranty, written or verbal, not expressly contained herein.

5.5 No Drafting Presumption. All Parties hereto have participated, through their counsel, in the drafting of this Agreement, and this Agreement shall not be construed more strictly against any one Party than the other Parties. Whenever possible, each term of this Agreement shall be interpreted in such a manner as to be valid and enforceable. Headings are for the convenience of the Parties only and are not intended to create substantive rights or obligations.

5.6 Notices. All notices to the Parties or counsel for the Parties required or desired to be given under this Agreement shall be in writing and sent by overnight mail as follows:

To Plaintiffs and the Settlement Class:

Jeff Ostrow  
KOPELOWITZ OSTROW  
FERGUSON WEISELBERG GILBERT  
1 West Las Olas Blvd.  
Suite 500  
Fort Lauderdale, FL 33301

Jeffrey D. Kaliei  
KALIEL PLLC  
1875 Connecticut Avenue NW  
10th Floor  
Washington, DC 20009

Hassan Zavareei  
TYCKO & ZAVAREEI LLP  
1828 L Street, NW  
Suite 1000  
Washington, DC 20036

To Target:

James McGuire, Esq.  
MORRISON & FOERSTER LLP  
425 Market St.  
San Francisco, CA 94105

5.7 Modifications. No modifications to this Agreement may be made without written agreement of all Parties and Court approval.

5.8 No Third-Party Beneficiaries. This Agreement shall not inure to the benefit of any third party.

5.9 Execution in Counterparts. This Agreement may be executed in counterparts. Each signed counterpart together with the others shall constitute the full Agreement. Each signatory warrants that the signer has authority to bind his/her party.

5.10 CAFA. The Administrator shall timely send the notices required by 28 U.S.C. § 1715 within 10 days after Plaintiffs file the motion seeking Preliminary Approval of the Settlement.

5.11 Deadlines. If any of the dates or deadlines specified herein falls on a weekend or legal holiday, the applicable date or deadline shall fall on the next business day.

5.12 Governing Law. This Agreement shall be construed in accordance with, and be governed by, the laws of the State of California, without regard to the principles thereof regarding choice of law.

**PLAINTIFFS**

DocuSigned by:

*James Walters*

James Walters

6/12/2019

Date

Michelle Dixon

Date

Charles Powell

Date

Deana Polcare

Date

**DEFENDANT TARGET CORPORATION**

Title: \_\_\_\_\_

Date

**CLASS COUNSEL**

  
Jeff Ostrow, Esq.

KOPELOWITZ OSTROW

FERGUSON WEISELBERG GILBERT

DocuSigned by:

*Jeff Kaliel*

Jeffrey D. Kaliel, Esq.

KALIEL PLLC

*6/13/19*  
Date

6/13/2019

Date

Hassan Zavareei, Esq.

TYCKO & ZAVAREEI LLP

Date

**TARGET'S COUNSEL - APPROVED AS TO FORM**

James R. McGuire, Esq.

MORRISON & FOERSTER LLP

Date



## PLAINTIFFS

\_\_\_\_\_  
James Walters

\_\_\_\_\_  
Date

*Michelle Dixon*  
Michelle Dixon (Jun 13, 2019)

\_\_\_\_\_  
Jun 13, 2019

\_\_\_\_\_  
Michelle Dixon

\_\_\_\_\_  
Date

\_\_\_\_\_  
Charles Powell

\_\_\_\_\_  
Date

\_\_\_\_\_  
Deana Polcare

\_\_\_\_\_  
Date

## DEFENDANT TARGET CORPORATION

\_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Date

## CLASS COUNSEL

\_\_\_\_\_  
Jeff Ostrow, Esq.  
KOPELOWITZ OSTROW  
FERGUSON WEISELBERG GILBERT

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jeffrey D. Kaliel, Esq.  
KALIEL PLLC

\_\_\_\_\_  
Date

\_\_\_\_\_  
Hassan Zavareei, Esq.  
TYCKO & ZAVAREEI LLP

\_\_\_\_\_  
Date

## TARGET'S COUNSEL - APPROVED AS TO FORM

\_\_\_\_\_  
James R. McGuire, Esq.  
MORRISON & FOERSTER LLP

\_\_\_\_\_  
Date

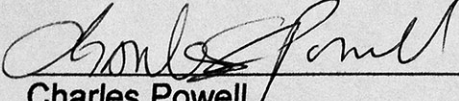
**PLAINTIFFS**

\_\_\_\_\_  
James Walters

\_\_\_\_\_  
Date

\_\_\_\_\_  
Michelle Dixon

\_\_\_\_\_  
Date

\_\_\_\_\_  
  
Charles Powell

\_\_\_\_\_  
June 13, 2019  
Date

\_\_\_\_\_  
Deana Polcare

\_\_\_\_\_  
Date

**DEFENDANT TARGET CORPORATION**

\_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Date

**CLASS COUNSEL**

\_\_\_\_\_  
Jeff Ostrow, Esq.  
KOPELOWITZ OSTROW  
FERGUSON WEISELBERG GILBERT

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jeffrey D. Kaliel, Esq.  
KALIEL PLLC

\_\_\_\_\_  
Date

\_\_\_\_\_  
Hassan Zavareei, Esq.  
TYCKO & ZAVAREEI LLP

\_\_\_\_\_  
Date

**TARGET'S COUNSEL - APPROVED AS TO FORM**

\_\_\_\_\_  
James R. McGuire, Esq.  
MORRISON & FOERSTER LLP

\_\_\_\_\_  
Date



**PLAINTIFFS**

\_\_\_\_\_  
James Walters

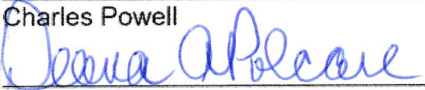
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Date

\_\_\_\_\_  
Michelle Dixon

\_\_\_\_\_  
Date

\_\_\_\_\_  
Charles Powell

\_\_\_\_\_  
Date



\_\_\_\_\_  
Deana Polcare

\_\_\_\_\_  
Date

*6/13/19*

**DEFENDANT TARGET CORPORATION**

\_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Date

**CLASS COUNSEL**

\_\_\_\_\_  
Jeff Ostrow, Esq.  
KOPELOWITZ OSTROW  
FERGUSON WEISELBERG GILBERT

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jeffrey D. Kaliei, Esq.  
KALIEL PLLC

\_\_\_\_\_  
Date

\_\_\_\_\_  
Hassan Zavareei, Esq.  
TYCKO & ZAVAREEI LLP

\_\_\_\_\_  
Date

**TARGET'S COUNSEL - APPROVED AS TO FORM**

\_\_\_\_\_  
James R. McGuire, Esq.  
MORRISON & FOERSTER LLP

\_\_\_\_\_  
Date

**PLAINTIFFS**

\_\_\_\_\_  
James Walters

\_\_\_\_\_  
Date

\_\_\_\_\_  
Michelle Dixon

\_\_\_\_\_  
Date

\_\_\_\_\_  
Charles Powell

\_\_\_\_\_  
Date

\_\_\_\_\_  
Deana Polcare

\_\_\_\_\_  
Date

**DEFENDANT TARGET CORPORATION**

\_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Date

**CLASS COUNSEL**

\_\_\_\_\_  
Jeff Ostrow, Esq.  
KOPELOWITZ OSTROW  
FERGUSON WEISELBERG GILBERT

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jeffrey D. Kaliei, Esq.  
KALIEL PLLC

\_\_\_\_\_  
Date

\_\_\_\_\_  
Hassan Zavareei, Esq.  
TYCKO & ZAVAREEI LLP

\_\_\_\_\_  
6/13/2019

\_\_\_\_\_  
Date

**TARGET'S COUNSEL - APPROVED AS TO FORM**

\_\_\_\_\_  
James R. McGuire, Esq.  
MORRISON & FOERSTER LLP

\_\_\_\_\_  
Date

**PLAINTIFFS**

\_\_\_\_\_  
James Walters

\_\_\_\_\_  
Date

\_\_\_\_\_  
Michelle Dixon

\_\_\_\_\_  
Date

\_\_\_\_\_  
Charles Powell

\_\_\_\_\_  
Date

\_\_\_\_\_  
Deana Polcare

\_\_\_\_\_  
Date

**DEFENDANT TARGET CORPORATION**

\_\_\_\_\_  
*Scott Kennedy*

\_\_\_\_\_  
*June 18, 2019*

Title: *President, Financial + Retail Services*

\_\_\_\_\_  
Date

**CLASS COUNSEL**

\_\_\_\_\_  
Jeff Ostrow, Esq.  
KOPELOWITZ OSTROW  
FERGUSON WEISELBERG GILBERT

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jeffrey D. Kaliel, Esq.  
KALIEL PLLC

\_\_\_\_\_  
Date

\_\_\_\_\_  
Hassan Zavareei, Esq.  
TYCKO & ZAVAREEI LLP

\_\_\_\_\_  
Date

**TARGET'S COUNSEL - APPROVED AS TO FORM**

\_\_\_\_\_  
*James R. McGuire*

\_\_\_\_\_  
June 18, 2019

\_\_\_\_\_  
James R. McGuire, Esq.  
MORRISON & FOERSTER LLP

\_\_\_\_\_  
Date

# EXHIBIT A

EMAIL NOTICE

**If You Had a Target Debit Card and Paid a Return Payment Fee, You May Be Eligible for a Payment or Debt Reduction from a Class Action Settlement.**

A Settlement has been reached in a class action lawsuit called *Walters v. Target Corp.*, No. 3:16-cv-01678-L-MDD, pending in the United States District Court for the Southern District of California. The lawsuit alleges that Target deceptively marketed its Target Debit Card (“TDC”), and breached consumer agreements in the way it processed TDC Transactions and assessed Returned Payment Fees (“RPFs”). The RPFs were assessed when the bank account the consumer chose to link to his or her TDC did not have sufficient funds to cover a TDC Transaction and the bank returned the transaction to Target unpaid. Target maintains that there was nothing wrong with its marketing of the TDC and that it complied, at all times, with applicable laws and regulations and the terms of its agreements with its customers.

**Who is Included? You were sent this email because Target’s records show you are a member of the Settlement Class.** The Settlement Class includes all TDC holders in the United States who, between June 29, 2012 and **Month Day, 2019**, incurred at least one RPF in connection with their TDC, that was not refunded or waived.

**What Are the Settlement Terms?** Target has agreed to establish a Settlement Fund of \$5,000,000 from which eligible Settlement Class Members will receive payments, and a Debt Reduction Cash Amount of approximately \$3,222,330 from which eligible Settlement Class Members will receive reductions on outstanding balances on their TDC accounts. Once the Court approves the Settlement, eligible Settlement Class Members will *automatically* receive their payments by check or debt reductions to their accounts. The Settlement also includes several business practice changes to how RPFs are assessed on TDC transactions.

**Your Rights May Be Affected.** If you do not want to be legally bound by the Settlement, you must exclude yourself from the Settlement Class by **Month Day, 2019**. If you do not timely exclude yourself you will not be able to sue Target in a future lawsuit about the claims covered by the Settlement. If you stay in the Settlement Class, you may object to the Settlement in writing by **Month Day, 2019**. The [Detailed Notice](#) explains how to exclude yourself from or object to the Settlement. The Court will hold a hearing on **Month Day, 2019, Time**, to consider whether to approve the Settlement and Class Counsel’s request for attorneys’ fees of up to 30% of the Settlement Fund, plus expenses and Class Representative Service Awards. You may appear at the hearing, but you are not required to attend. To appear and speak at the hearing, you must object to the Settlement in writing pursuant to the instructions in the Settlement Agreement. You may also hire your own attorney, at your own expense, to appear or speak for you at the hearing. Click [here](#) for a copy of the full Detailed Notice or call 1-XXX-XXX-XXXX to request a paper copy be mailed to you.



# EXHIBIT B

POSTCARD NOTICE

**If You had a Target Debit Card and Paid a Return Payment Fee, You May Be Eligible for a Payment or Debt Reduction from a Class Action Settlement.**

A Settlement has been reached in a class action lawsuit called *Walters v. Target Corp.*, No. 3:16-cv-01678-L-MDD, pending in the United States District Court for the Southern District of California. The lawsuit alleges that Target deceptively marketed its Target Debit Card (“TDC”), and breached consumer agreements in the way it processed TDC Transactions and assessed Returned Payment Fees (“RPFs”). The RPFs were assessed when the bank account the consumer chose to link to his or her TDC did not have sufficient funds to cover a TDC Transaction and the bank returned the transaction to Target unpaid. Target maintains that there was nothing wrong with its marketing of the TDC and that it complied, at all times, with applicable laws and regulations and the terms of its agreements with its customers.

**Who is Included? You were sent this notice because Target’s records show you are a member of the Settlement Class.** The Settlement Class includes all TDC holders in the United States who, between June 29, 2012 and **Month Day, 2019**, incurred at least one RPF in connection with their TDC, that was not refunded or waived.

**What Are the Settlement Terms?** Target has agreed to establish a Settlement Fund of \$5,000,000 from which eligible Settlement Class Members will receive payments, and a Debt Reduction Cash Amount of approximately \$3,222,330 from which eligible Settlement Class Members will receive reductions on outstanding balances on their TDC accounts. Once the Court approves the Settlement, eligible Settlement Class Members will *automatically* receive their payments by check or debt reductions to their accounts. The Settlement also includes several business practice changes to how RPFs are assessed on TDC transactions.

**Your Rights May Be Affected.** If you do not want to be legally bound by the Settlement, you must exclude yourself from the Settlement Class by **Month Day, 2019**. If you do not timely exclude yourself, you will not be able to sue Target in a future lawsuit about the claims covered by the Settlement. If you stay in the Settlement Class, you may object to the Settlement in writing by **Month Day, 2019**. The Detailed Notice available at the website below explains how to exclude yourself from or object to the Settlement. The Court will hold a hearing on **Month Day, 2019, Time**, to consider whether to approve the Settlement and Class Counsel’s request for attorneys’ fees of up to 30% of the Settlement Fund, plus expenses and Class Representative Service Awards. You may appear at the hearing, but you are not required to attend. To appear and speak at the hearing, you must object to the Settlement in writing pursuant to the instructions in the Settlement Agreement. You may also hire your own attorney, at your own expense, to appear or speak for you at the hearing. Visit the website below for a copy of the full Detailed Notice or call to request a paper copy be mailed to you.

**www.XXXXXXXXXXXXXX.com**

**1-XXX-XXX-XXXX**

# EXHIBIT C

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

## If You Had a Target Debit Card and Paid a Return Payment Fee, You May Be Eligible for a Payment or Debt Reduction from a Class Action Settlement.

*A federal court authorized this notice. You are not being sued. This is not a solicitation from a lawyer.*

- A Settlement has been reached in a class action lawsuit alleging that Target deceptively marketed its Target Debit Card (“TDC”), and breached consumer agreements in the way it processed TDC Transactions and assessed Returned Payment Fees (“RPFs”). The RPFs were assessed when the bank account the consumer chose to link to his or her TDC did not have sufficient funds to cover a TDC Transaction and the bank returned the transaction to Target unpaid. Target maintains that there was nothing wrong with its marketing of the TDC and that it complied, at all times, with applicable laws and regulations and the terms of its agreements with its customers.
- Class Members may be entitled to either an automatic payment or an automatic reduction of any outstanding balance on their TDC account. As part of the Settlement, Target has also agreed to several business practice changes related to TDC Transactions.
- The Settlement Class includes all TDC holders in the United States who, between June 29, 2012 and **Month Day, 2019**, incurred at least one RPF in connection with their TDC that was not refunded or waived.
- Your legal rights are affected whether you act or don’t act. Read this notice carefully.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
<b>Participate in the Settlement (Do Nothing)</b>	<p>You are entitled under the Settlement to a Settlement Class Member Cash Payment or Debt Reduction Payment. You do not have to do anything to receive your Settlement Class Member Cash Payment or Debt Reduction Payment. If the Court approves the Settlement and it becomes final and effective, and you remain in the Settlement Class and are entitled to receive a payment or debt reduction, you will automatically receive a Settlement Class Member Cash Payment by check or Debt Reduction Payment.</p> <p>All Settlement Class Members will benefit from the business practice changes to which Target has agreed.</p>
<b>Exclude Yourself from the Settlement</b>	Receive no benefit from the Settlement. This is the only option that allows you to retain your right to bring any other lawsuit against Target about the claims in this case.
<b>Object</b>	Write to the Court if you do not like the terms of the Settlement.
<b>Go to a Hearing</b>	Ask to speak in Court about the fairness of the Settlement.
<b>Do Nothing</b>	You will receive any payment or reduction of debt to which you are entitled, and will give up your right to bring your own lawsuit against Target about the claims in this case.

**Questions? Call 1-XXX-XXX-XXXX or visit [www.XXXXXXXXXXXXXXXXXX.com](http://www.XXXXXXXXXXXXXXXXXX.com)**

- These rights and options — **and the deadlines to exercise them** — are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Settlement Class Member Cash Payments and Debt Reduction Payments will be provided if the Court approves the Settlement and after any appeals are resolved. Please be patient.

**WHAT THIS NOTICE CONTAINS**

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1. Why is there a notice?
2. What is this lawsuit about?
3. What do “Linked Deposit Account,” “TDC,” “TDC Agreement,” “TDC Transaction,” and “RPF” mean?
4. Why is this a class action?
5. Why is there a Settlement?

**WHO IS IN THE SETTLEMENT ..... PAGE 3**

6. Who is included in the Settlement?

**THE SETTLEMENT’S BENEFITS ..... PAGE 4**

7. What does the Settlement provide?
8. How do I receive a payment or debt reduction?
9. What am I giving up to stay in the Settlement Class?

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10. How do I get out of the Settlement?
11. If I do not exclude myself, can I sue Target for the same thing later?
12. If I exclude myself from the Settlement, can I still receive a payment?

**THE LAWYERS REPRESENTING YOU ..... PAGE 5**

13. Do I have a lawyer in this case?
14. How will the lawyers be paid?

**OBJECTING TO THE SETTLEMENT ..... PAGE 6**

15. How do I tell the Court that I don’t like the Settlement?
16. What’s the difference between objecting and excluding?

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17. When and where will the Court decide whether to approve the Settlement?
18. Do I have to come to the hearing?
19. May I speak at the hearing?

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20. What happens if I do nothing at all?

**GETTING MORE INFORMATION ..... PAGE 7**

21. How do I get more information?

## BASIC INFORMATION

### 1. Why is there a notice?

A Court authorized this notice because you have a right to know about the proposed Settlement of this class action lawsuit, and about all of your options, before the Court decides whether to give Final Approval to the Settlement. This notice explains the lawsuit, the Settlement, and your legal rights.

Judge M. James Lorenz of the United States District Court for the Southern District of California is overseeing this case. The case is known as *Walters v. Target Corp.*, No. 3:16-cv-1678-L-MDD (the “Action”). The persons who sued are called the “Plaintiffs.” The Defendant is Target.

A separate lawsuit pending in the United States District Court for Minnesota, *Dixon v. Target Corp.*, No. 0:18-cv-02660, will be dismissed with prejudice as part of the proposed Settlement.

### 2. What is this lawsuit about?

The Action claims that the TDC (as defined below) is deceptively marketed. The Action further alleges that Target breached the TDC Agreement as well as the duty of good faith and fair dealing by the manner in which Target processes TDC Transactions and assesses RPFs (also defined below). The First Amended Complaint is posted at [www.XXXXXXXXXXXXXX.com](http://www.XXXXXXXXXXXXXX.com) and contains all of the allegations and claims asserted against Target.

Target denied, and continues to deny, each and every claim and allegation of wrongdoing asserted in the Action, and Target believes it would ultimately be successful in its defense of all claims asserted in the Action.

### 3. What do “Linked Deposit Account,” “TDC,” “TDC Agreement,” “TDC Transaction,” and “RPF” mean?

“**Linked Deposit Account**” means the deposit account linked to a consumer’s TDC from which the TDC withdraws funds to pay TDC Transactions.

“**TDC**” means the Target Debit Card.

“**TDC Agreement**” means the TDC terms and conditions as may be amended from time to time that all consumers accept when they open a TDC account.

“**TDC Transaction**” means a transaction with Target whether in a brick-and-mortar Target store or on Target’s website where a customer uses their TDC to make a purchase.

“**RPF**” or, plural, “**RPFs**,” means the Returned Payment Fee that Target applies to a TDC when a TDC transaction is returned unpaid by the customer’s financial institution holding the Linked Deposit Account, as described in the TDC Agreement.

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

In a class action, one or more people called class representatives (in this case, Plaintiffs James Walters, Michelle Dixon, Charles Powell, and Deana Polcare) sue on behalf of people who have similar claims. The people included in the class action are called the Settlement Class or Settlement Class members. One court resolves the issues for all Settlement Class members, except for those who timely exclude themselves from the Settlement Class.

### 5. Why is there a Settlement?

The Court has not decided in favor of either the Plaintiffs or Target. Instead, both sides agreed to the Settlement. By agreeing to the Settlement, the Parties avoid the costs and uncertainty of a trial, and



Settlement Class Members receive the benefits described in this notice. The Class Representatives and Class Counsel believe the Settlement is best for everyone who is affected.

## WHO IS IN THE SETTLEMENT?

To see if you will be affected by the Settlement or if you can get a payment or debt reduction from it, you first have to determine if you are a Settlement Class member.

### 6. Who is included in the Settlement?

All TDC holders in the United States who, within the Class Period, incurred at least one RPF in connection with their TDC, that was not refunded or waived.

Based on a review of Target's data, it is estimated that the Settlement Class numbers approximately 954,805. You may contact the Settlement Administrator if you have any questions as to whether you are in the Settlement Class.

## THE SETTLEMENT'S BENEFITS

### 7. What does the Settlement provide?

Under the Settlement Target has agreed to provide both business practice changes and monetary relief (money) to Settlement Class Members.

#### Business Practice Changes

Beginning on Month Day, 2019, Target agrees not to implement or assess RPFs, or any equivalent fee, in connection with TDC Transactions of less than \$7.00. Beginning on **Month Day, 2019**, Target agrees that any RPFs charged will be the lesser of the RPF as disclosed by the TDC Agreement or the amount of the TDC Transaction that was returned unpaid. Both changes will remain in effect for a period of 2 years, or until **Month Day, 20\_\_**.

Plaintiffs and Target will work collaboratively to amend the TDC Agreement to provide additional information to TDC Holders regarding how they may incur RPFs from Target and non-sufficient funds or overdraft fees from their banks and/or credit unions in connection with the use of the TDC.

#### Monetary Relief

Target has agreed to pay a Cash Settlement Amount of \$5,000,000 and to waive approximately \$3,222,330 in RPFs currently due and owing by Settlement Class Members.

How will Settlement Class Member Cash Payments be Calculated? Each Settlement Class Member who incurred a RPF during the Class Period and paid all or part of the first RPF incurred during the Class Period will be entitled to receive a cash payment from the Net Settlement Fund. The Net Settlement Fund means the \$5,000,000 Cash Settlement Amount minus Class Representative Service Awards and Fee & Expense Award. Each Settlement Class Member Cash Payment shall be equal to the Settlement Class Member's *pro rata* share of the Net Settlement fund based on the dollar amount of the first RPF paid by the Settlement Class Member.

How will Debt Reduction Payments be Calculated? For Settlement Class Members who have not paid the first RPFs they incurred during the Class Period at the time the Settlement Class Member Cash Payments are to be distributed, the Debt Reduction Cash Amount will be used by Target to reduce such outstanding RPFs by twenty-five percent.

Under the Settlement a Class Member may not qualify for relief from both the Cash Settlement Amount and Debt Reduction Cash Amount even if they paid one or more RPFs during the Class Period

that was not refunded and were assessed at least one other RPF during the Class Period that is still due and owing.

#### 8. How do I receive a payment or debt reduction?

If you are in the Settlement Class and entitled to receive a Settlement Class Member Cash Payment or Debt Reduction Payment, you do not need to do anything to receive it. If the Court approves the Settlement and it becomes final and effective, you will *automatically* receive a payment by check or reduction of your debt.

#### 9. What am I giving up to stay in the Settlement Class?

Unless you exclude yourself from the Settlement Class, you cannot sue or be part of any other lawsuit against Target about the legal issues in this Action. It also means that all of the decisions by the Court will bind you. The “Release” included in the Settlement Agreement describes the precise legal claims that you give up if you remain in the Settlement. The Settlement Agreement is available at [www.XXXXXXXXXXXXXXXXXXXXXX.com](http://www.XXXXXXXXXXXXXXXXXXXXXX.com).

### EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want benefits from the Settlement, and you want to keep the right to sue Target on your own about the legal issues in this Action, then you must take steps to get out of the Settlement. This is called excluding yourself — or it is sometimes referred to as “opting-out” of the Settlement Class.

#### 10. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must send a letter that includes the following:

- Your name and your TDC account number(s);
- A short statement that you are opting-out of the Settlement Class and that you understand that you will not receive a Settlement Class Member Cash Payment or a Debt Reduction Payment from the Settlement of the Action; and
- Your signature and the date you sign.

You must mail your exclusion request, postmarked no later than **Month Day, 2019**, to:

TDC Settlement  
P.O. Box XXXX  
Portland, OR XXXXX-XXXX

#### 11. If I do not exclude myself, can I sue Target for the same thing later?

No. Unless you exclude yourself, you give up the right to sue Target for the claims that the Settlement resolves. You must exclude yourself from the Settlement Class in order to try to pursue your own lawsuit.

#### 12. If I exclude myself from the Settlement, can I still receive a payment?

No. You will not receive a payment or debt reduction if you exclude yourself from the Settlement.

### THE LAWYERS REPRESENTING YOU

#### 13. Do I have a lawyer in this case?

The Court has appointed a number of lawyers to represent you and others in the Settlement Class as “Class Counsel,” including the law firms Kopelowitz Ostrow Ferguson Weiselberg Gilbert, Kaliel PLLC, and Tycko & Zavareei LLP.

Class Counsel will represent you and others in the Settlement Class. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

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

Class Counsel intends to request up to 30% of the Settlement Value (the total value of the Cash Settlement Amount plus the Debt Reduction Cash Amount) to reimburse Class Counsel for attorneys’ fees incurred in researching, preparing for, and litigating this Action, and Class Counsel may also apply for reimbursement for costs and expenses incurred in the Action. The fees and expenses awarded by the Court will be paid out of the Settlement Fund. The Court will determine the amount of fees and expenses to award.

Based on their respective levels of participation in the Actions, Class Counsel will request for Plaintiff Walters a Class Representative Service Award in an amount not exceeding \$7,500.00 in recognition of his service to the Settlement Class and will request for Plaintiffs Dixon, Powell, and Polcare a Class Representative Service Award in an amount not exceeding \$3,000.00 in recognition of their service to the Settlement Class.

## OBJECTING TO THE SETTLEMENT

#### 15. How do I tell the Court that I don’t like the Settlement?

If you are a Settlement Class Member, you can object to any part of the Settlement, the Settlement as a whole, Class Counsel’s requests for fees and expenses and/or Class Counsel’s request for Service Awards for the Class Representatives. To object, you must submit a letter that includes the following:

- The case name and case number and your name, address, telephone number, and signature;
- An explanation of the nature of your objection and citation to any relevant legal authority;
- The number of times you have objected to a class action settlement in the past 5 years and the caption for any such case(s);
- The name of any counsel representing you; and
- Whether you (on your own or through you attorney) intend to testify at the final approval hearing (see below).

You must send your objection to the Clerk of Court, class counsel, and defense counsel at the addresses below, by first class mail and postmarked no later than **Month Day, 2019**.

Clerk of the Court	Class Counsel	Defense Counsel
Office of the Clerk of the Court for the United States District Court for the Southern District of California 333 West Broadway, Suite 420 San Diego, CA 92101	Jeff Ostrow, Esq. KOPELOWITZ OSTROW FERGUSON WEISELBERG GILBERT 1 West Las Olas Blvd., Suite 500 Fort Lauderdale, FL 33301	James McGuire, Esq. MORRISON & FOERSTER LLP 425 Market St. San Francisco, CA 94105

The Parties have the right to take discovery, including subpoenas and depositions, from any objector.

**16. What's the difference between objecting and excluding?**

Objecting is telling the Court that you do not like something about the Settlement. You can object to the Settlement only if you do not exclude yourself from the Settlement. Excluding yourself from the Settlement is telling the Court that you don't want to be part of the Settlement. If you exclude yourself from the Settlement, you have no basis to object to the Settlement because it no longer affects you.

**THE COURT'S FINAL APPROVAL HEARING**

The Court will hold a Final Approval Hearing to decide whether to approve the Settlement, and the request for attorneys' fees, expenses and Service Awards for the Class Representatives. You may attend and you may ask to speak, but you don't have to do so.

**17. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Final Approval Hearing at \_\_:\_\_ a.m. on **Month Day, 2019**, at the Edward J. Schwartz United States Courthouse, 221 West Broadway, San Diego, CA 92101, Courtroom 5B. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check [www.XXXXXXXXXXXXXXXXXXXXXX.com](http://www.XXXXXXXXXXXXXXXXXXXXXX.com) for updates. At this hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. The Court will also consider any request by Class Counsel for attorneys' fees and expenses and for Service Awards for the Class Representatives. If there are objections, the Court will consider them at this time. After the hearing, the Court will decide whether to approve the Settlement. We do not know when the Court will make its decision. It is a good idea to check [www.XXXXXXXXXXXXXXXXXXXXXX.com](http://www.XXXXXXXXXXXXXXXXXXXXXX.com) for updates.

**18. Do I have to come to the hearing?**

No. Class Counsel will answer any questions the Court may have. But, you may come at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you submit your written objection on time, to the proper addresses and it complies with the requirements set forth previously, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

**19. May I speak at the hearing?**

You may speak at the Final Approval Hearing if you have filed and served a timely objection to the Settlement according to the procedures set out in Section \_\_ above.

**IF YOU DO NOTHING**

**20. What happens if I do nothing at all?**

If you do nothing, you will still receive the benefits to which you are entitled under the Settlement Agreement. Unless you exclude yourself, you will not be able to start a lawsuit or be part of any other lawsuit against Target relating to the issues in this Action.

**GETTING MORE INFORMATION**

**21. How do I get more information?**

This Detailed Notice summarizes the proposed Settlement. More details can be found in the Settlement Agreement. You can obtain a copy of the Settlement Agreement at [www.XXXXXXXXXXXXXXXXXXXXXX.com](http://www.XXXXXXXXXXXXXXXXXXXXXX.com). You may also write with questions to TDC Settlement, P.O. Box

XXXX, Portland, OR XXXXX-XXXX, or call the toll-free number, 1-XXX-XXX-XXXX. Do not contact Target or the Court for information.

**Questions? Call 1-XXX-XXX-XXXX or visit [www.XXXXXXXXXXX.com](http://www.XXXXXXXXXXX.com)**

# EXHIBIT D

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

JAMES WALTERS, on behalf of  
himself and those similarly situated,

Plaintiff,

v.

TARGET CORP.,

Defendant.

CASE NO. 3:16-cv-1678-L-MDD

**[PROPOSED] ORDER GRANTING  
PLAINTIFFS' UNOPPOSED  
MOTION FOR PRELIMINARY  
APPROVAL OF CLASS  
SETTLEMENT AND FOR  
CERTIFICATION OF  
SETTLEMENT CLASS**

This case comes before the Court on the motion of Plaintiffs, James Walters, Michelle Dixon, Charles Powell and Deana Polcare ("Plaintiffs"), on behalf of themselves and the Settlement Class they seek to represent, for an order, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, granting Preliminary Approval of Settlement Agreement and Release ("Agreement") entered into between Plaintiffs and Defendant Target Corp. ("Target") dated June 18, 2019.

The definitions and capitalized terms in the Agreement and Memorandum in Support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Settlement and for Certification of Settlement Class are hereby incorporated as though fully set forth in this Order and shall have the same meanings attributed to them in those documents.

Having considered the matter, Plaintiffs' motion, the proposed Agreement, and the Joint Declaration of Class Counsel for the proposed Settlement Class, and good cause appearing therefore,

**IT IS HEREBY ORDERED THAT:**

1. The Agreement is preliminarily approved as fair, reasonable, and adequate. Plaintiffs and the Settlement Class, by and through their counsel, have investigated the facts and law relating to the matters alleged in the First Amended Complaint, including



1 through dispositive motion practice, legal research as to the sufficiency of the claims, an  
2 evaluation of the risks associated with continued litigation, trial, and/or appeal, including  
3 risks associated with the currently pending interlocutory appeal, and confirmatory  
4 discovery.

5           2.     The Agreement appears to be the product of arm's length negotiations  
6 between Class Counsel and counsel for Target, which occurred following mediation before  
7 Robert J. Meyer, Esq. of JAMS.

8           3.     The Court conditionally certifies, for settlement purposes only, the  
9 following Settlement Class:

10                   All TDC holders in the United States who, within the Class  
11                   Period, incurred at least one RPF in connection with their TDC,  
12                   that was not refunded or waived.

13           4.     The Court finds, for settlement purposes only, that the prerequisites for a  
14 class action under Rules 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure  
15 have been satisfied in that: (a) the number of Settlement Class members is so numerous  
16 that joinder of all members thereof is impracticable; (b) there are questions of law and fact  
17 common to the Settlement Class; (c) the claims of the Plaintiffs are typical of the claims of  
18 the Settlement Class they seek to represent for purposes of settlement; (d) Plaintiffs have  
19 fairly and adequately represented the interests of the Settlement Class and will continue to  
20 do so, and Plaintiffs have retained experienced counsel to represent them; (e) for purposes  
21 of settlement, the questions of law and fact common to the Settlement Class members  
22 predominate over any questions affecting any individual Settlement Class member; and (f)  
23 for purposes of settlement, a class action is superior to the other available methods for the  
24 fair and efficient adjudication of the controversy.

25           5.     The Court also concludes that, because this Action is being settled rather  
26 than litigated, the Court need not consider manageability issues that might be presented by  
27 the trial of a nationwide class action involving the issues in this case. *See Amchem Prods.,*  
28 *Inc. v. Windsor*, 521 U.S. 591, 620 (1997). Additionally, for purposes of settlement only,

1 the Court finds that Target has acted on grounds that apply generally to the Settlement  
2 Class, so that the final injunctive relief to which the Parties have agreed is appropriate  
3 respecting the Settlement Class as a whole.

4 6. For purposes of the Settlement only, the Court finds and determines,  
5 pursuant to Rule 23(a)(1) of the Federal Rules of Civil Procedure, that Plaintiffs James  
6 Walters, Michelle Dixon, Charles Powell, and Deana Polcare will fairly and adequately  
7 represent the interests of the Settlement Class in enforcing their rights in the Action and  
8 appoints them Class Representatives of the Settlement Class.

9 7. For purposes of the Settlement only and pursuant to Rule 23(a)(1) of the  
10 Federal Rules of Civil Procedure, the Court appoints as Class Counsel Jeff Ostrow, Jeffrey  
11 Kaliel, Hassan Zavareei, Sophia Gold and Joshua Levine to act on behalf of the Settlement  
12 Class and the Class Representative with respect to the Settlement.

13 8. The Court designates Epiq Systems as Settlement Administrator to  
14 administer the notice procedures. The Settlement Administrator shall abide by the terms  
15 and conditions of the Agreement that pertain to the Settlement Administrator.

16 9. Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, the terms  
17 of the Agreement (and the Settlement provided for therein) are preliminarily approved as  
18 (a) fair, reasonable, and adequate in light of the relevant factual, legal, practical, and  
19 procedural considerations of the Action, (b) free of collusion, and (c) within the range of  
20 possible final judicial approval, subject to further consideration at the Final Approval  
21 Hearing.

22 10. The Court approves, as to form and content, the Settlement Class Notices  
23 attached to the Agreement as Exhibits A, B, and C for the purpose of notifying the  
24 Settlement Class as to the proposed Settlement, the Final Approval Hearing, and the rights  
25 of Settlement Class members. The Court finds that the Settlement Class Notices are  
26 reasonable; constitute due, adequate, and sufficient notice to all persons entitled to receive  
27 notice; and that they meet the requirements of due process and Rule 23 of the Federal Rules  
28

1 of Civil Procedure. Specifically, the Court finds that the Settlement Class Notices comply  
2 with Rule 23(e) of the Federal Rules of Civil Procedure as they are a reasonable manner of  
3 providing notice to those Settlement Class members who would be bound by the  
4 Agreement. The Court also finds that the manner of dissemination of notice complies with  
5 Rule 23(c)(2), as it is also the most practicable notice under the circumstances, provides  
6 individual notice to all Settlement Class members who can be identified through a  
7 reasonable effort, and is reasonably calculated, under all the circumstances, to apprise  
8 Settlement Class members of the pendency of this Action, the terms of the Settlement, and  
9 their right to object to the Settlement or exclude themselves from the Settlement Class.

10 11. As soon as possible after the entry of this order, but not later than 70 days  
11 after the entry of this Order, the Settlement Administrator will complete notice to the  
12 Settlement Class as provided in the Agreement.

13 12. The Settlement Class Notices shall be updated by Plaintiffs and/or the  
14 Settlement Administrator to identify the Opt-out and Objection Deadlines of 130 days after  
15 the entry of this Order, as well as the date and time of the Final Approval Hearing as set  
16 forth below.

17 13. Target shall deposit the Cash Settlement Amount into an escrow account  
18 selected by the Settlement Administrator within 15 days of this Order.

19 14. Any person falling within the definition of the Settlement Class may, upon  
20 request, be excluded from the Settlement by submitting to the Settlement Administrator at  
21 the physical address listed in the Notices, a written, signed, and dated statement that he or  
22 she is opting-out of the Settlement Class and understands that he or she will receive no  
23 money from the Settlement of this Action. To be effective, this opt-out statement (i) must  
24 be postmarked no later than the Opt-Out Deadline; (ii) include the Settlement Class  
25 member's name address, telephone number, and TDC account number(s); and (iii) be  
26 personally signed and dated by the Settlement Class member. All persons who timely  
27 submit properly completed requests for exclusion shall have no rights under the Agreement  
28

1 and shall not share in the benefits of the Settlement and shall not be bound by the  
2 Agreement. Any members of the Settlement Class who fail to submit a valid and timely  
3 opt-out request shall be bound by all terms of the Agreement and the Final Approval Order,  
4 regardless of whether they have requested to be opted-out from the Settlement.

5 15. Any person falling within the definition of the Settlement Class, and who  
6 does not opt-out from the Settlement, may object to the terms of the proposed Settlement  
7 as reflected in the Agreement, the certification of the Settlement Class, the entry of the  
8 Final Approval Order, the amount of attorneys' fees and expenses requested by Class  
9 Counsel, and/or the amount of the Service Awards requested by the Plaintiffs. To be valid  
10 and considered by the Court, an objection must (i) be postmarked no later than the  
11 Objection Deadline; (ii) be sent to the Clerk of Court, Class Counsel, and Target's counsel,  
12 by first class mail; (iii) include the case name and case number and the objector's name,  
13 address, telephone number, and signature; (iv) contain an explanation of the nature of the  
14 objection and citation to any relevant legal authority; (v) indicate the number of times the  
15 objector has objected to a class action settlement in the past 5 years and the caption for any  
16 such case(s); (vi) identify any counsel representing the objector; and (vii) indicate whether  
17 the objector (whether *pro se* or through representation) intends to testify at the Final  
18 Approval Hearing.

19 16. Plaintiffs and Target may file responses to any objections that are  
20 submitted. Any Settlement Class Member who timely files and serves an objection in  
21 accordance with this order may appear at the Final Approval Hearing, either in person or  
22 through an attorney. Failure to adhere to the requirements of this section will bar a  
23 Settlement Class Member from being heard at the Final Approval Hearing, either  
24 individually or through an attorney, unless the Court otherwise orders.

25 17. Any Settlement Class Member who does not make his or her objections in  
26 the manner and by the date set forth above of this Order shall be deemed to have waived  
27 any objections, and shall be forever barred from raising such objections in this or any other  
28

1 action or proceeding, absent further order of the Court.

2 18. All pretrial proceedings in this action are stayed and suspended until  
3 further order of this Court, except such actions as may be necessary to implement the  
4 Agreement and this Preliminary Approval Order.

5 19. Upon the entry of this Order, the Class Representatives and Settlement  
6 Class members shall be provisionally enjoined and barred from asserting any claims  
7 against Target and the Target Releasees arising out of, relating to, or in connection with  
8 the Released Target Claims prior to the Court's decision as to whether to grant Final  
9 Approval of the Settlement.

10 20. This Settlement, and any and all negotiations, statements, documents,  
11 and/or proceedings in connection with the Settlement, shall not be construed or deemed to  
12 be evidence of an admission or concession by Target of any liability or wrongdoing by  
13 Target or any of its affiliates, agents, representatives, vendors, or any other person or entity  
14 acting on its behalf with respect to the assessment of overdraft fees or that the case was  
15 properly brought as a class action, and shall not be construed or deemed to be evidence of  
16 an admission or concession that any person suffered compensable harm or is entitled to  
17 any relief with respect to Target's assessment of RPFs. Target may file the Agreement in  
18 any action or proceeding that may be brought against it in order to support a defense or  
19 counterclaim based on principles of res judicata, collateral estoppel, release, good faith  
20 settlement, judgment bar or reduction, or any other theory of claim preclusion or issue  
21 preclusion or similar defense or counterclaim.

22 21. The Settlement will not become effective unless the Court enters a Final  
23 Approval Order. If the Settlement does not receive Final Approval or the Effective Date  
24 does not come to pass, Target shall have the right to terminate the Agreement and the  
25 Settlement and will have no further obligations under the Agreement unless Target waives  
26 in writing its right to terminate the Agreement under this section. In addition, if the  
27 Agreement becomes null and void, Target shall not be prejudiced in any way from  
28

opposing class certification in the Actions, and Plaintiffs and the Settlement Class members shall not use anything in the Agreement, in any terms sheet, or in the Preliminary Approval Order or Final Approval Order to support a motion for class certification or as evidence of any wrongdoing by Target. The amended complaint filed by the Parties for purposes of Settlement shall be void, and the First Amended Complaint shall be the operative complaint in this Action. No Party shall be deemed to have waived any claims, objections, rights or defenses, or legal arguments or positions, including but not limited to, claims or objections to class certification, or claims or defenses on the merits. Each Party reserves the right to prosecute or defend the Actions in the event that this Agreement does not become final and binding.

22. The dates of performance contained herein may be extended by order of the Court, for good cause shown, without further notice to the Settlement Class.

23. Plaintiffs' Motion for Final Approval of the Settlement must include the required and customary filings. In addition, the motion papers shall include:

a. A declaration evidencing Target's compliance with the Class Action Fairness Act notice requirement under 28 U.S.C. § 1715, including responses from any government officials to the notice.

b. A declaration from the Settlement Administrator regarding compliance with its duties under the Settlement and this Order; a copy of the actual Notices (Email, Postcard, and Long Form) sent to the class; and a report on (1) the number of Settlement Class members to whom Email Notice was sent, (2) the number of returned undelivered email notices, (3) the number of Settlement Class members to whom Postcard Notices were initially sent, (4) an explanation of efforts to locate correct addresses for returned undelivered Postcard Notices after the first mailing, (5) the number of notices sent to the updated addresses in a second mailing, and (6) the number of such notices returned undelivered.



1 c. An explanation of how class counsel calculated the most likely recoverable  
2 damages.

3 24. For the benefit of the Settlement Class and to protect this Court's  
4 jurisdiction, this Court retains continuing jurisdiction over the Settlement proceedings to  
5 ensure the effectuation thereof in accordance with the Settlement preliminarily approved  
6 herein and the related orders of this Court.

7 25. Class Counsel and Target Counsel are hereby authorized to use all  
8 reasonable procedures in connection with approval and administration of the Settlement  
9 that are not materially inconsistent with this Order or the Agreement, including making,  
10 without further approval of the Court, minor changes to the form or content of the  
11 Settlement Class Notices, and other exhibits that they jointly agree are reasonable or  
12 necessary.

13 26. The Final Approval Hearing will be conducted in Courtroom 5B, Suite  
14 5145, of the U.S. District Court for the Southern District of California, located at 221 West  
15 Broadway, San Diego, CA 92101 on \_\_\_\_\_, 2020, at 10:30 am to determine: (a)  
16 whether the Settlement should be approved as fair, reasonable, and adequate to the  
17 Settlement Class; (b) whether the Final Approval Order should be entered in substance  
18 materially the same form as the Parties propose; (c) whether to approve any motion for  
19 attorneys' fees and costs and expenses and/or any application for Class Representative  
20 Service Awards; and (d) any other matters that may properly be brought before the Court  
21 in connection with the Settlement. The Final Approval Hearing is subject to continuation  
22 or adjournment by the Court without further notice to the Settlement Class. The Court may  
23 approve the Settlement with such modifications as the Parties may agree to, if appropriate,  
24 without further notice to the Settlement Class.

25 27. The Parties must file all papers in support of Final Approval of the  
26 Agreement and in response to objections to the Agreement on or before 170 days after the  
27 date of entry of this Order ("Final Approval Motion Deadline"). Any motion for attorneys'  
28



fees and costs and expenses and/or any application for Class Representative Service Awards shall be filed within 70 days of entry of this Order.

28. The Court hereby sets the following schedule of events:

<b>Event</b>	<b>Calendar Days After Entry of this Order</b>	<b>Date</b>
<b>Notice Complete</b>	<b>70 Days</b>	
<b>Motion for Class Representatives' Service Awards and Attorneys' Fee and Expense Awards</b>	<b>70 Days</b>	
<b>Opt-Out Deadline</b>	<b>130 Days</b>	
<b>Objection Deadline</b>	<b>130 Days</b>	
<b>Motion for Final Approval</b>	<b>170 Days</b>	
<b>Final Approval Hearing</b>	<b>200 Days (or when convenient for the Court)</b>	

Dated: \_\_\_\_\_

\_\_\_\_\_  
Hon. M. James Lorenz  
United States District Judge

# EXHIBIT B

JEFF OSTROW (*pro hac vice*)  
**KOPELOWITZ OSTROW**  
**FERGUSON WEISELBERG GILBERT**  
One West Las Olas Blvd, 5<sup>th</sup> Floor  
Fort Lauderdale, FL 33301  
Telephone: (954) 525-4100  
Facsimile: (954) 525-4300  
ostrow@kolawyers.com

*Attorneys for Plaintiffs and the Settlement Class*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

JAMES WALTERS, MICHELLE DIXON,  
DEANA POLCARE and CHARLES  
POWELL, on behalf of themselves and all  
others similarly situated,

Plaintiffs,

vs.

TARGET CORP.,

Defendant.

CASE NO. 3:16-cv-1678-L-MDD

**JOINT DECLARATION OF CLASS  
COUNSEL IN SUPPORT OF  
PLAINTIFFS' UNOPPOSED  
MOTION FOR FINAL APPROVAL  
OF CLASS SETTLEMENT AND FOR  
CERTIFICATION OF  
SETTLEMENT CLASS**

Judge: Hon. M. James Lorenz

Place: Courtroom 5B

Hearing Date: June 22, 2020 at 10:30am

Jeff Ostrow, Jeffrey Kalie and Hassan A. Zavareei hereby declare as follows:

1. We are Class Counsel under the Settlement<sup>1</sup> with Target Corp. being presented to the court for Preliminary Approval. We submit this declaration in support of Plaintiffs'

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<sup>1</sup> The definitions and capitalized terms in the Settlement Agreement and Memorandum in Support of Plaintiffs' Unopposed Motion for Final Approval of Class Settlement and for Certification of Settlement Class are hereby incorporated as though fully set forth in this Joint Declaration and shall have the same meanings attributed to them in those documents.

1 Unopposed Motion for Final Approval of Class Settlement and for Certification of Settlement  
2 Class. We have personal knowledge of the facts set forth in this declaration and could testify  
3 competently as to them if called upon to do so.

#### 4 **Background and Procedural History**

5 2. This Action seeking monetary damages, restitution and injunctive relief from  
6 Target, based on its alleged breach of the TDC Agreement and California law has been litigated  
7 for almost four years. Plaintiffs allege that the TDC is deceptively marketed. Plaintiffs further  
8 allege that Target breaches the TDC Agreement, as well as the duty of good faith and fair  
9 dealing by the manner in which Target processes TDC Transactions and assesses RPFs on  
10 consumers.

11 3. In this contested litigation, the Parties have engaged in motion practice,  
12 mediation, and discovery.

13 4. Class Counsel is particularly experienced in the litigation, certification, trial, and  
14 settlement of nationwide class action cases. In negotiating this Settlement, Class Counsel had  
15 the benefit of years of experience and a familiarity with the facts of this case as well as with  
16 cases involving bank overdraft and NSF fees, which are very similar to the TDC fees at issue.

17 5. Before filing suit, Class Counsel spent many hours investigating the claims of  
18 several potential plaintiffs against Target. Class Counsel interviewed a number of customers  
19 and potential plaintiffs to gather information about Target's conduct and its impact upon  
20 consumers. This information was essential to Class Counsel's ability to understand the nature  
21 of Target's conduct, the language of the TDC Agreement at issue, and potential remedies.

22 6. In addition, Class Counsel also expended significant resources researching and  
23 developing the legal claims at issue. Class Counsel is familiar with the claims as they have  
24 litigated and resolved several similar cases. Class Counsel has experience in understanding the  
25 damages at issue, what information is critical in determining class membership, and what data  
26 is necessary to calculate each Settlement Class Member's respective damages.

27 7. Class Counsel conducted a thorough investigation and analysis of Plaintiffs'  
28

1 claims and engaged in extensive briefing on Target's Motion to Dismiss followed by the  
2 Motion for Reconsideration.

3 8. Class Counsel took extensive fact discovery, including reviewing the almost  
4 5,000 of pages of documents produced by Target. Target deposed Plaintiff Walters, and Class  
5 Counsel took eight depositions of Target's corporate representatives and employees and of  
6 the third parties involved in processing TDC transactions, many of which involved flying  
7 across the country.

8 9. Class Counsel engaged a data expert at substantial cost to conduct an analysis of  
9 Target's sample data including whether a class could be ascertained and retained a banking  
10 expert, who prepared an expert report supporting Plaintiffs' case on the merits. Target retained  
11 a rebuttal expert who served an expert report in rebuttal to Plaintiffs' expert.

12 10. Class Counsel expended significant resources researching and briefing the  
13 Motion for Class Certification and opposing Target's Motion for Summary Judgment. Class  
14 Counsel was also well-positioned to evaluate the strengths and weaknesses of Plaintiffs' claims,  
15 and the appropriate basis upon which to settle them, as a result of their litigating similar claims  
16 in courts across the country.

### 17 **The Settlement**

18 11. Plaintiffs settled the Action with the benefit of having completed fact discovery  
19 and begun expert discovery in the California Action. This included information about the  
20 number of RPFs assessed and paid during the Class Period as well as extensive information  
21 about the marketing of the TDC and customer perception of how the TDC works.

22 12. The review of all the information obtained through completion of fact discovery  
23 and data reviewed by Class Counsel's data expert positioned Class Counsel to evaluate with  
24 confidence the strengths and weaknesses of Plaintiffs' claims and prospects for success at class  
25 certification, summary judgment, and trial.

26 13. On March 14, 2019, the Parties engaged in a full day formal mediation before an  
27 experienced and respected mediator, Robert J. Meyer, Esq. of JAMS in Los Angeles,  
28

California, but only after completing fact discovery and receiving data from Target to adequately estimate potential damages in the Actions. Although the Parties did not settle that day, much progress was made laying the foundation to the eventual resolution of the case. The Parties continued their settlement discussion for many weeks with the assistance of Mr. Meyer.

14. Mr. Meyer actively supervised and participated in the settlement discussions to help the Parties reach an acceptable compromise. Prior to mediation, Class Counsel provided an extensive mediation summary. Mr. Meyer met with Target as well before and after meeting with Class Counsel.

15. The case did not settle the day of the mediation, but the Parties continued negotiations over the next several weeks, with Mr. Meyer's assistance, agreeing to the Settlement's material terms in April 2019. The Parties then turned to drafting the comprehensive Agreement. On June 18, 2019, the Parties signed the Agreement.

16. The Settlement in this case is the result of intensive, arm's-length negotiations between experienced attorneys who are familiar with class action litigation and with the legal and factual issues of this Action.

17. The record provides sufficient information for this Court to determine that the Settlement is fair. Further, there is no reason to doubt the Settlement's fairness. The litigation has been hard-fought as the Parties have engaged in motion practice, fact discovery, and some expert discovery, including having reviewed pertinent account data to understand the scope of the damages at issue and sustained by Settlement Class members.

### **Terms of the Settlement**

18. The Settlement Value consists of the Cash Settlement Amount of \$5,000,000.00 and the Debt Reduction Cash Amount of approximately \$3,222,330.00. The entire \$8,222,330.00 is for the direct benefit of the Settlement Class Members – there will be no reversion back to Target. The Cash Settlement Amount will be used to: (a) pay Settlement Class Members their respective Settlement Class Member Cash Payments; (b) Class Counsel for any Court awarded attorneys' fees and litigation costs; (c) any Court awarded Class

1 Representative Service Awards; and (d) any Administrative Costs. Pursuant to the terms of  
2 the Preliminary Approval Order, Target established and fully funded the Settlement Fund.

3 19. The Settlement provides for automatic delivery, without a claims process, to  
4 Settlement Class Members of the Settlement benefits. Settlement Class Members do not have  
5 to submit claims or take any other affirmative step to receive relief under the Settlement or to  
6 receive a Settlement Class Member Payment. Instead, within 30 days following the Effective  
7 Date of the Settlement, Target and the Settlement Administrator will distribute the Settlement  
8 Class Member Cash Payments and the Debt Reduction Payments to Settlement Class  
9 Members.

10 20. Class Counsel has not been paid for their extensive efforts or reimbursed for  
11 litigation costs and expenses incurred. Class Counsel requested, and Target does not oppose,  
12 attorneys' fees of up to 30% of the \$8,222,330.00 Settlement Value, as well as reimbursement  
13 of litigation costs and expenses incurred in connection with the Actions. The Parties  
14 negotiated and reached agreement regarding fees and costs only after agreeing on all material  
15 terms of the Settlement. Such award is subject to this Court's approval and will serve to  
16 compensate for the time, risk and expense Plaintiffs' counsel incurred pursuing claims on  
17 Settlement Class Members' behalf.

18 21. Class Counsel seeks a Service Award of \$10,000.00 for Plaintiff Walters and  
19 \$3,000.00 for Plaintiffs Dixon, Powell, and Polcare. If the Court approves the Service Awards,  
20 the total of \$19,000.00 would amount to 0.4% of the Settlement Fund. The Service Awards  
21 will be paid from the Settlement Fund and will be in addition to the benefits the Plaintiffs will  
22 be entitled to under the terms of the Settlement. The awards will compensate the Class  
23 Representatives for their time and effort and for the risks they assumed in prosecuting the  
24 Action against Target. Specifically, Plaintiffs provided assistance that enabled Class Counsel  
25 to successfully prosecute the Action and reach the Settlement, including: (1) submitting to  
26 interviews with Class Counsel; (2) locating and forwarding responsive documents and  
27 information; (3) providing discovery documents [Plaintiff Walters]; (4) sitting for deposition  
28



1 [Plaintiff Walters]; and (5) participating in conferences with Class Counsel. Target does not  
2 oppose Class Counsel's request for these Service Awards.

3 22. Plaintiffs concluded that the benefits of settlement in this case outweigh the risks  
4 and uncertainties of continued litigation, as well as the attendant time and expenses associated  
5 with contested class certification proceedings and possible interlocutory appellate review, the  
6 risk that this Court granted summary judgment for Target, completing expert discovery,  
7 pretrial motion practice, trial, final appellate review.

### 8 **Risks of Continued Litigation**

9 23. Plaintiffs and Class Counsel are confident in the strength of their case but are  
10 also pragmatic in their awareness of the various defenses available to Target, both on the  
11 merits and as to certification of a litigation class, and the risks inherent to litigation of this  
12 magnitude. Plaintiff Walters faced the risk of losing the pending Motion for Summary  
13 Judgment, the pending Motion for Class Certification, at trial, or on a subsequent appeal based  
14 on various theories and defenses advanced by Target. The Minnesota Plaintiffs would have  
15 faced the same risks, with no guarantee that the district judge in that case would not have  
16 granted a motion to dismiss.

17 24. Each of these risks, by itself, could have impeded Plaintiffs' and the Settlement  
18 Class's successful prosecution of these claims at trial and in an eventual appeal—resulting in  
19 zero benefit to the Settlement Class. Under the circumstances, Plaintiffs and Class Counsel  
20 appropriately determined that the Settlement reached with Target outweighs the gamble of  
21 continued litigation. This Settlement provides substantial relief to Settlement Class Members  
22 without further delay.

23 25. The traditional means for handling claims like those at issue here would tax the  
24 court system, require a massive expenditure of public and private resources, and—given the  
25 relatively small value of the claims of the individual members of the Settlement Class—could  
26 be impracticable. There is no doubt that continued litigation here would be difficult, expensive,  
27 and time consuming. Recovery by any means other than settlement would require additional  
28

1 years of litigation in this Court, the District of Minnesota, and the Circuit Courts of Appeals  
2 for the Eighth and Ninth Circuits.

3 26. The \$8,222,330.00 plus recovery, including the \$5,000,000.00 Cash Settlement  
4 Amount is outstanding given the complexity of the litigation and the significant barriers that  
5 would loom in the absence of settlement, including motions for class certification, summary  
6 judgment, trial and appeals after a Plaintiffs' verdict. Analyzing Target's classwide data, Class  
7 Counsel estimates that the best-case scenario is that damages would be approximately  
8 \$25,000,000. Target, on the other hand, would argue that damages are no more than 50% of  
9 Plaintiff's calculation. The Settlement Class is also obtaining the benefit of fewer RPFs during  
10 the two-year period that Target has agreed to bind itself to the practice change. Furthermore,  
11 the better disclosures in the TDC Agreement will help the Settlement Class members from  
12 incurring future RPFs because they will better understand how the TDC operates. Target is  
13 working upon implementation of the revised disclosures. Taking into account only the Cash  
14 Settlement Amount of \$5,000,000.00, the Settlement Class is recovering approximately 20%  
15 or 40% (depending upon the opposing damage models) of their most probable damages,  
16 without further risks attendant to litigation. When taking into account the Debt Reduction  
17 Cash Amount, the Settlement Class ends up recovering approximately 33% or 66% of its most  
18 probable damages, without the further risks of litigation.

19 27. The claims and defenses in this Action are complex, as is clear by the record and  
20 Class Counsel's efforts in other fee cases that have been hard fought for years. There is no  
21 doubt that continued litigation here would be difficult, expensive, and time consuming. The  
22 risks and obstacles in this case are just as great as those in other fee cases and this case would  
23 likely have taken years as well to successfully prosecute. Recovery by any means other than  
24 settlement would require additional years of litigation in this Court, the United States District  
25 Court for the District of Minnesota, and the Eighth and Ninth Circuit Courts of Appeals.  
26 Under the circumstances, Plaintiffs and Class Counsel appropriately determined that the  
27 Settlement reached with Target outweighs the gamble of continued litigation.  
28

1           28. The Settlement provides immediate and substantial benefits to a few hundred  
2 thousand Target customers. The proposed Settlement is the best vehicle for the Settlement  
3 Class to receive the relief to which they are entitled in a prompt and efficient manner.

4           29. Whether the Action would have been tried as a class action is also relevant in  
5 assessing the fairness of the Settlement. As the Court had not yet certified a class at the time  
6 the Agreement was executed, it is unclear whether certification would have been granted. This  
7 litigation activity would have required the Parties to expend significant resources.

8           30. In sum, the \$8,222,330.00 Settlement Value and the significant savings related to  
9 the practice changes are fair and reasonable in light of Target's defenses, and the challenging  
10 and unpredictable path of litigation Plaintiffs would have faced absent a settlement.

11                           **Class Treatment is Appropriate**

12           31. As stated previously, Class Counsel has significant experience in the litigation,  
13 certification, trial, and settlement of national class actions, including numerous claims against  
14 banks and credit unions, through their active roles similar class actions throughout the country,  
15 many of which have settled and finally approved. *See also* Firm Resumes of Class Counsel,  
16 attached hereto as ***Exhibits A-C***.

17           32. Class Counsel possesses extensive knowledge of and experience in prosecuting  
18 class actions in courts throughout the United States. Class Counsel has successfully litigated  
19 and resolved many other consumer class actions against major corporations, including those  
20 against over 100 financial institutions related to improper assessment of fees, and have  
21 recovered hundreds of millions of dollars for the people they represented. The experience,  
22 resources and knowledge Class Counsel brings to this Action is extensive and formidable.

23           33. Here, Class Counsel's expertise allowed it to build a novel case that has not been  
24 attempted before. Because Class Counsel has litigated so many complex consumer cases  
25 involving financial services, credit cards, debit cards, including working extensively with  
26 experts to uncover the methodologies behind the assessment of fees, they were able to  
27 successfully litigate and settle this matter. Employing this experience and skill, Class Counsel  
28

1 aggressively and swiftly worked to litigate, then resolve, this case in an efficient manner. Class  
2 Counsel is qualified to represent the Settlement Class and has, along with the Class  
3 Representatives, vigorously protected the interests of the Settlement Class. As stated  
4 previously, Class Counsel has significant experience litigating class claims, through their active  
5 roles similar class actions throughout the country.

6 34. The Settlement Administrator is Epiq Systems. Epiq is a leading class action  
7 administration firm in the United States. From the date of the Preliminary Approval Order,  
8 Epiq has been administering the Notice and administration of the Settlement and has fully  
9 complied with all requirements and conditions set forth therein. All Administrative Costs have  
10 been paid out of, and will continue to be paid from, the Cash Settlement Fund. As previously  
11 represented to the Court, those Costs are estimated to total less than \$600,000.00.

12 35. The Settlement Administrator's notice division is Hilsoft Notifications. Hilsoft  
13 is one of the leading notice administration firms in the United States. The Notice Program  
14 was designed to and did provide the best notice practicable under the circumstances, taking  
15 advantage of the information Target has available about the Settlement Class.

16 36. The Settlement Class Notice and Notice Program constituted sufficient notice  
17 to all persons entitled to notice. The Notice Program satisfies all applicable requirements of  
18 law, including, but not limited to, Federal Rule of Civil Procedure 23 and constitutional due  
19 process.

20 37. The Notice Program was properly completed pursuant to the Court's  
21 Preliminary Approval Order, and was comprised of three parts: (1) Email Notice which was  
22 designed to reach those Settlement Class members for which Target maintained email  
23 addresses; (2) direct mail Postcard Notice to all Settlement Class members for whom Target  
24 did not provide an email address and those who were sent an email that was returned  
25 undeliverable after multiple attempts; and (3) a detailed Long Form Notice containing more  
26 detail than the two other notices that has been available on the Settlement website  
27 (*www.eobcsettlement.com*) and via U.S. mail upon request. The Settlement Administrator worked  
28

1 with Class Counsel to communicate with Settlement Class members who had questions the  
2 Settlement Administrator could answer.

3 38. The Notice Program satisfied these content requirements. Based upon the  
4 information Target had about the Settlement Class, it apprised Settlement Class members of  
5 the following: a description of the material terms of the Settlement; a date by which persons  
6 in the Settlement Class may exclude themselves from or opt-out of the Settlement Class; a  
7 date by which members of the Settlement Class may object to the Settlement; the date upon  
8 which the Final Approval Hearing will occur; and the address of the Settlement Website at  
9 which persons in the Settlement Class may access the Agreement and other related documents  
10 and information.

11 39. The Notice Program was designed to, and did reach a high percentage of the  
12 Settlement Class and exceeds the requirements of constitutional due process.

13 40. The numerosity requirement of Rule 23(a) is satisfied because the Settlement  
14 Class consists of a few hundred thousand TDC holders, and joinder of all such persons is  
15 impracticable.

16 41. Plaintiffs' interests are coextensive with, not antagonistic to, the interests of the  
17 Settlement Class, because Plaintiffs and the absent members of the Settlement Class have the  
18 same interest in the relief afforded by the Settlement, and the absent members of Settlement  
19 Class have no diverging interests. Further, Plaintiffs are represented by qualified and  
20 competent counsel who has extensive experience and expertise prosecuting complex class  
21 actions, including consumer actions similar to the instant case.

22 42. The Rule 23(b)(3) predominance requirement is readily satisfied because liability  
23 questions common to all members of the Settlement Class substantially outweigh any possible  
24 issues that are individual to each member of the Settlement Class. For example, each  
25 Settlement Class member's relationship with Target arises from an agreement that is the same  
26 or substantially similar in all relevant respects to other Settlement Class members' agreements.  
27 Each was subjected to the same marketing of the TDC and the same policy and procedures  
28

1 for processing TDC transactions. Target's policies and procedures have been applied and  
2 continue to be applied uniformly to the Settlement Class. Target has agreed, subject to Final  
3 Approval, to change its business practices in a manner to be applied uniformly to the  
4 Settlement Class.

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

6 Executed on May 22, 2020

7 /s/ Jeff Ostrow

8 Jeff Ostrow

9 **KOPELOWITZ OSTROW FERGUSON**  
**WEISELBERG GILBERT**

/s/ Jeffrey Kalief

Jeffrey Kalief

**KALIEL PLLC**

10 /s/ Hassan A. Zavareei

11 Hassan A. Zavareei

**TYCKO & ZAVAREEI LLP**

# EXHIBIT A





## FIRM RESUME

One West Las Olas Boulevard, Suite 500  
Fort Lauderdale, Florida 33301

**Telephone:** 954.525.4100

**Facsimile:** 954.525.4300

**Website:** [www.kolawyers.com](http://www.kolawyers.com)

**Miami – Fort Lauderdale – Boca Raton**

## OUR FIRM

For over two decades, Kopelowitz Ostrow Ferguson Weiselberg Gilbert (KO) has provided comprehensive, results-oriented legal representation to individual, business, and government clients throughout Florida and the rest of the country. KO has the experience and capacity to represent its clients effectively and has the legal resources to address almost any legal need. The firm's 26-plus attorneys have practiced at several of the nation's largest and most prestigious firms and are skilled in almost all phases of law, including consumer class actions, multidistrict litigation involving mass tort actions, complex commercial litigation, and corporate transactions. In the class action arena, the firm has experience not only representing individual aggrieved consumers, but also defending large institutional clients, including multiple Fortune 100 companies.

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## WHO WE ARE

The firm has a roster of accomplished attorneys. Clients have an opportunity to work with some of the finest lawyers in Florida and the United States, each one committed to upholding KO's principles of professionalism, integrity, and personal service. Among our roster, you'll find attorneys whose accomplishments include: being listed among the "Legal Elite Attorneys" and as "Florida Super Lawyers"; achieving an AV® Preeminent™ rating by the Martindale-Hubbell peer review process; being Board Certified in their specialty; serving as in-house counsel for major corporations, as a city attorney handling government affairs, as a public defender, and as a prosecutor; achieving multi-millions of dollars through verdicts and settlements in trials, arbitrations, and alternative dispute resolution procedures; successfully winning appeals at every level in Florida state and federal courts; and serving government in various elected and appointed positions.

KO has the experience and resources necessary to represent large putative classes. The firm's attorneys are not simply litigators, but rather, experienced trial attorneys with the support staff and resources needed to coordinate complex cases.

**CLASS  
ACTION  
PLAINTIFF**

Since its founding, KO has initiated and served as co-lead counsel and liaison counsel in many high-profile class actions. Currently, the firm serves as liaison counsel in a multidistrict class action antitrust case against four of the largest contact lens manufacturers pending before Judge Schlesinger in the Middle District of Florida. *See* In Re: Disposable Contact Lens Antitrust Litigation, MDL 2626.

Further, the firm has served or is currently serving as lead or co-lead counsel in dozens of certified and/or proposed class actions against national and regional banks involving the unlawful re-sequencing of debit and ATM transactions resulting in manufactured overdraft fees, and other legal theories pertaining to overdraft fees. The cases are pending, or were pending, in various federal and state jurisdictions throughout the country, including some in multidistrict litigation pending in the Southern District of Florida and others in federal and state courts dispersed throughout the country. KO's substantial knowledge and experience litigating overdraft class actions and analyzing overdraft damage data has enabled the firm to obtain about a dozen multi-million dollar settlements (in excess of \$400 million) for the classes KO represents.

Additionally, the firm has in the past litigated certified and proposed class actions against Blue Cross Blue Shield and United Healthcare related to their improper reimbursements of health insurance benefits. Other class action cases include cases against Microsoft Corporation related to its Xbox 360 gaming platform, ten of the largest oil companies in the world in connection with the destructive propensities of ethanol and its impact on boats, Nationwide Insurance for improper mortgage fee assessments, and several of the nation's largest retailers for deceptive advertising and marketing at their retail outlets and factory stores.

## CLASS ACTION DEFENSE

The firm also brings experience in successfully defended many class actions on behalf of banking institutions, mortgage providers and servicers, an aircraft maker and U.S. Dept. of Defense contractor, a manufacturer of breast implants, and a national fitness chain.

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## MASS TORT LITIGATION

The firm also has extensive experience in mass tort litigation, including the handling of cases against Bausch & Lomb in connection with its Renu with MoistureLoc product, Wyeth Pharmaceuticals related to Prempro, Bayer Corporation related to its birth control pill YAZ, and Howmedica Osteonics Corporation related to the Stryker Rejuvenate and AGB II hip implants. In connection with the foregoing, some of which has been litigated within the multidistrict arena, the firm has obtained millions in recoveries for its clients.

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## OTHER AREAS OF PRACTICE

In addition to class action and mass tort litigation, the firm has extensive experience in the following practice areas: commercial and general civil litigation, corporate transactions, health law, insurance law, labor and employment law, marital and family law, real estate litigation and transaction, government affairs, receivership, construction law, appellate practice, estate planning, wealth preservation, healthcare provider reimbursement and contractual disputes, white collar and criminal defense, employment contracts, environmental, and alternative dispute resolution.

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## FIND US ONLINE

To learn more about KO, or any of the firm's other attorneys, please visit [www.kolawyers.com](http://www.kolawyers.com).

**CLASS ACTION AND MASS TORT SETTLEMENTS****FINANCIAL  
INSTITUTIONS**

*Lloyd v. Navy Federal Credit Union*, 17-cv-01280-BAS-RBB (S.D. Ca. 2019) - \$24.5 million

*Farrell v. Bank of America, N.A.*, 3:16-cv-00492-L-WVG (S.D. Ca. 2018) - \$66.6 million

*Stathakos v. Columbia Sportswear*, 4:15-cv-04543-YGR (N.D. Ca. 2018) - Injunctive relief prohibiting deceptive pricing practices

*Bodnar v. Bank of America, N.A.*, 5:14-cv-03224-EGS (E.D. Pa. 2015) - \$27.5 million

*Morton v. Green Bank*, 11-135-IV (20<sup>th</sup> Judicial District Tenn. 2018) - \$1.5 million

*Hawkins v. First Tennessee Bank*, CT-004085-11 (13<sup>th</sup> Judicial District Tenn. 2017) - \$16.75 million

*Payne v. Old National Bank*, 82C01-1012 (Cir. Ct. Vanderburgh 2016) - \$4.75 million

*Swift. v. Bancorpsouth*, 1:10-CV-00090 (N.D. Fla. 2016) - \$24.0 million

*Mello v. Susquehanna Bank*, 1:09-MD-02046 (S.D. Fla. 2014) – \$3.68 million

*Johnson v. Community Bank*, 3:11-CV-01405 (M.D. Pa. 2013) - \$1.5 million

*McKinley v. Great Western Bank*, 1:09-MD-02036 (S.D. Fla. 2013) - \$2.2 million

*Blabut v. Harris Bank*, 1:09-MD-02036 (S.D. Fla. 2013) - \$9.4 million

*Wolfgeher Commerce Bank*, 1:09-MD-02036 (S.D. Fla. 2013) - \$18.3 million

*Case v. Bank of Oklahoma*, 09-MD-02036 (S.D. Fla. 2012) - \$19.0 million Settlement

*Hawthorne v. Umpqua Bank*, 3:11-CV-06700 (N.D.Ca. 2012) - \$2.9 million Settlement

*Simpson v. Citizens Bank*, 2:12-CV-10267 (E.D. Mi. 2012) - \$2.0 million

*Nelson v. Rabobank*, RIC 1101391 (Riverside County, Ca. 2012) - \$2.4 million

*Harris v. Associated Bank*, 1:09-MD-02036 (S.D. Fla. 2012) - \$13.0 million

*LaCour v. Whitney Bank*, 8:11-CV-1896 (M.D. Fla. 2012) - \$6.8 million

*Orallo v. Bank of the West*, 1:09-MD-202036 (S.D. Fla. 2012) - \$18.0 million

*Taulava v. Bank of Hawaii*, 11-1-0337-02 (1st Cir. Hawaii 2011) - \$9.0 million

*Trevino v. Westamerica*, CIV 1003690 (Marin County, CA 2010) - \$2.0 million

## FALSE PRICING

*Gattinella v. Michael Kors (USA)*, 14-Civ-5731 (WHP) (S.D. NY 2015) - \$4.875 million

## CONSUMER PROTECTION

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*Papa v. Grieco Ford Fort Lauderdale, LLC*, 18-cv-21897-JEM (S.D. Fla. 2019) - \$4.9 million

*Bloom v. Jenny Craig, Inc.*, 18-cv-21820-KMM (S.D. Fla. 2019) - \$3 million

*DiPuglia v. US Coachways, Inc.*, 1:17-cv-23006-MGC (S.D. Fla. 2018) - \$2.6 million

*Masson v. Tallahassee Dodge Chrysler Jeep, LLC*, 1:17-cv-22967-FAM (S.D. Fla. 2018) - \$850,000

## MASS TORT

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*In re: Stryker Rejuvenate and ABG II PRODUCTS LIABILITY LITIGATION*, 13-MD-2411 (17th Jud. Cir. Fla. Complex Litigation Division)

*In re: National Prescription Opiate Litigation*, 1:17-md-02804-DAP (N.D. Ohio) - MDL 2804

*In re: Smith and Nephew BHR Hip Implant Products Liability Litigation*, MDL-17-md-2775

*Yasmin and YAZ Marketing, Sales Practices and Products Liability Litigation*, 3:09-md-02100-DRH-PMF (S.D. Ill.) – MDL 2100

*In re: Prempro Products Liability Litigation*, MDL Docket No. 1507, No. 03-cv-1507 (E.D. Ark.)

# JEFF OSTROW

Managing Partner

## ***Bar Admissions***

The Florida Bar

## ***Court Admissions***

Supreme Court of the United States

U.S. Court of Appeals for the Eleventh Circuit

U.S. District Court, Southern District of Florida

U.S. District Court, Middle District of Florida

U.S. District Court, Northern District of Florida

U.S. District Court, Northern District of Illinois

U.S. District Court, Eastern District of Michigan

U.S. District Court, Western District of Tennessee

U.S. District Court, Western District of Wisconsin

## ***Education***

Nova Southeastern University, J.D. - 1997

University of Florida, B.S. – 1994

***Email: [Ostrow@kolawyers.com](mailto:Ostrow@kolawyers.com)***



Jeff Ostrow is the Managing Partner of Kopelowitz Ostrow P.A. He established his own law practice immediately upon graduation from law school in 1997, co-founded the current firm in 2001, and has since grown it to nearly 50 attorneys in 3 offices throughout South Florida. In addition to overseeing the firm's day-to-day operations and strategic direction, Mr. Ostrow practices full time in the areas of consumer class actions, sports and business law. He is a Martindale-Hubbell AV® Preeminent™ rated attorney in both legal ability and ethics.

Mr. Ostrow is an accomplished trial attorney who represents both Plaintiffs and Defendants, successfully trying many cases to verdict involving multi-million dollar damage claims in state and federal courts. Currently, he serves as lead counsel in nationwide and statewide class action lawsuits against many of the world's largest financial institutions in connection with the unlawful assessment of fees. To date, his efforts have successfully resulted in the recovery of over \$400,000,000 for tens of millions of bank customers, as well as monumental changes in the way banks assess fees. In addition, Mr. Ostrow has litigated consumer class actions against some of the world's largest clothing retailers, health insurance carriers, technology companies, and oil conglomerates, along with serving as class action defense counsel for some of the largest advertising and marketing agencies in the world, banking institutions, real estate developers, and mortgage companies.



Mr. Ostrow often serves as outside General Counsel to companies, advising them in connection with their legal and regulatory needs. He has represented many Fortune 500® Companies in connection with their Florida litigation. He has handled cases covered by media outlets throughout the country and has been quoted many times on various legal topics in almost every major news publication, including the Wall Street Journal, New York Times, Washington Post, Miami Herald, and Sun-Sentinel. He has also appeared on CNN, ABC, NBC, CBS, FoxNews, ESPN, and almost every other major national and international television network in connection with his cases, which often involve industry changing litigation or athletes in Olympic Swimming, the NFL, NBA and MLB.

In addition to the law practice, he is the President of ProPlayer Sports LLC, a full-service sports agency and marketing firm. He represents both Olympic swimmers and select NFL athletes and is licensed by both the NFL Players Association and the NBA Players Association as a certified Contract Advisor. Mr. Ostrow handles all player-team negotiations of contracts, represents his clients in legal proceedings, negotiates all marketing engagements, and oversees public relations and crisis management. He has extensive experience in negotiating, mediating and arbitrating a wide-range of issues on behalf of clients with the NFL Players Association, the International Olympic Committee, the United States Olympic Committee, USA Swimming and the United States Anti-Doping Agency.

He is the founder and President of Class Action Lawyers of American, a member of the Public Justice Foundation, and a lifetime member of the Million Dollar Advocates Forum. The Million Dollar Advocates Forum is the most prestigious group of trial lawyers in the United States. Membership is limited to attorneys who have won multi-million dollar verdicts. Additionally, he has been named as one of the top lawyers in Florida by Super Lawyers® for several years running, honored as one of Florida's Legal Elite Attorneys, recognized as a Leader in Law by the Lifestyle Media Group®, and nominated by the South Florida Business Journal® as a finalist for its Key Partners Award. Mr. Ostrow is a recipient of the Gator 100 award for the fastest growing University of Florida alumni-owned law firm in the world.'

When not practicing law, Mr. Ostrow serves on the Board of Governors of Nova Southeastern University's Wayne Huizenga School of Business and is a Member of the Broward County Courthouse Advisory Task Force. He is also the Managing Member of One West LOA LLC, a commercial real estate development company. Mr. Ostrow is a founding board member for the Jorge Nation Foundation, a 501(c)(3) non-profit organization that partners with the Joe DiMaggio Children's Hospital to send children diagnosed with cancer on all-inclusive Dream Trips to destinations of their choice. He has previously sat on the boards of a national banking institution and a national healthcare marketing company.



# ROBERT C. GILBERT

Partner

## **Bar Admissions**

The Florida Bar

District of Columbia Bar

## ***Court Admissions***

Supreme Court of the United States

U.S. Court of Appeals for the 11th Circuit

U.S. District Court, Southern District of Florida

U.S. District Court, Middle District of Florida

## ***Education***

University of Miami School of Law, J.D. - 1985

Florida International University, B.S. - 1982

***Email: [Gilbert@kolawyers.com](mailto:Gilbert@kolawyers.com)***

Robert C. “Bobby” Gilbert has over three decades of experience handling class actions, multidistrict litigation and complex business litigation throughout the United States. He has been appointed lead counsel, co-lead counsel, coordinating counsel or liaison counsel in many federal and state court class actions. Bobby has served as trial counsel in class actions and complex business litigation tried before judges, juries and arbitrators. He has also briefed and argued numerous appeals, including two precedent-setting cases before the Florida Supreme Court.

Bobby was appointed as Plaintiffs’ Coordinating Counsel in *In re Checking Account Overdraft Litig.*, MDL 2036, class action litigation brought against many of the nation’s largest banks that challenged the banks’ internal practice of reordering debit card transactions in a manner designed to maximize the frequency of customer overdrafts. In that role, Bobby managed the large team of lawyers who prosecuted the class actions and served as the plaintiffs’ liaison with the Court regarding management and administration of the multidistrict litigation. He also led or participated in settlement negotiations with the banks that resulted in settlements exceeding \$1.1 billion, including Bank of America (\$410 million), Citizens Financial (\$137.5 million), JPMorgan Chase Bank (\$110 million), PNC Bank (\$90 million), TD Bank (\$62 million), U.S. Bank (\$55 million), Union Bank (\$35 million) and Capital One (\$31.7 million).

Bobby has been appointed to leadership positions in numerous other class actions and multidistrict litigation proceedings. He is currently serving as liaison counsel in *In re Disposable Contact Lens Antitrust Litig.*, MDL 2626 (M.D. Fla.); liaison counsel in *In re 21st Century Oncology Customer Data Security Beach Litig.*, MDL 2737 (M.D. Fla.); and *In re Farm-Raised Salmon and Salmon Products Antitrust Litig.*, No. 19-21551 (S.D. Fla.). He previously served as liaison counsel for indirect purchasers in *In re Terazosin Hydrochloride Antitrust Litig.*, MDL 1317 (S.D. Fla.), an antitrust class action that settled for over \$74 million.

For the past 18 years, Bobby has represented thousands of Florida homeowners in class actions to recover full compensation under the Florida Constitution based on the Florida Department of Agriculture's taking and destruction of the homeowners' private property. As lead counsel, Bobby argued before the Florida Supreme Court to establish the homeowners' right to pursue their claims; served as trial counsel in non-jury liability trials followed by jury trials that established the amount of full compensation owed to the homeowners for their private property; and handled all appellate proceedings. Bobby's tireless efforts on behalf of the homeowners resulted in judgments exceeding \$93 million.

Bobby previously served as an Adjunct Professor at Vanderbilt University Law School, where he co-taught a course on complex litigation in federal courts that focused on multidistrict litigation and class actions. He continues to frequently lecture and make presentations on a variety of topics.

Bobby has served for many years as a trustee of the Greater Miami Jewish Federation and previously served as chairman of the board of the Alexander Muss High School in Israel, and as a trustee of The Miami Foundation.



# JONATHAN STREISFELD

Partner

## ***Bar Admissions***

The Florida Bar

## ***Court Admissions***

Supreme Court of the United States

U.S. Court of Appeals for the First, Fourth, Fifth Ninth, and Eleventh Circuits

U.S. District Court, Southern District of Florida

U.S. District Court, Middle District of Florida

U.S. District Court, Northern District of Florida

U.S. District Court, Northern District of Illinois

U.S. District Court, Western District of Tennessee

## ***Education***

Nova Southeastern University, J.D. - 1997

Syracuse University, B.S. - 1994

***Email: [streisfeld@kolawyers.com](mailto:streisfeld@kolawyers.com)***

Jonathan M. Streisfeld joined KO as a partner in 2008. Mr. Streisfeld concentrates his practice in the areas of consumer class actions, business litigation, and appeals nationwide. He is a Martindale-Hubbell AV® Preeminent™ rated attorney in both legal ability and ethics.

Mr. Streisfeld has vast experience in class action litigation, serving as class counsel in nationwide and statewide consumer class action lawsuits against the nation's largest financial institutions in connection with the unlawful assessment of fees. To date, his efforts have successfully resulted in the recovery of over \$300,000,000 for millions of bank customers, as well as profound changes in the way banks assess fees. In addition, Mr. Streisfeld has litigated class actions against some of the world's largest health insurance carriers and oil conglomerates, and defended class and collective actions in other contexts.

Mr. Streisfeld has represented a variety of businesses and individuals in a broad range of business litigation matters, including contract, fraud, breach of fiduciary duty, intellectual property, real estate, shareholder disputes, wage and hour, and deceptive trade practices claims. He also assists business owners and individuals with documenting contractual relationships. Mr. Streisfeld also provides legal representation in bid protest proceedings.

Mr. Streisfeld oversees the firm's appellate and litigation support practice, representing clients in the appeal of final and non-final orders, as well as writs of certiorari, mandamus, and prohibition. His appellate practice includes civil and marital and family law matters.

Previously, Mr. Streisfeld served as outside assistant city attorney for the City of Plantation and Village of Wellington in a broad range of litigation matters.

As a member of The Florida Bar, Mr. Streisfeld serves on the Executive Council of the Appellate Practice Section and is Co-Chair of the Section's Communications Committee. Mr. Streisfeld currently serves as a member of the Board of Temple Kol Ami Emanu-El.



# JOSH LEVINE

Partner

***Bar Admissions***

The Florida Bar

***Court Admissions***

U.S. Court of Appeals for the Eleventh Circuit

U.S. Court of Appeals for the Sixth Circuit

U.S. District Court, Southern District of Florida

U.S. District Court, Middle District of Florida

U.S. District Court, Northern District of Illinois

***Education***

University of Miami School of Law, J.D. - 2011

University of Central Florida, B.A. - 2006

***Email: [levine@kolawyers.com](mailto:levine@kolawyers.com)***

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Josh Levine is a litigation attorney, and his practice takes him all over the State of Florida and the United States. Mr. Levine focuses on civil litigation and appellate practice, primarily in the areas of class actions and commercial litigation.

Mr. Levine has handled over 175 appeals in all five of Florida's District Courts of Appeal and the Florida Supreme Court, as well as multiple federal appellate courts. Mr. Levine has represented both businesses and individuals in litigation matters, including contractual claims, fraud, breach of fiduciary duty, negligence, professional liability, enforcement of non-compete agreements, trade secret infringement, real estate and title claims, other business torts, insurance coverage disputes, as well as consumer protection statutes.

Mr. Levine is a member of the Florida Bar Appellate Court Rules Committee. He is the Vice President of Programming for the B'nai Brith Justice Unit and is an active member of the Appellate Practice Section of the Florida Bar and the Broward County Bar Association. Mr. Levine just completed a four year term as a member of the Board of Directors of the Broward County Bar Association Young Lawyers Section.

Mr. Levine received a Juris Doctor degree, Magna Cum Laude, from the University of Miami School of Law. While attending law school, he served as an Articles and Comments Editor on the University of Miami Inter-American Law Review and was on the Dean's List, and a Merit Scholarship recipient. Mr. Levine also was awarded the Dean's Certificate of Achievement in Legal Research and Writing, Trusts & Estates, & Professional Responsibility classes.

Before joining KO, Mr. Levine worked at an Am Law 100 firm where he also focused on civil litigation and appellate practice, primarily representing banks, lenders, and loan servicers in consumer finance related litigation matters.





# DANIEL TROPIN

Partner

## ***Bar Admissions***

The Florida Bar

## ***Court Admissions***

U.S. District Court, Southern District of Florida

## ***Education***

University of Virginia, J.D. - 2012

Emory University, B.A. - 2008

***Email: [tropin@kolawyers.com](mailto:tropin@kolawyers.com)***

Daniel Tropin is a litigator who specializes in complex commercial cases and class action litigation. Mr. Tropin joined the law firm as a partner in 2018, and has a wealth of experience across the spectrum of litigation, including class actions, derivative actions, trade secrets, arbitrations, and product liability cases.

Mr. Tropin graduated from the University of Virginia law school in 2012, and prior to joining this firm, was an associate at a major Miami law firm and helped launch a new law firm in Wynwood. He was given the Daily Business Review's Most Effective Lawyers, Corporate Securities award in 2014. His previous representative matters include:

- Represented a major homebuilder in an action against a former business partner, who had engaged in a fraud and defamation scheme to extort money from the client. Following a jury trial, the homebuilder was awarded \$1.02 billion in damages. The award was affirmed on appeal.
- Represented the former president and CEO of a cruise line in a lawsuit against a major international venture capital conglomerate, travel and entertainment company, based on allegations of misappropriation of trade secrets, breach of a non-disclosure agreement, and breach of a partnership agreement.
- Represented the CEO of a rapid finance company in an action seeking injunctive relief to protect his interest in the company.
- Represented a medical supply distribution company in an action that involved allegations of misappropriation and breach of a non-circumvention agreement.
- Represented a mobile phone manufacturer and distributor in a multi-million-dollar dispute regarding membership interests in a Limited Liability Company, with claims alleging misappropriation of trade secrets and breach of fiduciary duty.
- Represented a major liquor manufacturer in a products liability lawsuit arising out of an incident involving flaming alcohol.

# EXHIBIT B





## Firm Resume

Jonathan Tycko and Hassan Zavareei founded Tycko & Zavareei LLP in 2002 when they left a large national firm to form a private public interest law firm. Since then, a wide range of clients have trusted the firm with their most difficult problems. Those clients include individuals fighting for their rights, tenants' associations battling to preserve decent and affordable housing, consumers seeking redress for unfair business practices, whistleblowers exposing fraud and corruption, and non-profit entities and businesses facing difficult litigation.

The firm's practice focuses on complex litigation, with a particular emphasis on consumer and other types of class actions, and *qui tam* and False Claims Act litigation. In its class action practice, the firm represent consumers who have been victims of corporate wrongdoing. The firm's attorneys bring a unique perspective to such litigation because many of them trained at major national defense firms where they obtained experience representing corporate defendants in such cases. This unique perspective enables the firm to anticipate and successfully counter the strategies commonly employed by corporate counsel defending class action litigation. Tycko & Zavareei's attorneys have successfully obtained class certification, been appointed class counsel, and obtained approval of class action settlements with common funds totaling over \$500 million.

Tycko & Zavareei's fifteen attorneys graduated from some of the nation's finest law schools, including Yale Law School, Harvard Law School, Columbia Law School, and the University of Michigan Law School. They have served in prestigious clerkships for federal and state trial and appellate judges and have worked for low-income clients through competitive public interest fellowships. The firm's diversity makes it a leader amongst its peers, and the firm actively and successfully recruits attorneys who are women, people of color, and LGBTQ. To support its mission of litigating in the public interest, Tycko & Zavareei offers a unique public interest fellowship for recent law graduates. Tycko & Zavareei's attorneys practice in state and federal courts across the nation.

## Tycko and Zavareei LLP's Representative Cases

***Vergara v. Uber Technologies, Inc.*, No. 1:15-cv-06972 (N.D. Ill.).** Tycko and Zavareei served as Co-Lead Counsel in this case under the Telephone Consumer Protection Act, in which he obtained a class settlement of \$20 million.

***In re Fifth Third Early Access Cash Advance Litigation*, No. 1:12-cv-00851 (S.D. Ohio).** Tycko and Zavareei was appointed Co-Lead Counsel in these consolidated payday lending cases, which are in discovery after a successful appeal before the Sixth Circuit.

***Farrell v. Bank of America, N.A.*, No. 16-cv-000492 (S.D. Cal.).** As Co-Lead Counsel, Tycko and Zavareei obtained a settlement valued at \$66.6 million plus injunctive relief valued at \$1.2 billion.

***In re TD Bank, N.A. Debit Card Overdraft Fee Litigation*, No. 15-mn-02613 (D.S.C.).** Tycko and Zavareei serves on the Plaintiffs Executive Committee in this case challenging TD Bank's overdraft fee practices. Tycko and Zavareei assisted in obtaining a \$70 million class settlement.



***In re Higher One Account Marketing & Sales Practices Litigation*, No. 12-md-02407 (D. Conn.).** As Lead Counsel, Tycko and Zavareei helped secure a \$15 million common fund settlement with significant changes to business practices for illegal debit card fees.

***Duval v. Citizens Financial Group, Inc.*, No. 10-cv-21080 (S.D. Fla.).** Tycko and Zavareei was appointed Class Counsel and obtained a common fund settlement of \$137.5 million.

***In re American Psychological Association Assessment Fee Litigation*, No. 10-cv-01780 (D.D.C.).** Tycko and Zavareei served as Co-Lead Counsel in this case challenging the APA's deceptive fee practices, and achieved a \$9.02 million common fund settlement for the class.

***Lloyd v. Navy Federal Credit Union*, No. 17-cv-1280 (S.D. Cal.).** As Co-Lead Counsel, Tycko and Zavareei helped secure a \$24.5 million common fund settlement on behalf of a class of NFCU customers harmed by the credit union's overdraft fee practices.

***Morgan v. Apple, Inc.*, No. 17-cv-5277 (N.D. Cal.), *Simmons v. Apple Inc.*, No. 17CV312251 (Sup. Ct. Ca., Santa Clara Cty.).** Tycko and Zavareei is currently serving as Lead Counsel in this class action challenging Apple's deceptive marketing of Powerbeats headphones and secured a \$9.75 million settlement for the class, which is pending preliminary approval. for the class

***Wallace v. Wells Fargo Bank, N.A.*, No. 17CV31775 (Sup. Ct. Ca., Santa Clara Cty.).** Tycko and Zavareei serve as Co-Lead Counsel in this case against Wells Fargo's overdraft fee practices. Tycko and Zavareei's team defeated a motion to compel arbitration and Wells Fargo has appealed.

***Roberts v. Capital One Financial Corporation*, No. 16-cv-04841 (S.D.N.Y.).** As Co-Lead Counsel, Tycko and Zavareei helped secure a \$17 million settlement on behalf of Capital One customers forced to pay excessive overdraft fees.

***Hawkins v. First Tennessee Bank, N.A.*, No. CT-0040851-11 (Cir. Ct. Shelby Cty. Tenn.).** As Co-Lead Counsel, Tycko and Zavareei helped obtain a class settlement of \$16.75 million on behalf of bank customers harmed by First Tennessee's predatory overdraft fees.

***Mascaro v. TD Bank, N.A.*, No. 10-cv-21117 (S.D. Fla.).** Tycko and Zavareei was appointed Class Counsel and was instrumental in obtaining a \$62 million common fund on behalf of the class.

***Trombley v. National City Bank*, No. 10-cv-00232 (D.D.C.).** Tycko and Zavareei served as Lead Counsel and obtained a \$12 million common fund settlement on behalf of a class of consumers.

***Taulava v. Bank of Hawaii*, No. 11-1-0337-02 (Cir. Ct. of 1<sup>st</sup> Cir., Haw.).** As Co-Lead Counsel, Tycko and Zavareei obtained a \$9 million common fund for a class of customers who were harmed by Bank of Hawaii's overdraft fee practices.

***Bodnar v. Bank of America, N.A.*, No. 14-cv-3224 (E.D. Pa.).** Tycko and Zavareei served as lead Counsel and obtained a \$27.5 million class settlement and significant injunctive relief.



## Hassan A. Zavareei

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### Partner

202.973.0900  
hzavareei@tzlegal.com

Mr. Zavareei has devoted the last eighteen years to recovering hundreds of millions of dollars on behalf of consumers and workers. He has served in leadership roles in dozens of class action cases and has been appointed Class Counsel on behalf of numerous litigation and settlement classes. An accomplished and experienced attorney, Mr. Zavareei has litigated in state and federal courts across the nation in a wide range of practice areas; tried several cases to verdict; and successfully argued numerous appeals, including in the D.C. Circuit, the Fourth Circuit, and the Fifth Circuit.

After graduating from UC Berkeley School of Law, Mr. Zavareei joined the Washington, D.C. office of Gibson, Dunn & Crutcher LLP. There, he managed the defense of a nationwide class action brought against a major insurance carrier, along with other complex civil matters. In 2002, Mr. Zavareei founded Tycko & Zavareei LLP with his partner Jonathan Tycko.

Mr. Zavareei has served as lead counsel or co-counsel in dozens of class actions involving deceptive business practices, defective products, and/or privacy. He has been appointed to leadership roles in multiple cases. As Lead Counsel in an MDL against a financial services company that provided predatory debit cards to college students, Mr. Zavareei spearheaded a fifteen-million-dollar recovery for class members. He is currently serving as Co-Lead Counsel in consolidated proceedings against Fifth Third Bank, and on the Plaintiffs' Executive Committee in MDL litigation against TD Bank. As Co-Lead Counsel in *Farrell v. Bank of America*, a case challenging Bank of America's punitive overdraft fees, Mr. Zavareei secured a class settlement valued at \$66.6 million in cash and debt relief, together with injunctive relief forcing the bank to change a practice that will save millions of low-income consumers approximately \$1.2 billion in overdraft fees. In his Order granting final approval, Judge Lorenz of the U.S. District Court for the Southern District of California described the outcome as a "remarkable" accomplishment achieved through "tenacity and great skill."



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### Education

UC Berkeley School of Law, 1995  
*Order of the Coif*

Duke University, 1990  
*Cum Laude*

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### Bar Admissions

California  
District of Columbia  
Maryland  
Supreme Court of the United States

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### Memberships

Public Justice, Board Member  
American Association for Justice

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### Awards

Washington Lawyers Committee,  
*Outstanding Achievement Award*

Super Lawyer  
Lawdragon 500

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### Presentations & Publications

Witness Before the Subcommittee on  
the Constitution and Civil Justice,  
115<sup>th</sup> Congress

Witness Before the Civil Rules  
Advisory Committee, 2018, 2019

Editor, Duke Law School Center for  
Judicial Studies, Guidance on New  
Rule 23 Class Action Settlement  
Provisions



## Andrea R. Gold

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### Partner

202.973.0900  
agold@tzlegal.com

Andrea Gold has spent her legal career advocating for consumers, employees, and whistleblowers. Ms. Gold has litigated numerous complex cases, including through trial. Her extensive litigation experience benefits the firm's clients in both national class action cases as well as in qui tam whistleblower litigation.

She has served as trial counsel in two lengthy jury trials.

In her class action practice, Ms. Gold has successfully defended dispositive motions, navigated complex discovery, worked closely with leading experts, and obtained contested class certification. Her class action cases have involved, amongst other things, unlawful bank fees, product defects, violations of the Telephone Consumer Protection Act, and deceptive advertising and sales practices.

Ms. Gold also has significant civil rights experience. She has represented individuals and groups of employees in employment litigation, obtaining substantial recoveries for employees who have faced discrimination, harassment, and other wrongful conduct. In addition, Ms. Gold has appellate experience in both state and federal court.

Prior to joining Tycko & Zavareei, Ms. Gold was a Skadden fellow. The Skadden Fellowship Foundation was created by Skadden, Arps, Slate, Meagher & Flom LLP, one of the nation's top law firms, to support the work of new attorneys at public interest organizations around the country.

Ms. Gold earned her law degree from the University of Michigan Law School, where she was an associate editor of the Journal of Law Reform, co-President of the Law Students for Reproductive Choice, and a student attorney at the Family Law Project clinical program. Ms. Gold graduated with high distinction from the University of Michigan Ross School of Business in 2001, concentrating her studies in Finance and Marketing.



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### Education

University of Michigan Law School,  
2004

University of Michigan, Ross School  
of Business, 2001

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### Bar Admissions

District of Columbia  
Illinois  
Maryland

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### Memberships

American Association for Justice  
National Associate of Consumer  
Advocates  
National Employment Lawyers  
Association  
Taxpayers Against Fraud

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### Awards

National Trial Lawyers, Top 100 Civil  
Plaintiff Lawyers, 2020  
Super Lawyers, Rising Star  
Skadden Fellow, Skadden Arps Slate  
Meagher & Flom LLP, 2004-2006

# EXHIBIT C



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**KALIEL PLLC**

Kaliel PLLC was founded in 2017 and is a 100% contingency Plaintiffs'-side law firm. Our attorneys have decades of combined experience and have secured hundreds of millions of dollars for their clients. Our firm's practice focuses on representing consumers in class action litigation and specifically on cases in the consumer financial services sector. Our firm has been appointed lead counsel or co-lead counsel in numerous class action and putative class action lawsuits in state and federal courts nationwide including most recently in *Roberts v. Capital One*, No. 1:16-cv-04841 (S.D.N.Y.); *Walters v. Target Corp.*, No. 3:16-cv-00492 (S.D. Cal.); *Robinson v. First Hawaiian Bank*, Civil No.17-1-0167-01 GWBC (1<sup>st</sup> Cir. Haw.); *Liggio v. Apple Federal Credit Union*, No. 18-cv-01059 (E.D. Va.); *Morris et al. v. Bank of America, N.A.*, No. 3:18-cv-00157-RJC-DSC (W.D.N.C.); *Brooks et al. v. Canvas Credit Union*, 2019CV30516 (Dist. Ct. for Denver Cty., Colo.); *White v. Members 1<sup>st</sup> Credit Union*, No. 1:19-cv-00556-JEJ (M.D. Pa.).

As shown in the biographies of our attorneys and the list of class counsel appointments, Kaliel PLLC is well versed in class action litigation and zealously advocates for its clients. To learn more about Kaliel PLLC, or any of the firm's attorneys, please visit [www.kalielllc.com](http://www.kalielllc.com).



**JEFFREY KALIELE**

Jeffrey Kaliele earned his law degree from Yale Law School in 2005. He graduated from Amherst College summa cum laude in 2000 with a degree in Political Science, and spent one year studying Philosophy at Cambridge University, England.

Over the last 10 years, Jeff has built substantial class action experience. He has received "Washington D.C. Rising Stars Super Lawyers 2015" recognition.

Jeff has been appointed lead Class Counsel in numerous nationwide and state-specific class actions. In those cases, Jeff has won contested class certification motions, defended dispositive motions, engaged in data-intensive discovery and worked extensively with economics and information technology experts to build damages models. Jeff has also successfully resolved numerous class actions by settlement, resulting in hundreds of millions of dollars in relief for millions of class members.

Currently Jeff is actively litigating several national class action cases, including actions against financial services entities and other entities involved in predatory lending and financial services targeting America's most vulnerable populations.

Jeff's class action successes extend beyond financial services litigation. He seeks to lead cases that serve the public interest. Jeff has worked with nonprofits such as the Humane Society, Compassion Over Killing, and the National Consumers League to fight for truth in the marketplace on food and animal products.

Jeff has over a decade of experience in high-stakes litigation. He was in the Honors Program at the Department of Homeland Security, where he worked on the Department's appellate litigation. Jeff also helped investigate the DHS response to Hurricane Katrina in preparation for a Congressional inquiry. Jeff also served as a Special Assistant US Attorney in the Southern District of California, prosecuting border-related crimes.

Jeff is a former Staff Sergeant in the Army, with Airborne and Mountain Warfare qualifications. He is a veteran of the second Iraq war, having served in Iraq in 2003.

Jeff is admitted to practice in California and Washington, DC, and in appellate and district courts across the country.

Jeff lives in Washington, D.C. with his wife, Debbie, and their three children.





**SOPHIA GOREN GOLD**

Sophia Goren Gold is a third-generation Plaintiffs' lawyer. A *summa cum laude* graduate of Wake Forest University and the University of California, Berkeley, School of Law, Sophia has spent her entire career fighting for justice.

A fierce advocate for those in need, Sophia's practice centers around taking on financial institutions, insurance companies, and other large corporate interests. Sophia has participated in hundreds of individual and class cases in both state and federal courts across the country. Collectively, she has helped secure tens of millions of dollars in relief on behalf of the classes she represents.

In addition to providing monetary relief, Sophia's extensive litigation experience has resulted in real-world positive change. For example, she brought litigation which resulted in the elimination of the Tampon Tax in the State of Florida, and she was influential in changing the state of Delaware's Medicaid policy, resulting in greater access to life-saving medication.

Sophia is currently representing consumers in numerous cases involving the assessment of improper fees by banks and credit unions, such as overdraft fees, insufficient funds fees, and out of network ATM fees. She is also currently representing consumers who have been the victims of unfair and deceptive business practices.

Sophia is admitted to practice in California and Washington, D.C. When not working, Sophia enjoys spending time with her husband and their goldendoodle.



**BRITTANY CASOLA**

Brittany Casola attended the University of Central Florida in Orlando and graduated in 2012 with a bachelor's degree in Political Science and a minor in Spanish. Brittany earned her Juris Doctorate from California Western School of Law in 2015 and graduated magna cum laude in the top 10% of her class.

Throughout the course of her law school career, she served as a judicial extern to the Honorable Anthony J. Battaglia for the United States District Court, Southern District of California and worked multiple semesters as a certified legal intern for the San Diego County District Attorney's Office. Brittany was awarded Academic Excellence Awards in law school for receiving the highest grade in Trial Practice, Health Law & Policy, and Community Property.

Before joining Kaliel PLLC, Brittany worked as a judicial law clerk for the Honorable Anthony J. Battaglia and as an associate attorney for Carlson Lynch LLP, specializing in consumer complex litigation.



### CLASS COUNSEL APPOINTMENTS

- *Roberts v. Capital One*, No. 1:16-cv-04841 (S.D.N.Y.);
- *White v. Members 1<sup>st</sup> Credit Union*, No. 1:19-cv-00556-JEJ (M.D. Pa.);
- *Walters v. Target Corp.*, No. 3:16-cv-00492 (S.D. Cal.);
- *Robinson v. First Hawaiian Bank*, Civil No.17-1-0167-01 GWBC (1<sup>st</sup> Cir. Haw.);
- *Brooks et al. v. Canvas Credit Union*, 2019CV30516 (Dist. Ct. for Denver Cty., Colo.);
- *Liggio v. Apple Federal Credit Union*, Civil No. 18-cv-01059 (E.D. Va.);
- *Morris et al. v. Bank of America, N.A.*, Civil No. 3:18-cv-00157-RJC-DSC (W.D.N.C.);
- *Bodnar v. Bank of America, N.A.*, 5:14-cv-03224 (E.D. Pa.);
- *In re Higher One OneAccount Marketing and Sales Practice Litigation.*, No. 12-md-02407-VLB (D. Conn.).
- *Shannon Schulte, et al. v. Fifth Third Bank.*, No. 1:09-cv-06655 (N.D. Ill.);
- *Kelly Mathena v. Webster Bank*, No. 3:10-cv-01448 (D. Conn.);
- *Nick Allen, et al. v. UMB Bank, N.A., et al.*, No. 1016 Civ. 34791 (Cir. Ct. Jackson County, Mo.);
- *Thomas Casto, et al. v. City National Bank, N.A.*, 10 Civ. 01089 (Cir. Ct. Kanawha County, W. Va.);
- *Eaton v. Bank of Oklahoma, N.A., and BOK Financial Corporation, d/b/a Bank of Oklahoma, N.A.*, No. CJ-2010-5209 (Dist. Ct. for Tulsa Cty., Okla.);
- *Lodley and Tehani Taulva, et al., v. Bank of Hawaii and Doe Defendants 1-50*, No. 11-1-0337-02 (Cir. Ct. of 1st Cir., Haw.);
- *Jessica Duval, et al. v. Citizens Financial Group, Inc., et al.*, No. 1:10-cv-21080 (S.D. Fla.);
- *Mascaro, et al. v. TD Bank, Inc.*, No. 10-cv-21117 (S.D. Fla.);
- *Theresa Molina, et al., v. Intrust Bank, N.A.*, No. 10-cv-3686 (18th Judicial Dist., Dist. Ct. Sedgwick County, Kan.);
- *Trombley v. National City Bank*, 1:10-cv-00232-JDB (D.D.C.); *Galdamez v. I.Q. Data International, Inc.*, No. 1:15-cv-1605 (E.D. Va.);
- *Brown et al. v. Transurban USA, Inc. et al.*, No. 1:15-CV-00494 (E.D. Va.);
- *Grayson v. General Electric Co.*, No. 3:13-cv-01799 (D. Conn.);
- *Galdamez v. I.Q. Data International, Inc.*, No. 1:15-cv-1605 (E.D. Va.).

# EXHIBIT C

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**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

JAMES WALTERS, on behalf of himself  
and all others similarly situated,  
  
Plaintiff,  
  
v.  
  
TARGET CORP.,  
  
Defendant.

Case No. 3:16-cv-1678-L-MDD

**DECLARATION OF CAMERON R. AZARI ON IMPLEMENTATION OF  
SETTLEMENT NOTICE PROGRAM**

I, CAMERON R. AZARI, ESQ., hereby declare and state as follows:

1. My name is Cameron R. Azari, Esq. I am over the age of twenty-one and I have personal knowledge of the matters set forth herein, and I believe them to be true and correct.

2. I am the Director of Legal Notice for Hilsoft Notifications (“Hilsoft”), a firm that specializes in designing, developing, analyzing and implementing large-scale, un-biased, legal notification plans. Hilsoft has been involved with some of the most complex and significant notices and notice programs in recent history. Hilsoft is a business unit of Epiq Systems Class Action & Claims Solutions, Inc. (“Epiq”).

3. Hilsoft has been involved with some of the most complex and significant notices and notice programs in recent history. We have been recognized by courts for our testimony as to which method of notification is appropriate for a given case, and we have provided testimony on numerous occasions on whether a certain method of notice represents the best notice practicable under the circumstances. Hilsoft’s CV is included as **Attachment 1**. For example:

DECLARATION OF CAMERON R. AZARI ON IMPLEMENTATION OF SETTLEMENT NOTICE PROGRAM

- a. *Farrell v. Bank of America, NA.*, No. 3:16-cv-00492, S.D. Cal. (overdraft litigation settlement; individual notification reached<sup>1</sup> approximately 93% of class members; granted final approval);
- b. *In re: Checking Account Overdraft Litigation (Comerica Bank)*, MDL No. 2036, S.D. Fla. (overdraft litigation settlement; individual notification reached approximately 93% of class members; granted final approval);
- c. *In re: Checking Account Overdraft Litigation (Susquehanna Bank)*, MDL No. 2036, S.D. Fla. (overdraft litigation settlement; individual notification reached approximately 88% of class members; granted final approval);
- d. *In re: Checking Account Overdraft Litigation (M&I Bank)*, MDL No. 2036, S.D. Fla. (overdraft litigation settlement; individual notification reached approximately 97.5% of class members; granted final approval);
- e. *In re: Checking Account Overdraft Litigation (Compass Bank, N.A.)*, MDL No. 2036, S.D. Fla. (overdraft litigation settlement; individual notification reached approximately 88.7% of class members; granted final approval);
- f. *In re: Checking Account Overdraft Litigation (Associated Bank, N.A.)*, MDL No. 2036, S.D. Fla. (overdraft litigation settlement; individual notification reached approximately 95% of class members; granted final approval);
- g. *In re: Checking Account Overdraft Litigation (Harris Bank, N.A.)*, MDL No. 2036, S.D. Fla. (overdraft litigation settlement; individual notification reached approximately 97% of class members; granted final approval);
- h. *In re: Checking Account Overdraft Litigation (Commerce Bank, N.A.)*, MDL No. 2036, S.D. Fla. (overdraft litigation settlement; individual notification reached approximately 99% of class members; granted final approval);
- i. *In re: Checking Account Overdraft Litigation (PNC Bank, N.A.)*, MDL No. 2036, S.D. Fla. (overdraft litigation settlement; individual notification reached approximately 97% of class members; granted final approval);
- j. *In re: Checking Account Overdraft Litigation (TD Bank, N.A.)*, MDL No. 2036, S.D. Fla. (overdraft litigation settlement; individual notification reached approximately 90.5% of class members; granted final approval);

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<sup>1</sup> Reach is defined as the percentage of a class exposed to a notice, net of any duplication among people who may have been exposed more than once. Notice “exposure” is defined as the opportunity to view a notice. The average “frequency” of notice exposure is the average number of times that those reached by a notice would be exposed to a notice.

- 1 k. *Costello v. NBT Bank, N.A.*, No. 2011 1037, Sup. Ct., Ny. (overdraft litigation  
2 settlement; individual notification reached approximately 94% of class members;  
3 granted final approval);
- 4 l. *In re: Checking Account Overdraft Litigation (RBS Citizens Bank, N.A.)*, MDL No.  
5 2036, S.D. Fla. (overdraft litigation settlement; individual notification reached  
6 approximately 86% of class members; granted final approval);
- 7 m. *In re: Checking Account Overdraft Litigation (Bank of Oklahoma, N.A.)*, MDL No.  
8 2036, S.D. Fla. (overdraft litigation settlement; individual notification reached  
9 approximately 89% of class members; granted final approval);
- 10 n. *In re: Checking Account Overdraft Litigation (IBERIABANK)*, MDL No. 2036, S.D.  
11 Fla. (overdraft litigation settlement; individual notification reached approximately  
12 97% of class members; granted final approval);
- 13 o. *Schulte v. Fifth Third Bank*, No. 09-CV-06655, N.D. Ill. (overdraft litigation  
14 settlement; individual notification reached approximately 89.7% of class members;  
15 granted final approval);
- 16 p. *Trombley v. National City Bank*, No. 1:10-CV-00232, D.D.C. (overdraft litigation  
17 settlement; individual notification reached approximately 93.3% of class members;  
18 granted final approval);
- 19 q. *Mathena v. Webster Bank, N.A.*, No. 3:10-cv-01448, D. Conn. (overdraft litigation  
20 settlement; individual notification reached approximately 97.6% of class members;  
21 granted final approval);
- 22 r. *Stahl v. Bank of the West*, No. BC673397, Sup. Ct., Cal., (overdraft litigation;  
23 individual notification reached approximately 96% of the class members; granted final  
24 approval);
- 25 s. *Robinson v. First Hawaiian Bank*, 17-1-0167-01, Cir. Ct. of First Cir. Haw., (overdraft  
26 litigation; individual notification reached approximately 95% of the class members;  
27 granted final approval);
- 28 t. *In re: Takata Airbag Products Liability Litigation (Settlements with – BMW, Mazda,  
Subaru, Toyota, Honda, Nissan and Ford)*, MDL No. 2599 (S.D. Fla.) (\$1.49 billion  
in settlements regarding Takata airbags. The monumental Notice Plans included  
individual mailed notice to more than 59.6 million potential Class Members and  
extensive nationwide media via consumer publications, U.S. Territory newspapers,  
radio spots, internet banners, mobile banners, and specialized behaviorally targeted  
digital media. Combined, the Notice Plans reached more than 95% of adults aged 18+  
in the U.S. who owned or leased a subject vehicle an average of 4.0 times each);
- u. *In re: Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*,  
MDL No. 1720 E.D.N.Y. (\$6.05 billion settlement reached by Visa and MasterCard.  
The extensive notice program involved over 19.8 million direct mail notices,  
insertions in over 1,500 newspapers, consumer magazines, national business  
publications, trade & specialty publications and language & ethnic targeted

DECLARATION OF CAMERON R. AZARI ON IMPLEMENTATION OF SETTLEMENT NOTICE PROGRAM



publications, as well as a case website in eight languages and banner notices, which generated more than 770 million adult impressions; granted final approval. Subsequent superseding \$5.54 billion settlement reached by Visa and MasterCard in 2019. The extensive notice program involved over 16.3 million direct mail notices to class members together with over 354 print publication units, banner notices, which generated more than 689 million adult impressions, along with the existing case website in eight languages, and acquisition of sponsored search listings; granted final approval); and

- v. *In Re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, MDL 2179 E.D. La. (Dual landmark settlement notice programs to separate "Economic and Property Damages" and "Medical Benefits" settlement classes. Notice effort included over 7,900 television spots, over 5,200 radio spots and over 5,400 print insertions and reached over 95% of Gulf Coast residents; granted final approval).

4. In forming my expert opinions, my staff and I draw from our in-depth class action case experience, as well as our educational and related work experiences. I am an active member of the Oregon State Bar, receiving my Bachelor of Science from Willamette University and my Juris Doctor from Northwestern School of Law at Lewis and Clark College. I have served as the Director of Legal Notice for Hilsoft Notifications since 2008 and have overseen the detailed planning of virtually all of our court-approved notice programs since that time. Prior to assuming my current role with Hilsoft Notifications, I served in a similar role as Director of Epiq Legal Noticing (previously called Huntington Legal Advertising). Overall, I have nineteen years of experience in the design and implementation of legal notification and claims administration programs, having been personally involved in well over one hundred successful notice programs.

### **OVERVIEW**

5. On December 5, 2019, the Court approved the Notice Plan (including proposed forms of notice) and appointed Epiq as the Settlement Administrator in the *Amended Order Granting Motion for Preliminary Approval of Class Action Settlement and Certification of Settlement Class* ("Preliminary Approval Order"). In the Preliminary Approval Order, the Court certified the following Settlement Class: All TDC holders in the United States who, between

June 29, 2012 and the date below [December 5, 2019], incurred at least one RPF [Returned Payment Fee] in connection with their TDC, that was not refunded or waived.”

6. After the Court’s preliminary approval of the Settlement, we began to implement the Notice Program. This declaration will detail the implementation of the Notice Program and discuss the administration activity to date.

#### **NOTICE PLAN**

7. The Notice Plan was designed to satisfy the “best notice practicable” standard pursuant to Rule 23 of the Federal Rules of Civil Procedure. The Notice Plan included dissemination of individual notice to identified Settlement Class members with: (1) Email Notice to Settlement Class members for whom Target maintains their email addresses; (2) direct mail Postcard Notice to all Settlement Class members for whom Target does not have an email address (and to those Settlement Class members whose Email Notice was undeliverable after multiple attempts); and (3) a Long Form Notice containing further settlement details, available via the settlement website and via mail upon request. The case website provided additional notice exposures.

8. As detailed below, the individual notice effort alone reached approximately 97.8% of the Settlement Class. In my opinion, the Notice Plan was the best notice practicable under the circumstances of this case and satisfied the requirements of due process, including its “desire to actually inform” requirement.

#### **CAFA NOTICE**

9. As described in the *Declaration of Stephanie J. Fiereck, Esq. on Implementation of CAFA Notice*, dated July 5, 2019 (“Fiereck Declaration”), Epiq sent a CAFA notice packet (or “CAFA Notice”), on behalf of Defendant Target Corp.—as required by the federal Class Action Fairness Act of 2005 (CAFA), 28 U.S.C. § 1715, to 52 government officials on June 28, 2019. The CAFA Notice was mailed by certified mail to 51 officials, including the Attorneys General

of each of the 50 states and the District of Columbia. The CAFA Notice was also sent by United Parcel Service (“UPS”) to the Attorney General of the United States. The Fiereck Declaration is included as **Attachment 2**.

***Individual Notice***

10. On December 26, 2019, Epiq received one data file from Defendant Target with 1,027,449 data records, containing Settlement Class member name, address, and email address information (one Settlement Class member record did not include a physical mailing address or an email address).

***Individual Notice – Emailed Notice***

11. On February 14, 2020, Epiq sent Email Notice to 477,756 Settlement Class members with a potentially valid email address. The Email Notice used an embedded html text format. This format provided easy to read text without graphics, tables, images and other elements that would increase the likelihood that the message could be blocked by Internet Service Providers (ISPs) and/or SPAM filters. Each Email Notice was transmitted with a unique message identifier. The Email Notice included an embedded link to the case website. By clicking the link, recipients are able to easily access the Long Form Notice, Settlement Agreement, and other information about the Settlement. A copy of the Email Notice is included as **Attachment 3**.

12. If the receiving email server could not deliver the message, a “bounce code” was returned along with the unique message identifier. For any Email Notice for which a bounce code was received indicating that the message was undeliverable, at least two additional attempts were made to deliver the Email Notice. After completion of the initial Email Notice effort, 30,634 Email Notices remain undeliverable.

***Individual Notice – Mailed Notice***

13. On February 14, 2020, Epiq mailed 549,692 Postcard Notices by USPS first class mail to identified Settlement Class members with a valid physical mailing address. Subsequently,

1 on March 25, 2020, Epiq also mailed 30,634 Postcard Notices by USPS first class mail to all  
2 Settlement Class members whose Email Notice remained undeliverable after multiple attempts.  
3 The Postcard Notice as mailed is included as **Attachment 4**.

4 14. Prior to mailing, all mailing addresses were checked against the National Change  
5 of Address (“NCOA”) database maintained by the United States Postal Service (“USPS”).<sup>2</sup> In  
6 addition, the addresses were certified via the Coding Accuracy Support System (“CASS”) to  
7 ensure the quality of the zip code, and verified through Delivery Point Validation (“DPV”) to  
8 verify the accuracy of the addresses. This address updating process is standard for the industry  
9 and for the majority of promotional mailings that occur today.

10 15. The return address on the Postcard Notice is a post office box maintained by Epiq.  
11 As of April 24, 2020, Epiq has received 6,762 new mailing addresses that were corrected through  
12 the USPS. For Postcard Notices that were returned as undeliverable, Epiq undertook additional  
13 public record research, using a third-party lookup service, which as of April 24, 2020, has resulted  
14 in the re-mailing of 44,824 Postcard Notices.

15 16. As of April 24, 2020, Postcard Notices remain undeliverable for 13,219 Settlement  
16 Class members, which resulted in the Postcard Notice and Email Notice being successfully  
17 delivered to approximately 98.7% of the identified Settlement Class.

18 17. Additionally, a Long Form Notice was mailed to all persons who requested one via  
19 the toll-free phone number. As of April 24, 2020, 79 Long Form Notices have been mailed as a  
20 result of such requests. A copy of the Long Form Notice as printed and mailed is included as  
21 **Attachment 5**.

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25 <sup>2</sup> The NCOA database contains records of all permanent change of address submissions received by the USPS for the  
26 last four years. The USPS makes this data available to mailing firms and lists submitted to it are automatically updated  
with any reported move based on a comparison with the person’s name and known address.

***Case Website***

18. On February 3, 2020, a neutral, informational, case website (www.TargetDebitCardSettlement.com) was established to enable Settlement Class members to obtain additional information and documents including the Complaint, Long Form Notice, Settlement Agreement, Motion and Order for Preliminary Approval, and answers to frequently asked questions. The case website address was prominently displayed in the Notices. As of April 24, 2020, there have been 41,709 unique visitors to the case website and over 70,776 website pages presented.

***Toll-free Telephone Number and Postal Mailing Address***

19. On February 3, 2020, a toll-free phone number (877-848-3932) was established to allow Settlement Class members to call and request that a Long Form Notice be mailed to them. The toll-free number also provides Settlement Class members with access to recorded information that includes answers to frequently-asked questions and directs them to the case website. As of April 24, 2020, the toll-free number has handled 4,029 total calls representing 11,228 minutes of use.

20. A post office box was established, which allows Settlement Class members to contact the Settlement Administrator by mail with any specific requests or questions.

***Exclusion Requests***

21. The deadline to request exclusion from the Settlement or to object to the Settlement was April 17, 2020. As of April 24, 2020, Epiq has received nine requests for exclusion from the Settlement Class, all of which have been deemed complete and timely. As of April 24, 2020, I am aware of no objections. The Exclusion Report listing each of these complete exclusion requests is included as **Attachment 6**.

**CONCLUSION**

22. In class action notice planning, execution, and analysis, we are guided by the Federal Rules of Civil Procedure, Rule 23 and the United States Constitution (including the Due

Process Clause). This framework directs that the notice program be optimized to reach the class and, in a settlement class action notice situation such as this, that the notice or notice program itself not limit knowledge of the availability of benefits—nor the ability to exercise other options—to class members in any way. All of these requirements were met or exceeded in this case.

23. Many courts have accepted and understood that a 75 or 80 percent reach is more than adequate. In 2010, the Federal Judicial Center issued a Judges’ Class Action Notice and Claims Process Checklist and Plain Language Guide. This Guide states that, “the lynchpin in an objective determination of the adequacy of a proposed notice effort is whether all the notice efforts together will reach a high percentage of the class. It is reasonable to reach between 70–95%.” Here we were able to develop and implement a Notice Plan that reached approximately 97.8% of the identified Settlement Class.

24. Additionally, our notice effort followed the guidance for how to satisfy due process obligations that a notice expert gleans from the United States Supreme Court’s seminal decisions which are: a) to endeavor to actually inform the class, and b) to demonstrate that notice is reasonably calculated to do so:

A. “But when notice is a person’s due, process which is a mere gesture is not due process.

The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it,” *Mullane v. Central Hanover Trust*, 339 U.S. 306, 315 (1950).

B. “[N]otice must be reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections,” *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 174 (1974) (citing *Mullane* at 314).

25. The Notice Program described above, including individual notice to all identifiable

1 Settlement Class members, provided the best notice practicable under the circumstances of this  
2 case, conformed to all aspects of Federal Rule of Civil Procedure 23, and comported with the  
3 guidance for effective notice articulated in the Manual for Complex Litigation 4th.

4 I declare under penalty of perjury that the foregoing is true and correct. Executed on April  
5 24, 2020.

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Cameron R. Azari, Esq.

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27 DECLARATION OF CAMERON R. AZARI ON IMPLEMENTATION OF SETTLEMENT NOTICE PROGRAM  
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# Attachment 1

# HILSOFT NOTIFICATIONS

Hilsoft Notifications is a leading provider of legal notice services for large-scale class action and bankruptcy matters. We specialize in providing quality, expert, notice plan development – designing notice programs that satisfy due process requirements and withstand judicial scrutiny. Hilsoft Notifications (“Hilsoft”) has been retained by defendants and/or plaintiffs for more than 400 cases, including more than 35 MDL cases, with notices appearing in more than 53 languages and in almost every country, territory and dependency in the world. For more than 24 years, Hilsoft’s notice plans have been approved and upheld by courts. Case examples include:

- Hilsoft designed and implemented monumental notice campaigns to notify current or former owners or lessees of certain BMW, Mazda, Subaru, Toyota, Honda, Nissan, and Ford vehicles as part of \$1.49 billion in settlements regarding Takata airbags. The Notice Plans included individual mailed notice to more than 59.6 million potential Class Members and notice via consumer publications, U.S. Territory newspapers, radio spots, internet banners, mobile banners, and specialized behaviorally targeted digital media. Combined, the Notice Plans reached more than 95% of adults aged 18+ in the U.S. who owned or leased a subject vehicle with a frequency of 4.0 times each. ***In re: Takata Airbag Products Liability Litigation (OEMS – BMW, Mazda, Subaru, Toyota, Honda, Nissan and Ford)***, MDL No. 2599 (S.D. Fla.).
- For a \$250 million settlement with approximately 4.7 million class members, Hilsoft designed and implemented a Notice Program with individual notice via postcard or email to approximately 1.43 million class members and a robust publication program, which combined, reached approximately 80% of all U.S. Adults Aged 35+ approximately 2.4 times each. ***Hale v. State Farm Mutual Automobile Insurance Company, et al.***, 12-cv-00660 (S.D. Ill.).
- Hilsoft designed a Notice Program that included extensive data acquisition and mailed notice to notify owners and lessees of specific models of Mercedes-Benz vehicles. The Notice Program designed and implemented by Hilsoft reached approximately 96.5% of all Class Members. ***Callaway v. Mercedes-Benz USA, LLC***, No. 8:14-cv-02011–JVS-DFM (C.D. Cal.).
- For a \$20 million TCPA settlement that involved Uber, Hilsoft created a Notice Program, which resulted in notice via mail or email to more than 6.9 million identifiable class members. The combined measurable effort reached approximately 90.6% of the Settlement Class with direct mail and email, measured newspaper and internet banner ads. ***Vergara, et al., v. Uber Technologies, Inc.*** No. 1:15-CV-06972 (N.D. Ill.).
- A comprehensive notice program within the *Volkswagen Emissions Litigation* that provided individual notice to more than 946,000 vehicle owners via first class mail and to more than 855,000 via email. A targeted internet campaign further enhanced the notice effort. ***In re: Volkswagen “Clean Diesel” Marketing, Sales Practices and Product Liability Litigation (Bosch Settlement)***, MDL No. 2672 (N.D. Cal.).
- Hilsoft designed and implemented an extensive settlement Notice Plan for a class period spanning more than 40 years for smokers of light cigarettes. The Notice Plan delivered a measured reach of approximately 87.8% of Arkansas Adults 25+ with a frequency of 8.9 times and approximately 91.1% of Arkansas Adults 55+ with a frequency of 10.8 times. Hispanic newspaper notice, an informational release, radio PSAs, sponsored search listings and a case website further enhanced reach. ***Miner v. Philip Morris USA, Inc.***, No. 60CV03-4661 (Ark. Cir.).
- One of the largest claim deadline notice campaigns ever implemented, for BP’s \$7.8 billion settlement claim deadline relating to the Deepwater Horizon oil spill. Hilsoft Notifications designed and implemented the claim deadline notice program, which resulted in a combined measurable paid print, television, radio and Internet effort that reached in excess of 90% of adults aged 18+ in the 26 identified DMAs covering the Gulf Coast Areas an average of 5.5 times each. ***In re Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010***, MDL No. 2179 (E.D. La.).

- Large asbestos bar date notice effort, which included individual notice, national consumer publications, hundreds of local and national newspapers, Spanish newspapers, union labor publications, and digital media to reach the target audience. ***In re: Energy Future Holdings Corp., et al. (Asbestos Claims Bar Date Notice)***, 14-10979(CSS) (Bankr. D. Del.).
- Landmark \$6.05 billion settlement reached by Visa and MasterCard. The intensive notice program involved over 19.8 million direct mail notices to class members together with insertions in over 1,500 newspapers, consumer magazines, national business publications, trade & specialty publications, and language & ethnic targeted publications. Hilsoft also implemented an extensive online notice campaign with banner notices, which generated more than 770 million adult impressions, a case website in eight languages, and acquisition of sponsored search listings to facilitate locating the website. ***In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation***, MDL No. 1720 (E.D.N.Y.).
- BP's \$7.8 billion settlement of claims related to the Deepwater Horizon oil spill emerged from possibly the most complex class action in U.S. history. Hilsoft Notifications drafted and opined on all forms of notice. The 2012 notice program designed by Hilsoft reached at least 95% Gulf Coast region adults via television, radio, newspapers, consumer publications, trade journals, digital media and individual notice. ***In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010***, MDL No. 2179 (E.D. La.).
- Momentous injunctive settlement reached by American Express regarding merchant payment card processing. The notice program provided extensive individual notice to more than 3.8 million merchants as well as coverage in national and local business publications, retail trade publications and placement in the largest circulation newspapers in each of the U.S. territories and possessions. ***In re American Express Anti-Steering Rules Antitrust Litigation (II)***, MDL No. 2221 (E.D.N.Y.) ("Italian Colors").
- Overdraft fee class actions have been brought against nearly every major U.S. commercial bank. For related settlements, Hilsoft Notifications has developed programs that integrate individual notice and paid media efforts. Fifth Third Bank, National City Bank, Bank of Oklahoma, Webster Bank, Harris Bank, M&I Bank, PNC Bank, Compass Bank, Commerce Bank, Citizens Bank, Great Western Bank, TD Bank, BancorpSouth, Comerica Bank, Susquehanna Bank, Associated Bank, Capital One, M&T Bank, Iberiabank and Synovus are among the more than 20 banks that have retained Hilsoft. ***In re Checking Account Overdraft Litigation***, MDL No. 2036 (S.D. Fla.).
- One of the largest data breach in U.S. history with approximately 130 million credit and debit card numbers stolen. ***In re Heartland Data Security Breach Litigation***, MDL No. 2046 (S.D. Tex.).
- One of the largest and most complex class action in Canadian history. Designed and implemented groundbreaking notice to disparate, remote aboriginal people in the multi-billion dollar settlement. ***In re Residential Schools Class Action Litigation***, 00-CV-192059 CPA (Ont. Super. Ct.).
- Extensive point of sale notice program of a settlement providing payments up to \$100,000 related to Chinese drywall – 100 million notices distributed to Lowe's purchasers during a six-week period. ***Vereen v. Lowe's Home Centers***, SU10-CV-2267B (Ga. Super. Ct.).
- One of the largest discretionary class action notice campaign involving virtually every adult in the U.S. for the settlement. ***In re Trans Union Corp. Privacy Litigation***, MDL No. 1350 (N.D. Ill.).
- One of the most complex national data theft class action settlement involving millions of class members. ***Lockwood v. Certegy Check Services, Inc.***, 8:07-cv-1434-T-23TGW (M.D. Fla.).
- Large combined U.S. and Canadian retail consumer security breach notice program. ***In re TJX Companies, Inc., Customer Data Security Breach Litigation***, MDL No. 1838 (D. Mass.).
- A comprehensive notice effort in a securities class action for the \$1.1 billion settlement of ***In re Royal Ahold Securities and ERISA Litigation***, MDL No. 1539 (D. Md.).

## LEGAL NOTICING EXPERTS

**Cameron Azari, Esq., Director of Legal Notice**

Cameron Azari, Esq. has more than 18 years of experience in the design and implementation of legal notice and claims administration programs. He is a nationally recognized expert in the creation of class action notification campaigns in compliance with Fed R. Civ. P. 23(c)(2) (d)(2) and (e) and similar state class action statutes. Cameron has been responsible for hundreds of legal notice and advertising programs. During his career, he has been involved in an array of high profile class action matters, including *In re: Takata Airbag Products Liability Litigation*, *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation (MasterCard & Visa)*, *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Product Liability Litigation (Bosch Settlement)*, *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico*, *In re: Checking Account Overdraft Litigation*, and *In re Residential Schools Class Action Litigation*. He is an active author and speaker on a broad range of legal notice and class action topics ranging from amendments to FRCP Rule 23 to email noticing, response rates and optimizing settlement effectiveness. Cameron is an active member of the Oregon State Bar. He received his B.S. from Willamette University and his J.D. from Northwestern School of Law at Lewis and Clark College. Cameron can be reached at [caza@legalnotice.com](mailto:caza@legalnotice.com).

**Lauran Schultz, Epiq Managing Director**

Lauran Schultz consults with Hilsoft clients on complex noticing issues. Lauran has more than 20 years of experience as a professional in the marketing and advertising field, specializing in legal notice and class action administration since 2005. High profile actions he has been involved in include companies such as BP, Bank of America, Fifth Third Bank, Symantec Corporation, Lowe's Home Centers, First Health, Apple, TJX, CNA and Carrier Corporation. Prior to joining Epiq in 2005, Lauran was a Senior Vice President of Marketing at National City Bank in Cleveland, Ohio. Lauran's education includes advanced study in political science at the University of Wisconsin-Madison along with a Ford Foundation fellowship from the Social Science Research Council and American Council of Learned Societies. Lauran can be reached at [lschultz@hilsoft.com](mailto:lschultz@hilsoft.com).

**Kyle Bingham, Manager of Strategic Communications**

Kyle Bingham has 14 years of experience in the advertising industry. At Hilsoft and Epiq, Kyle is responsible for overseeing the research, planning, and execution of advertising campaigns for legal notice programs including class action, bankruptcy and other legal cases.

## ARTICLES AND PRESENTATIONS

- **Cameron Azari** Moderator, "Prepare for the Future of Automotive Class Actions." Bloomberg Next, Webinar-CLE, November 6, 2018.
- **Cameron Azari** Speaker, "The Battleground for Class Certification: Plaintiff and Defense Burdens, Commonality Requirements and Ascertainability." 30<sup>th</sup> National Forum on Consumer Finance Class Actions and Government Enforcement, Chicago, IL, July 17, 2018.
- **Cameron Azari** Speaker, "Recent Developments in Class Action Notice and Claims Administration." PLI's Class Action Litigation 2018 Conference, New York, NY, June 21, 2018.
- **Cameron Azari** Speaker, "One Class Action or 50? Choice of Law Considerations as Potential Impediment to Nationwide Class Action Settlements." 5<sup>th</sup> Annual Western Regional CLE Program on Class Actions and Mass Torts. Clyde & Co LLP, San Francisco, CA, June 22, 2018.
- **Cameron Azari** Co-Author, *A Practical Guide to Chapter 11 Bankruptcy Publication Notice*. E-book, published, May 2017.
- **Cameron Azari** Featured Speaker, "Proposed Changes to Rule 23 Notice and Scrutiny of Claim Filing Rates," DC Consumer Class Action Lawyers Luncheon, December 6, 2016.
- **Cameron Azari** Speaker, "Recent Developments in Consumer Class Action Notice and Claims Administration." Berman DeValerio Litigation Group, San Francisco, CA, June 8, 2016.

- **Cameron Azari** Speaker, “2016 Cybersecurity & Privacy Summit. Moving From ‘Issue Spotting’ To Implementing a Mature Risk Management Model.” King & Spalding, Atlanta, GA, April 25, 2016.
- **Cameron Azari** Speaker, “Live Cyber Incident Simulation Exercise.” Advisen’s Cyber Risk Insights Conference, London, UK, February 10, 2015.
- **Cameron Azari** Speaker, “Pitfalls of Class Action Notice and Claims Administration.” PLI’s Class Action Litigation 2014 Conference, New York, NY, July 9, 2014.
- **Cameron Azari** Co-Author, “What You Need to Know About Frequency Capping In Online Class Action Notice Programs.” *Class Action Litigation Report*, June 2014.
- **Cameron Azari** Speaker, “Class Settlement Update – Legal Notice and Court Expectations.” PLI’s 19th Annual Consumer Financial Services Institute Conference, New York, NY, April 7-8, 2014 and Chicago, IL, April 28-29, 2014.
- **Cameron Azari** Speaker, “Legal Notice in Consumer Finance Settlements - Recent Developments.” ACI’s Consumer Finance Class Actions and Litigation, New York, NY, January 29-30, 2014.
- **Cameron Azari** Speaker, “Legal Notice in Building Products Cases.” HarrisMartin’s Construction Product Litigation Conference, Miami, FL, October 25, 2013.
- **Cameron Azari** Co-Author, “Class Action Legal Noticing: Plain Language Revisited.” *Law360*, April 2013.
- **Cameron Azari** Speaker, “Legal Notice in Consumer Finance Settlements Getting your Settlement Approved.” ACI’s Consumer Finance Class Actions and Litigation, New York, NY, January 31-February 1, 2013.
- **Cameron Azari** Speaker, “Perspectives from Class Action Claims Administrators: Email Notices and Response Rates.” CLE International’s 8<sup>th</sup> Annual Class Actions Conference, Los Angeles, CA, May 17-18, 2012.
- **Cameron Azari** Speaker, “Class Action Litigation Trends: A Look into New Cases, Theories of Liability & Updates on the Cases to Watch.” ACI’s Consumer Finance Class Actions and Litigation, New York, NY, January 26-27, 2012.
- **Lauran Schultz** Speaker, “Legal Notice Best Practices: Building a Workable Settlement Structure.” CLE International’s 7<sup>th</sup> Annual Class Action Conference, San Francisco, CA, May 2011.
- **Cameron Azari** Speaker, “Data Breaches Involving Consumer Financial Information: Litigation Exposures and Settlement Considerations.” ACI’s Consumer Finance Class Actions and Litigation, New York, NY, January 2011.
- **Cameron Azari** Speaker, “Notice in Consumer Class Actions: Adequacy, Efficiency and Best Practices.” CLE International’s 5<sup>th</sup> Annual Class Action Conference: Prosecuting and Defending Complex Litigation, San Francisco, CA, 2009.
- **Lauran Schultz** Speaker, “Efficiency and Adequacy Considerations in Class Action Media Notice Programs.” Chicago Bar Association, Chicago, IL, 2009.
- **Cameron Azari** Author, “Clearing the Five Hurdles of Email - Delivery of Class Action Legal Notices.” *Thomson Reuters Class Action Litigation Reporter*, June 2008.
- **Cameron Azari** Speaker, “Planning for a Smooth Settlement.” ACI: Class Action Defense – Complex Settlement Administration for the Class Action Litigator, Phoenix, AZ, 2007.

- **Cameron Azari** Speaker, “Structuring a Litigation Settlement.” CLE International’s 3rd Annual Conference on Class Actions, Los Angeles, CA, 2007.
- **Cameron Azari** Speaker, “Noticing and Response Rates in Class Action Settlements” – Class Action Bar Gathering, Vancouver, British Columbia, 2007.
- **Cameron Azari** Speaker, “Notice and Response Rates in Class Action Settlements” – Skadden Arps Slate Meagher & Flom, LLP, New York, NY, 2006.
- **Cameron Azari** Speaker, “Notice and Response Rates in Class Action Settlements” – Bridgeport Continuing Legal Education, Class Action and the UCL, San Diego, CA, 2006.
- **Cameron Azari** Speaker, “Notice and Response Rates in Class Action Settlements” – Stoel Rives litigation group, Portland, OR / Seattle, WA / Boise, ID / Salt Lake City, UT, 2005.
- **Cameron Azari** Speaker, “Notice and Response Rates in Class Action Settlements” – Stroock & Stroock & Lavan Litigation Group, Los Angeles, CA, 2005.
- **Cameron Azari** Author, “Twice the Notice or No Settlement.” Current Developments – Issue II, August 2003.
- **Cameron Azari** Speaker, “A Scientific Approach to Legal Notice Communication” – Weil Gotshal litigation group, New York, NY, 2003.

#### JUDICIAL COMMENTS

**Judge Alison J. Nathan, *Pantelyat v. Bank of America, N.A., et al.*** (January 31, 2019) 16-cv-8964 (S.D.N.Y.):

*The Class Notice provided to the Settlement Class in accordance with the Preliminary Approval Order was the best notice practicable under the circumstances, and constituted due and sufficient notice of the proceedings and matters set forth therein, to all persons entitled to notice. The notice fully satisfied the requirements of due process, Rule 23 of the Federal Rules of Civil Procedure, and all other applicable law and rules.*

**Kenneth M. Hoyt, *Al’s Pals Pet Card, LLC, et al v. Woodforest National Bank, N.A., et al.*** (January 30, 2019) 4:17-cv-3852 (S.D. Tex):

*[T]he Court finds that the class has been notified of the Settlement pursuant to the plan approved by the Court. The Court further finds that the notice program constituted the best practicable notice to the class under the circumstances and fully satisfies the requirements of due process, including Fed. R. Civ. P. 23(e)(1) and 28 U.S.C. § 1715.*

**Judge Robert M. Dow, Jr., *In re: Dealer Management Systems Antitrust Litigation*** (January 23, 2019) MDL No. 2817 (N.D. Ill.):

*The Court finds that the Settlement Administrator fully complied with the Preliminary Approval Order and that the form and manner of providing notice to the Dealership Class of the proposed Settlement with Reynolds was the best notice practicable under the circumstances, including individual notice to all members of the Dealership Class who could be identified through the exercise of reasonable effort. The Court further finds that the notice program provided due and adequate notice of these proceedings and of the matters set forth therein, including the terms of the Agreement, to all parties entitled to such notice and fully satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, 28 U.S.C. § 1715(b), and constitutional due process.*



**Judge Federico A. Moreno, *In re: Takata Airbag Products Liability Litigation (Ford)*** (December 20, 2018) MDL No. 2599 (S.D. Fla.):

*The record shows and the Court finds that the Class Notice has been given to the Class in the manner approved by the Court in its Preliminary Approval Order. The Court finds that such Class Notice: (i) is reasonable and constitutes the best practicable notice to Class Members under the circumstances; (ii) constitutes notice that was reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Action and the terms of the Settlement Agreement, their right to exclude themselves from the Class or to object to all or any part of the Settlement Agreement, their right to appear at the Fairness Hearing (either on their own or through counsel hired at their own expense) and the binding effect of the orders and Final Order and Final Judgment in the Action, whether favorable or unfavorable, on all persons and entities who or which do not exclude themselves from the Class; (iii) constitutes due, adequate, and sufficient notice to all persons or entities entitled to receive notice; and (iv) fully satisfied the requirements of the United States Constitution (including the Due Process Clause), FED. R. Civ. P. 23 and any other applicable law as well as complying with the Federal Judicial Center's illustrative class action notices.*

**Judge Herndon, *Hale v. State Farm Mutual Automobile Insurance Company, et al.*** (December 16, 2018) 3:12-cv-00660-DRH-SCW (S.D. Ill.):

*The Class here is estimated to include approximately 4.7 million members. Approximately 1.43 million of them received individual postcard or email notice of the terms of the proposed Settlement, and the rest were notified via a robust publication program "estimated to reach 78.8% of all U.S. Adults Aged 35+ approximately 2.4 times." Doc. 966-2 ¶¶ 26, 41. The Court previously approved the notice plan (Doc. 947), and now, having carefully reviewed the declaration of the Notice Administrator (Doc. 966-2), concludes that it was fully and properly executed, and reflected "the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort." See Fed. R. Civ. P. 23(c)(2)(B). The Court further concludes that CAFA notice was properly effectuated to the attorneys general and insurance commissioners of all 50 states and District of Columbia.*

**Judge Jesse M. Furman, *Alaska Electrical Pension Fund, et al. v. Bank of America, N.A., et al.*** (November 13, 2018) 14-cv-7126 (S.D.N.Y.):

*The mailing and distribution of the Notice to all members of the Settlement Class who could be identified through reasonable effort, the publication of the Summary Notice, and the other Notice efforts described in the Motion for Final Approval, as provided for in the Court's June 26, 2018 Preliminary Approval Order, satisfy the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process, constitute the best notice practicable under the circumstances, and constitute due and sufficient notice to all Persons entitled to notice.*

**Judge William L. Campbell, Jr., *Ajose v. Interline Brands, Inc.*** (October 23, 2018) 3:14-cv-01707 (M.D. Tenn.):

*The Court finds that the Notice Plan, as approved by the Preliminary Approval Order: (i) satisfied the requirements of Rule 23(c)(3) and due process; (ii) was reasonable and the best practicable notice under the circumstances; (iii) reasonably apprised the Settlement Class of the pendency of the action, the terms of the Agreement, their right to object to the proposed settlement or opt out of the Settlement Class, the right to appear at the Final Fairness Hearing, and the Claims Process; and (iv) was reasonable and constituted due, adequate, and sufficient notice to all those entitled to receive notice.*

**Judge Joseph C. Spero, *Abante Rooter and Plumbing v. Pivotal Payments Inc., d/b/a/ Capital Processing Network and CPN*** (October 15, 2018) 3:16-cv-05486 (N.D. Cal.):

*[T]he Court finds that notice to the class of the settlement complied with Rule 23(c)(3) and (e) and due process. Rule 23(e)(1) states that "[t]he court must direct notice in a reasonable manner to all class members who would be bound by" a proposed settlement, voluntary dismissal, or compromise. Class members are entitled to the "best notice that is practicable under the circumstances" of any proposed settlement before it is finally approved by the Court. Fed. R. Civ. P. 23(c)(2)(B)...The notice program included notice sent by first class mail to 1,750,564 class members and reached approximately 95.2% of the class.*



**Judge Marcia G. Cooke, *Dipuglia v. US Coachways, Inc.*** (September 28, 2018) 1:17-cv-23006-MGC (S.D. Fla.):

*The Settlement Class Notice Program was the best notice practicable under the circumstances. The Notice Program provided due and adequate notice of the Case 1:17-cv-23006-MGC Document 66 Entered on FLSD Docket 09/28/2018 Page 3 of 7 4 proceedings and of the matters set forth therein, including the proposed settlement set forth in the Agreement, to all persons entitled to such notice and said notice fully satisfied the requirements of the Federal Rules of Civil Procedure and the United States Constitution, which include the requirement of due process.*

**Judge Beth Labson Freeman, *Gergetz v. Telenav, Inc.*** (September 27, 2018) 5:16-cv-04261-BLF (N.D. Cal.):

*The Court finds that the Notice and Notice Plan implemented pursuant to the Settlement Agreement, which consists of individual notice sent via first-class U.S. Mail postcard, notice provided via email, and the posting of relevant Settlement documents on the Settlement Website, has been successfully implemented and was the best notice practicable under the circumstances and: (1) constituted notice that was reasonably calculated, under the circumstances, to apprise the Settlement Class Members of the pendency of the Action, their right to object to or to exclude themselves from the Settlement Agreement, and their right to appear at the Final Approval Hearing; (2) was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (3) met all applicable requirements of the Federal Rules of Civil Procedure, the Due Process Clause, and the Rules of this Court.*

**Judge M. James Lorenz, *Farrell v. Bank of America, N.A.*** (August 31, 2018) 3:16-cv-00492-L-WVG (S.D. Cal.):

*The Court therefore finds that the Class Notices given to Settlement Class Case 3:16-cv-00492-L-WVG Document 133 Filed 08/31/18 PageID.2484 Page 10 of 17 11 3:16-cv-00492-L-WVG 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 members adequately informed Settlement Class members of all material elements of the proposed Settlement and constituted valid, due, and sufficient notice to Settlement Class members. The Court further finds that the Notice Program satisfies due process and has been fully implemented.*

**Judge Dean D. Pregerson, *Falco et al. v. Nissan North America, Inc. et al.*** (July 16, 2018) 2:13-cv-00686 DDP (MANx) (C.D. Cal.):

*Notice to the Settlement Class as required by Rule 23(e) of the Federal Rules of Civil Procedure has been provided in accordance with the Court's Preliminary Approval Order, and such Notice by first-class mail was given in an adequate and sufficient manner, and constitutes the best notice practicable under the circumstances, and satisfies all requirements of Rule 23(e) and due process.*

**Judge Lynn Adelman, *In re: Windsor Wood Clad Window Product Liability Litigation*** (July 16, 2018) MDL No. 16-MD-02688 (E.D. Wis.):

*The Court finds that the Notice Program was appropriately administered, and was the best practicable notice to the Class under the circumstances, satisfying the requirements of Rule 23 and due process. The Notice Program, constitutes due, adequate, and sufficient notice to all persons, entities, and/or organizations entitled to receive notice; fully satisfied the requirements of the Constitution of the United States (including the Due Process Clause), Rule 23 of the Federal Rules of Civil Procedure, and any other applicable law; and is based on the Federal Judicial Center's illustrative class action notices.*

**Judge Stephen K. Bushong, *Surrett et al. v. Western Culinary Institute, et al.*** (June 18, 2018) No. 0803-03530 (Ore. Cir., County of Multnomah)

*This Court finds that the distribution of the Notice of Settlement was effected in accordance with the Preliminary Approval/Notice Order, dated February 9, 2018, was made pursuant to ORCP 32 D, and fully met the requirements of the Oregon Rules of Civil Procedure, due process, the United States Constitution, the Oregon Constitution, and any other applicable law.*

**Judge Jesse M. Furman, *Alaska Electrical Pension Fund, et al. v. Bank of America, N.A., et al.*** (June 1, 2018) No. 14-cv-7126 (JMF) (S.D.N.Y.):

*The mailing of the Notice to all members of the Settlement Class who could be identified through reasonable effort, the publication of the Summary Notice, and the other Notice distribution efforts described in the Motion for Final Approval, as provided for in the Court's October 24, 2017 Order Providing for Notice to the Settlement Class and Preliminarily Approving the Plan of Distribution, satisfy the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process, constitute the best notice practicable under the circumstances, and constitute due and sufficient notice to all Persons entitled to notice.*

**Judge Brad Seligman, *Larson v. John Hancock Life Insurance Company (U.S.A.)*** (May 8, 2018) No. RG16813803 (Cal. Sup. Ct., County of Alameda):

*The Court finds that the Class Notice and dissemination of the Class Notice as carried out by the Settlement Administrator complied with the Court's order granting preliminary approval and all applicable requirements of law, including, but not limited to California Rules of Court, rule 3.769(f) and the Constitutional requirements of due process, and constituted the best notice practicable under the circumstances and sufficient notice to all persons entitled to notice of the Settlement.*

*[T]he dissemination of the Class Notice constituted the best notice practicable because it included mailing individual notice to all Settlement Class Members who are reasonably identifiable using the same method used to inform class members of certification of the class, following a National Change of Address search and run through the LexisNexis Deceased Database.*

**Judge Federico A. Moreno, *Masson v. Tallahassee Dodge Chrysler Jeep, LLC*** (May 8, 2018), No. 17-cv-22967 (S.D. Fla.):

*The Settlement Class Notice Program was the best notice practicable under the circumstances. The Notice Program provided due and adequate notice of the proceedings and of the matters set forth therein, including the proposed settlement set forth in the Agreement, to all persons entitled to such notice and said notice fully satisfied the requirements of the Federal Rules of Civil Procedure and the United States Constitution, which include the requirement of due process.*

**Chancellor Russell T. Perkins, *Morton v. GreenBank*** (April 18, 2018) 11-135-IV (20<sup>th</sup> Jud. Dist. Tenn.):

*The Notice Program as provided for in the Agreement and the Preliminary Amended Approval Order constituted the best notice practicable under the circumstances, including individual notice to all Settlement Class members who could be identified through reasonable effort. The Notice Plan fully satisfied the requirements of Tennessee Rule of Civil Procedure 23.03, due process and any other applicable law.*

**Judge James V. Selna, *Callaway v. Mercedes-Benz USA, LLC*** (March 8, 2018) 8:14-cv-02011-JVS-DFM (C.D. Cal.):

*The Court finds that the notice given to the Class was the best notice practicable under the circumstances of this case, and that the notice complied with the requirements of Federal Rule of Civil Procedure 23 and due process.*

*The notice given by the Class Administrator constituted due and sufficient notice to the Settlement Class, and adequately informed members of the Settlement Class of their right to exclude themselves from the Settlement Class so as not to be bound by the terms of the Settlement Agreement and how to object to the Settlement.*

*The Court has considered and rejected the objection . . . [regarding] the adequacy of the notice plan. The notice given provided ample information regarding the case. Class members also had the ability to seek additional information from the settlement website, from Class Counsel or from the Class Administrator*

**Judge Thomas M. Durkin, *Vergara, et al., v. Uber Technologies, Inc.*** (March 1, 2018) 1:15-CV-06972 (N.D. Ill.):

*The Court finds that the Notice Plan set forth in Section IX of the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order constitutes the best notice practicable under the circumstances and shall constitute due and sufficient notice to the Settlement Classes of the pendency of this case, certification of the Settlement Classes for settlement purposes only, the terms of the Settlement Agreement, and the Final Approval Hearing, and satisfies the requirements of the Federal Rules of Civil Procedure, the*

*United States Constitution, and any other applicable law. Further, the Court finds that Defendant has timely satisfied the notice requirements of 28 U.S.C. Section 1715.*

**Judge Federico A. Moreno, *In re: Takata Airbag Products Liability Litigation (Honda & Nissan)*** (February 28, 2018) MDL No. 2599 (S.D. Fla.):

*The Court finds that the Class Notice has been given to the Class in the manner approved by the Court in its Preliminary Approval Order. The Court finds that such Class Notice: (i) is reasonable and constitutes the best practicable notice to Class Members under the circumstances; (ii) constitutes notice that was reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Action and the terms of the Settlement Agreement, their right to exclude themselves from the Class or to object to all or any part of the Settlement Agreement, their right to appear at the Fairness Hearing (either on their own or through counsel hired at their own expense) and the binding effect of the orders and Final Order and Final Judgment in the Action, whether favorable or unfavorable, on all persons and entities who or which do not exclude themselves from the Class; (iii) constitutes due, adequate, and sufficient notice to all persons or entities entitled to receive notice; and (iv) fully satisfied the requirements of the United States Constitution (including the Due Process Clause), FED R. CIV. R. 23 and any other applicable law as well as complying with the Federal Judicial Center's illustrative class action notices.*

**Judge Susan O. Hickey, *Larey v. Allstate Property and Casualty Insurance Company*** (February 9, 2018) 4:14-cv-04008-SOF (W.D. Kan.):

*Based on the Court's review of the evidence submitted and argument of counsel, the Court finds and concludes that the Class Notice and Claim Form was mailed to potential Class Members in accordance with the provisions of the Preliminary Approval Order, and together with the Publication Notice, the automated toll-free telephone number, and the settlement website: (i) constituted, under the circumstances, the most effective and practicable notice of the pendency of the Lawsuit, this Stipulation, and the Final Approval Hearing to all Class Members who could be identified through reasonable effort; and (ii) met all requirements of the Federal Rules of Civil Procedure, the requirements of due process under the United States Constitution, and the requirements of any other applicable rules or law.*

**Judge Muriel D. Hughes, *Glasko v. Independent Bank Corporation*** (January 11, 2018) 13-009983-CZ:

*The Court-approved Notice Plan satisfied due process requirements . . . The notice, among other things, was calculated to reach Settlement Class Members because it was sent to their last known email or mail address in the Bank's files.*

**Judge Naomi Reice Buchwald, *Orlander v. Staples, Inc.*** (December 13, 2017) 13-CV-0703-NRB (S.D.N.Y.):

*The Notice of Class Action Settlement ("Notice") was given to all Class Members who could be identified with reasonable effort in accordance with the terms of the Settlement Agreement and Preliminary Approval Order. The form and method of notifying the Class of the pendency of the Action as a class action and the terms and conditions of the proposed Settlement met the requirements of Federal Rule of Civil Procedure 23 and the Constitution of the United States (including the Due Process Clause); and any other applicable law, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.*

**Judge Lisa Godbey Wood, *T.A.N. v. PNI Digital Media, Inc.*** (December 1, 2017) 2:16-cv-132 LGW-RSB (S.D. GA.):

*Notice to the Settlement Class Members required by Rule 23 has been provided as directed by this Court in the Preliminary Approval Order, and such notice constituted the best notice practicable, including, but not limited to, the forms of notice and methods of identifying and providing notice to the Settlement Class Members, and satisfied the requirements of Rule 23 and due process, and all other applicable laws.*

**Judge Robin L. Rosenberg, *Gottlieb v. Citgo Petroleum Corporation*** (November 29, 2017) 9:16-cv-81911-RLR (S.D. Fla):

*The Settlement Class Notice Program was the best notice practicable under the circumstances. The Notice Program provided due and adequate notice of the proceedings and of the matters set forth therein, including the proposed settlement set forth in the Settlement Agreement, to all persons entitled to such notice and said notice fully satisfied the requirements of the Federal Rules of Civil Procedure and the United States Constitution, which include the requirement of due process.*

**Judge Donald M. Middlebrooks, *Mahoney v TT of Pine Ridge, Inc.*** (November 20, 2017) 9:17-cv-80029-DMM (S.D. Fla.):

*Based on the Settlement Agreement, Order Granting Preliminary Approval of Class Action Settlement Agreement, and upon the Declaration of Cameron Azari, Esq. (DE 61-1), the Court finds that Class Notice provided to the Settlement Class was the best notice practicable under the circumstances, and that it satisfied the requirements of due process and Federal Rule of Civil Procedure 23(e)(1).*

**Judge Gerald Austin McHugh, *Sobiech v. U.S. Gas & Electric, Inc., i/t/d/b/a Pennsylvania Gas & Electric, et al.*** (November 8, 2017) 2:14-cv-04464-GAM (E.D. Penn.):

*Notice has been provided to the Settlement Class of the pendency of this Action, the conditional certification of the Settlement Class for purposes of this Settlement, and the preliminary approval of the Settlement Agreement and the Settlement contemplated thereby. The Court finds that the notice provided was the best notice practicable under the circumstances to all persons entitled to such notice and fully satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process.*

**Judge Federico A. Moreno, *In re: Takata Airbag Products Liability Litigation (BMW, Mazda, Toyota, & Subaru)*** (November 1, 2017) MDL No. 2599 (S.D. Fla.):

*[T]he Court finds that the Class Notice has been given to the Class in the manner approved in the Preliminary Approval Order. The Class Notice: (i) is reasonable and constitutes the best practicable notice to Class Members under the circumstances; (ii) constitutes notice that was reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Action and the terms of the Settlement Agreement, their right to exclude themselves from the Class or to object to all or any part of the Settlement Agreement, their right to appear at the Fairness Hearing (either on their own or through counsel hired at their own expense), and the binding effect of the orders and Final Order and Final Judgment in the Action, whether favorable or unfavorable, on all persons and entities who or which do not exclude themselves from the Class; (iii) constitutes due, adequate, and sufficient notice to all persons or entities entitled to receive notice; and (iv) fully satisfied the requirements of the United States Constitution (including the Due Process Clause), Federal Rule of Civil Procedure 23 and any other applicable law as well as complying with the Federal Judicial Center's illustrative class action notices.*

**Judge Charles R. Breyer, *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation*** (May 17, 2017) MDL No. 2672 (N.D. Cal.):

*The Court is satisfied that the Notice Program was reasonably calculated to notify Class Members of the proposed Settlement. The Notice "appris[e]d interested parties of the pendency of the action and afford[ed] them an opportunity to present their objections." Mullane v. Cent. Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950). Indeed, the Notice Administrator reports that the notice delivery rate of 97.04% "exceed[ed] the expected range and is indicative of the extensive address updating and re-mailing protocols used." (Dkt. No. 3188-2 ¶ 24.)*

**Judge Rebecca Brett Nightingale, *Ratzlaff et al. v. BOKF, NA d/b/a Bank of Oklahoma et al.*** (May 15, 2017) No. CJ-2015-00859 (Dist. Ct. Okla.):

*The Court-approved Notice Plan satisfies Oklahoma law because it is "reasonable" ( 12 O.S. § 2023(E)(I)) and it satisfies due process requirements because it was "reasonably calculated, under [the] circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Shutts, 472 U.S. at 812 (quoting Mullane, 339 U.S. at 314-15).*

**Judge Joseph F. Bataillon, *Klug v. Watts Regulator Company*** (April 13, 2017) No. 8:15-cv-00061-JFB-FG3 (D. Neb.):

*The court finds that the notice to the Settlement Class of the pendency of the Class Action and of this settlement, as provided by the Settlement Agreement and by the Preliminary Approval Order dated December 7, 2017, constituted the best notice practicable under the circumstances to all persons and entities within the definition of the Settlement Class, and fully complied with the requirements of Federal Rules of Civil Procedure Rule 23 and due process. Due and sufficient proof of the execution of the Notice Plan as outlined in the Preliminary Approval Order has been filed.*



**Judge Yvonne Gonzalez Rogers, *Bias v. Wells Fargo & Company, et al.*** (April 13, 2017) No. 4:12-cv-00664-YGR (N.D. Cal.):

*The form, content, and method of dissemination of Notice of Settlement given to the Settlement Class was adequate and reasonable and constituted the best notice practicable under the circumstances, including both individual notice to all Settlement Class Members who could be identified through reasonable effort and publication notice.*

*Notice of Settlement, as given, complied with the requirements of Rule 23 of the Federal Rules of Civil Procedure, satisfied the requirements of due process, and constituted due and sufficient notice of the matters set forth herein.*

*Notice of the Settlement was provided to the appropriate regulators pursuant to the Class Action Fairness Act, 28 U.S.C. § 1715(c)(1).*

**Judge Carlos Murguia, *Whitton v. Deffenbaugh Industries, Inc., et al*** (December 14, 2016) No. 2:12-cv-02247 (D. Kan.) and **Gary, LLC v. Deffenbaugh Industries, Inc., et al** (December 14, 2016) No. 2:13-cv-2634 (D. Kan.):

*The Court determines that the Notice Plan as implemented was reasonably calculated to provide the best notice practicable under the circumstances and contained all required information for members of the proposed Settlement Class to act to protect their interests. The Court also finds that Class Members were provided an adequate period of time to receive Notice and respond accordingly.*

**Judge Yvette Kane, *In re: Shop-Vac Marketing and Sales Practices Litigation*** (December 9, 2016) MDL No. 2380 (M.D. Pa.):

*The Court hereby finds and concludes that members of the Settlement Class have been provided the best notice practicable of the Settlement and that such notice satisfies all requirements of due process, Rule 23 of the Federal Rules of Civil Procedure, the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, and all other applicable laws.*

**Judge Timothy D. Fox, *Miner v. Philip Morris USA, Inc.*** (November 21, 2016) No. 60CV03-4661 (Ark. Cir.):

*The Court finds that the Settlement Notice provided to potential members of the Class constituted the best and most practicable notice under the circumstances, thereby complying fully with due process and Rule 23 of the Arkansas Rules of Civil Procedure.*

**Judge Eileen Bransten, *In re: HSBC Bank USA, N.A., Checking Account Overdraft Litigation*** (October 13, 2016) No. 650562/2011 (Sup. Ct. N.Y.):

*This Court finds that the Notice Program and the Notice provided to Settlement Class members fully satisfied the requirements of constitutional due process, the N.Y. C.P.L.R., and any other applicable laws, and constituted the best notice practicable under the circumstances and constituted due and sufficient notice to all persons entitled thereto.*

**Judge Jerome B. Simandle, *In re: Caterpillar, Inc. C13 and C15 Engine Products Liability Litigation*** (September 20, 2016) MDL No. 2540 (D. N.J.):

*The Court hereby finds that the Notice provided to the Settlement Class constituted the best notice practicable under the circumstances. Said Notice provided due and adequate notice of these proceedings and the matters set forth herein, including the terms of the Settlement Agreement, to all persons entitled to such notice, and said notice fully satisfied the requirements of Fed. R. Civ. P. 23, requirements of due process and any other applicable law.*

**Judge Marcia G. Cooke, *Chimeno-Buzzi v. Hollister Co. and Abercrombie & Fitch Co.*** (April 11, 2016) No. 14-23120 (S.D. Fla.):

*Pursuant to the Court's Preliminary Approval Order, the Settlement Administrator, Epiq Systems, Inc. [Hilsoft Notifications], has complied with the approved notice process as confirmed in its Declaration filed with the Court on March 23, 2016. The Court finds that the notice process was designed to advise Class Members of their rights. The form and method for notifying Class Members of the settlement and its terms and*

*conditions was in conformity with this Court's Preliminary Approval Order, constituted the best notice practicable under the circumstances, and satisfied the requirements of Federal Rule of Civil Procedure 23(c)(2)(B), the Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. § 1715, and due process under the United States Constitution and other applicable laws.*

**Judge Yvonne Gonzalez Rogers, *In Re: Lithium Ion Batteries Antitrust Litigation*** (March 22, 2016) No. 4:13-MD-02420-YGR (N.D. Cal.):

*From what I could tell, I liked your approach and the way you did it. I get a lot of these notices that I think are all legalese and no one can really understand them. Yours was not that way.*

**Judge Christopher S. Sontchi, *In re: Energy Future Holdings Corp, et al.***, (July 30, 2015) 14-10979(CSS) (Bankr. D. Del.):

*Notice of the Asbestos Bar Date as set forth in this Asbestos Bar Date Order and in the manner set forth herein constitutes adequate and sufficient notice of the Asbestos Bar Date and satisfies the requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.*

**Judge David C. Norton, *In re: MI Windows and Doors Inc. Products Liability Litigation*** (July 22, 2015) MDL No. 2333, No. 2:12-mn-00001 (D. S.C.):

*The court finds that the Notice Plan, as described in the Settlement and related declarations, has been faithfully carried out and constituted the best practicable notice to Class Members under the circumstances of this Action, and was reasonable and constituted due, adequate, and sufficient notice to all Persons entitled to be provided with Notice.*

*The court also finds that the Notice Plan was reasonably calculated, under the circumstances, to apprise Class Members of: (1) the pendency of this class action; (2) their right to exclude themselves from the Settlement Class and the proposed Settlement; (3) their right to object to any aspect of the proposed Settlement (including final certification of the Settlement Class, the fairness, reasonableness, or adequacy of the proposed Settlement, the adequacy of the Settlement Class's representation by Named Plaintiffs or Class Counsel, or the award of attorney's and representative fees); (4) their right to appear at the fairness hearing (either on their own or through counsel hired at their own expense); and (5) the binding and preclusive effect of the orders and Final Order and Judgment in this Action, whether favorable or unfavorable, on all Persons who do not request exclusion from the Settlement Class. As such, the court finds that the Notice fully satisfied the requirements of the Federal Rules of Civil Procedure, including Federal Rule of Civil Procedure 23(c)(2) and (e), the United States Constitution (including the Due Process Clause), the rules of this court, and any other applicable law, and provided sufficient notice to bind all Class Members, regardless of whether a particular Class Member received actual notice.*

**Judge Robert W. Gettleman, *Adkins v. Nestle Purina PetCare Company, et al.***, (June 23, 2015) No. 12-cv-2871 (N.D. Ill.):

*Notice to the Settlement Class and other potentially interested parties has been provided in accordance with the notice requirements specified by the Court in the Preliminary Approval Order. Such notice fully and accurately informed the Settlement Class members of all material elements of the proposed Settlement and of their opportunity to object or comment thereon or to exclude themselves from the Settlement; provided Settlement Class Members adequate instructions and a variety of means to obtain additional information; was the best notice practicable under the circumstances; was valid, due, and sufficient notice to all Settlement Class members; and complied fully with the laws of the State of Illinois, Federal Rules of Civil Procedure, the United States Constitution, due process, and other applicable law.*

**Judge James Lawrence King, *Steen v. Capital One, N.A.*** (May 22, 2015) No. 2:10-cv-01505-JCZ-KWR (E.D. La.) and No. 1:10-cv-22058-JLK (S.D. Fla.) as part of ***In Re: Checking Account Overdraft Litigation***, MDL 2036 (S.D. Fla.)

*The Court finds that the Settlement Class Members were provided with the best practicable notice; the notice was reasonably calculated, under [the] circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Shutts, 472 U.S. at 812 (quoting Mullane, 339 U.S. at 314-15). This Settlement with Capital One was widely publicized, and any Settlement Class Member who wished to express comments or objections had ample opportunity and means to do so. Azari Decl. ¶¶ 30-39.*

**Judge Rya W. Zobel, *Gulbankian et al. v. MW Manufacturers, Inc.***, (December 29, 2014) No. 1:10-cv-10392-RWZ (D. Mass.):

*This Court finds that the Class Notice was provided to the Settlement Class consistent with the Preliminary Approval Order and that it was the best notice practicable and fully satisfied the requirements of the Federal Rules of Civil Procedure, due process, and applicable law. The Court finds that the Notice Plan that was implemented by the Claims Administrator satisfies the requirements of FED. R. CIV. P. 23, 28 U.S.C. § 1715, and Due Process, and is the best notice practicable under the circumstances. The Notice Plan constituted due and sufficient notice of the Settlement, the Final Approval Hearing, and the other matters referred to in the notices. Proof of the giving of such notices has been filed with the Court via the Azari Declaration and its exhibits.*

**Judge Edward J. Davila, *Rose v. Bank of America Corporation, and FIA Card Services, N.A.***, (August 29, 2014) No. 5:11-CV-02390-EJD; 5:12-CV-04009-EJD (N.D. Cal.):

*The Court finds that the notice was reasonably calculated under the circumstances to apprise the Settlement Class of the pendency of this action, all material elements of the Settlement, the opportunity for Settlement Class Members to exclude themselves from, object to, or comment on the settlement and to appear at the final approval hearing. The notice was the best notice practicable under the circumstances, satisfying the requirements of Rule 23(c)(2)(B); provided notice in a reasonable manner to all class members, satisfying Rule 23(e)(1)(B); was adequate and sufficient notice to all Class Members; and, complied fully with the laws of the United States and of the Federal Rules of Civil Procedure, due process and any other applicable rules of court.*

**Judge James A. Robertson, II, *Wong et al. v. Alacer Corp.*** (June 27, 2014) No. CGC-12-519221 (Cal. Super. Ct.):

*Notice to the Settlement Class has been provided in accordance with the Preliminary Approval Order. Based on the Declaration of Cameron Azari dated March 7, 2014, such Class Notice has been provided in an adequate and sufficient manner, constitutes the best notice practicable under the circumstances and satisfies the requirements of California Civil Code Section 1781, California Civil Code of Civil Procedure Section 382, Rules 3.766 of the California Rules of Court, and due process.*

**Judge John Gleeson, *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation***, (December 13, 2013) No. 1:05-cv-03800 (E.D. NY.):

*The Class Administrator notified class members of the terms of the proposed settlement through a mailed notice and publication campaign that included more than 20 million mailings and publication in more than 400 publications. The notice here meets the requirements of due process and notice standards... The objectors' complaints provide no reason to conclude that the purposes and requirements of a notice to a class were not met here.*

**Judge Lance M. Africk, *Evans, et al. v. TIN, Inc., et al.*** (July 7, 2013) No. 2:11-cv-02067 (E.D. La.):

*The Court finds that the dissemination of the Class Notice... as described in Notice Agent Lauran Schultz's Declaration: (a) constituted the best practicable notice to Class Members under the circumstances; (b) constituted notice that was reasonably calculated, under the circumstances...; (c) constituted notice that was reasonable, due, adequate, and sufficient; and (d) constituted notice that fully satisfied all applicable legal requirements, including Rules 23(c)(2)(B) and (e)(1) of the Federal Rules of Civil Procedure, the United States Constitution (including Due Process Clause), the Rules of this Court, and any other applicable law, as well as complied with the Federal Judicial Center's illustrative class action notices.*

**Judge Edward M. Chen, *Marolda v. Symantec Corporation***, (April 5, 2013) No. 08-cv-05701 (N.D. Cal.):

*Approximately 3.9 million notices were delivered by email to class members, but only a very small percentage objected or opted out . . . The Court . . . concludes that notice of settlement to the class was adequate and satisfied all requirements of Federal Rule of Civil Procedure 23(e) and due process. Class members received direct notice by email, and additional notice was given by publication in numerous widely circulated publications as well as in numerous targeted publications. These were the best practicable means of informing class members of their rights and of the settlement's terms.*



**Judge Ann D. Montgomery, *In re Zurn Pex Plumbing Products Liability Litigation*,** (February 27, 2013) No. 0:08cv01958 (D. Minn.):

*The parties retained Hilsoft Notifications ("Hilsoft"), an experienced class-notice consultant, to design and carry out the notice plan. The form and content of the notices provided to the class were direct, understandable, and consistent with the "plain language" principles advanced by the Federal Judicial Center.*

*The notice plan's multi-faceted approach to providing notice to settlement class members whose identity is not known to the settling parties constitutes "the best notice [\*26] that is practicable under the circumstances" consistent with Rule 23(c)(2)(B).*

**Magistrate Judge Stewart, *Gessele et al. v. Jack in the Box, Inc.*,** (January 28, 2013) No. 3:10-cv-960 (D. Or.):

*Moreover, plaintiffs have submitted [a] declaration from Cameron Azari (docket #129), a nationally recognized notice expert, who attests that fashioning an effective joint notice is not unworkable or unduly confusing. Azari also provides a detailed analysis of how he would approach fashioning an effective notice in this case.*

**Judge Carl J. Barbier, *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*** (Medical Benefits Settlement), (January 11, 2013) MDL No. 2179 (E.D. La.):

*Through August 9, 2012, 366,242 individual notices had been sent to potential [Medical Benefits] Settlement Class Members by postal mail and 56,136 individual notices had been e-mailed. Only 10,700 mailings—or 3.3%—were known to be undeliverable. (Azari Decl. ¶¶ 8, 9.) Notice was also provided through an extensive schedule of local newspaper, radio, television and Internet placements, well-read consumer magazines, a national daily business newspaper, highly-trafficked websites, and Sunday local newspapers (via newspaper supplements). Notice was also provided in non-measured trade, business and specialty publications, African-American, Vietnamese, and Spanish language publications, and Cajun radio programming. The combined measurable paid print, television, radio, and Internet effort reached an estimated 95% of adults aged 18+ in the Gulf Coast region an average of 10.3 times each, and an estimated 83% of all adults in the United States aged 18+ an average of 4 times each. (Id. ¶¶ 8, 10.) All notice documents were designed to be clear, substantive, and informative. (Id. ¶ 5.)*

*The Court received no objections to the scope or content of the [Medical Benefits] Notice Program. (Azari Supp. Decl. ¶ 12.) The Court finds that the Notice and Notice Plan as implemented satisfied the best notice practicable standard of Rule 23(c) and, in accordance with Rule 23(e)(1), provided notice in a reasonable manner to Class Members who would be bound by the Settlement, including individual notice to all Class Members who could be identified through reasonable effort. Likewise, the Notice and Notice Plan satisfied the requirements of Due Process. The Court also finds the Notice and Notice Plan satisfied the requirements of CAFA.*

**Judge Carl J. Barbier, *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*** (Economic and Property Damages Settlement), (December 21, 2012) MDL No. 2179 (E.D. La.):

*The Court finds that the Class Notice and Class Notice Plan satisfied and continue to satisfy the applicable requirements of Federal Rule of Civil Procedure 23(c)(2)(b) and 23(e), the Class Action Fairness Act (28 U.S.C. § 1711 et seq.), and the Due Process Clause of the United States Constitution (U.S. Const., amend. V), constituting the best notice that is practicable under the circumstances of this litigation. The notice program surpassed the requirements of Due Process, Rule 23, and CAFA. Based on the factual elements of the Notice Program as detailed below, the Notice Program surpassed all of the requirements of Due Process, Rule 23, and CAFA.*

*The Notice Program, as duly implemented, surpasses other notice programs that Hilsoft Notifications has designed and executed with court approval. The Notice Program included notification to known or potential Class Members via postal mail and e-mail; an extensive schedule of local newspaper, radio, television and Internet placements, well-read consumer magazines, a national daily business newspaper, and Sunday local newspapers. Notice placements also appeared in non-measured trade, business, and specialty publications, African-American, Vietnamese, and Spanish language publications, and Cajun radio programming. The Notice Program met the objective of reaching the greatest possible number of class members and providing them with every reasonable opportunity to understand their legal rights. See Azari Decl. ¶¶ 8, 15, 68. The*

Notice Program was substantially completed on July 15, 2012, allowing class members adequate time to make decisions before the opt-out and objections deadlines.

The media notice effort alone reached an estimated 95% of adults in the Gulf region an average of 10.3 times each, and an estimated 83% of all adults in the United States an average of 4 times each. These figures do not include notice efforts that cannot be measured, such as advertisements in trade publications and sponsored search engine listings. The Notice Program fairly and adequately covered and notified the class without excluding any demographic group or geographic area, and it exceeded the reach percentage achieved in most other court-approved notice programs.

**Judge Alonzo Harris, Opelousas General Hospital Authority, A Public Trust, D/B/A Opelousas General Health System and Arklamiss Surgery Center, L.L.C. v. FairPay Solutions, Inc.**, (August 17, 2012) No. 12-C-1599 (27<sup>th</sup> Jud. D. Ct. La.):

Notice given to Class Members and all other interested parties pursuant to this Court's order of April 18, 2012, was reasonably calculated to apprise interested parties of the pendency of the action, the certification of the Class as Defined for settlement purposes only, the terms of the Settlement Agreement, Class Members rights to be represented by private counsel, at their own costs, and Class Members rights to appear in Court to have their objections heard, and to afford persons or entities within the Class Definition an opportunity to exclude themselves from the Class. Such notice complied with all requirements of the federal and state constitutions, including the Due Process Clause, and applicable articles of the Louisiana Code of Civil Procedure, and constituted the best notice practicable under the circumstances and constituted due and sufficient notice to all potential members of the Class as Defined.

**Judge James Lawrence King, In re Checking Account Overdraft Litigation (IBERIABANK)**, (April 26, 2012) MDL No. 2036 (S.D. Fla):

The Court finds that the Notice previously approved was fully and properly effectuated and was sufficient to satisfy the requirements of due process because it described "the substantive claims . . . [and] contained information reasonably necessary to [allow Settlement Class Members to] make a decision to remain a class member and be bound by the final judgment." *In re Nissan Motor Corp. Antitrust Litig.*, 552 F.2d 1088, 1104-05 (5th Cir. 1977). The Notice, among other things, defined the Settlement Class, described the release as well as the amount and method and manner of proposed distribution of the Settlement proceeds, and informed Settlement Class Members of their rights to opt-out or object, the procedures for doing so, and the time and place of the Final Approval Hearing. The Notice also informed Settlement Class Members that a class judgment would bind them unless they opted out, and told them where they could obtain more information, such as access to a full copy of the Agreement. Further, the Notice described in summary form the fact that Class Counsel would be seeking attorneys' fees of up to 30 percent of the Settlement. Settlement Class Members were provided with the best practicable notice "reasonably calculated, under [the] circumstances, to apprise them of the pendency of the action and afford them an opportunity to present their objections." *Mullane*, 339 U.S. at 314. The content of the Notice fully complied with the requirements of Rule 23.

**Judge Bobby Peters, Vereen v. Lowe's Home Centers**, (April 13, 2012) SU10-CV-2267B (Ga. Super. Ct.):

The Court finds that the Notice and the Notice Plan was fulfilled, in accordance with the terms of the Settlement Agreement, the Amendment, and this Court's Preliminary Approval Order and that this Notice and Notice Plan constituted the best practicable notice to Class Members under the circumstances of this action, constituted due and sufficient Notice of the proposed Settlement to all persons entitled to participate in the proposed Settlement, and was in full compliance with Ga. Code Ann § 9-11-23 and the constitutional requirements of due process. Extensive notice was provided to the class, including point of sale notification, publication notice and notice by first-class mail for certain potential Class Members.

The affidavit of the notice expert conclusively supports this Court's finding that the notice program was adequate, appropriate, and comported with Georgia Code Ann. § 9-11-23(b)(2), the Due Process Clause of the Constitution, and the guidance for effective notice articulate in the FJC's Manual for Complex Litigation, 4<sup>th</sup>.

**Judge Lee Rosenthal, *In re Heartland Payment Systems, Inc. Customer Data Security Breach Litigation*,** (March 2, 2012) MDL No. 2046 (S.D. Tex.):

*The notice that has been given clearly complies with Rule 23(e)(1)'s reasonableness requirement... Hilsoft Notifications analyzed the notice plan after its implementation and conservatively estimated that notice reached 81.4 percent of the class members. (Docket Entry No. 106, ¶ 32). Both the summary notice and the detailed notice provided the information reasonably necessary for the presumptive class members to determine whether to object to the proposed settlement. See Katrina Canal Breaches, 628 F.3d at 197. Both the summary notice and the detailed notice "were written in easy-to-understand plain English." In re Black Farmers Discrimination Litig., — F. Supp. 2d —, 2011 WL 5117058, at \*23 (D.D.C. 2011); accord AGGREGATE LITIGATION § 3.04(c).15 The notice provided "satisf[ies] the broad reasonableness standards imposed by due process" and Rule 23. Katrina Canal Breaches, 628 F.3d at 197.*

**Judge John D. Bates, *Trombley v. National City Bank*,** (December 1, 2011) No. 1:10-CV-00232 (D.D.C.) as part of ***In Re: Checking Account Overdraft Litigation***, MDL 2036 (S.D. Fla.):

*The form, content, and method of dissemination of Notice given to the Settlement Class were in full compliance with the Court's January 11, 2011 Order, the requirements of Fed. R. Civ. P. 23(e), and due process. The notice was adequate and reasonable, and constituted the best notice practicable under the circumstances. In addition, adequate notice of the proceedings and an opportunity to participate in the final fairness hearing were provided to the Settlement Class.*

**Judge Robert M. Dow, Jr., *Schulte v. Fifth Third Bank*,** (July 29, 2011) No. 1:09-cv-6655 (N.D. Ill.):

*The Court has reviewed the content of all of the various notices, as well as the manner in which Notice was disseminated, and concludes that the Notice given to the Class fully complied with Federal Rule of Civil Procedure 23, as it was the best notice practicable, satisfied all constitutional due process concerns, and provided the Court with jurisdiction over the absent Class Members.*

**Judge Ellis J. Daigle, *Williams v. Hammerman & Gainer Inc.*,** (June 30, 2011) No. 11-C-3187-B (27th Jud. D. Ct. La.):

*Notices given to Settlement Class members and all other interested parties throughout this proceeding with respect to the certification of the Settlement Class, the proposed settlement, and all related procedures and hearings—including, without limitation, the notice to putative Settlement Class members and others more fully described in this Court's order of 30<sup>th</sup> day of March 2011 were reasonably calculated under all the circumstances and have been sufficient, as to form, content, and manner of dissemination, to apprise interested parties and members of the Settlement Class of the pendency of the action, the certification of the Settlement Class, the Settlement Agreement and its contents, Settlement Class members' right to be represented by private counsel, at their own cost, and Settlement Class members' right to appear in Court to have their objections heard, and to afford Settlement Class members an opportunity to exclude themselves from the Settlement Class. Such notices complied with all requirements of the federal and state constitutions, including the due process clause, and applicable articles of the Louisiana Code of Civil Procedures, and constituted the best notice practicable under the circumstances and constituted due and sufficient notice to all potential members of the Settlement Class.*

**Judge Stefan R. Underhill, *Mathena v. Webster Bank, N.A.*,** (March 24, 2011) No. 3:10-cv-1448 (D. Conn.) as part of ***In Re: Checking Account Overdraft Litigation***, MDL 2036 (S.D. Fla.):

*The form, content, and method of dissemination of Notice given to the Settlement Class were adequate and reasonable, and constituted the best notice practicable under the circumstances. The Notice, as given, provided valid, due, and sufficient notice of the proposed settlement, the terms and conditions set forth in the Settlement Agreement, and these proceedings to all persons entitled to such notice, and said notice fully satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process.*

**Judge Ted Stewart, *Miller v. Basic Research, LLC*,** (September 2, 2010) No. 2:07-cv-871 (D. Utah):

*Plaintiffs state that they have hired a firm specializing in designing and implementing large scale, unbiased, legal notification plans. Plaintiffs represent to the Court that such notice will include: 1) individual notice by electronic mail and/or first-class mail sent to all reasonably identifiable Class members; 2) nationwide paid media notice through a combination of print publications, including newspapers, consumer magazines, newspaper supplements and the Internet; 3) a neutral, Court-approved, informational press release; 4) a*

*neutral, Court-approved Internet website; and 5) a toll-free telephone number. Similar mixed media plans have been approved by other district courts post class certification. The Court finds this plan is sufficient to meet the notice requirement.*

**Judge Sara Loi, *Pavlov v. Continental Casualty Co.***, (October 7, 2009) No. 5:07cv2580 (N.D. Ohio):

*As previously set forth in this Memorandum Opinion, the elaborate notice program contained in the Settlement Agreement provides for notice through a variety of means, including direct mail to each class member, notice to the United States Attorney General and each State, a toll free number, and a website designed to provide information about the settlement and instructions on submitting claims. With a 99.9% effective rate, the Court finds that the notice program constituted the "best notice that is practicable under the circumstances," Fed. R. Civ. P. 23(c)(2)(B), and clearly satisfies the requirements of Rule 23(c)(2)(B).*

**Judge James Robertson, *In re Department of Veterans Affairs (VA) Data Theft Litigation***, (September 23, 2009) MDL No. 1796 (D.D.C.):

*The Notice Plan, as implemented, satisfied the requirements of due process and was the best notice practicable under the circumstances. The Notice Plan was reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the action, the terms of the Settlement, and their right to appear, object to or exclude themselves from the Settlement. Further, the notice was reasonable and constituted due, adequate and sufficient notice to all persons entitled to receive notice.*

**Judge Lisa F. Chrystal, *Little v. Kia Motors America, Inc.***, (August 27, 2009) No. UNN-L-0800-01 (N.J. Super. Ct.):

*The Court finds that the manner and content of the notices for direct mailing and for publication notice, as specified in the Notice Plan (Exhibit 2 to the Affidavit of Lauran R. Schultz), provides the best practicable notice of judgment to members of the Plaintiff Class.*

**Judge Barbara Crowder, *Dolen v. ABN AMRO Bank N.V.***, (March 23, 2009) No. 01-L-454, 01-L-493 (3rd Jud. Cir. Ill.):

*The Court finds that the Notice Plan is the best notice practicable under the circumstances and provides the Eligible Members of the Settlement Class sufficient information to make informed and meaningful decisions regarding their options in this Litigation and the effect of the Settlement on their rights. The Notice Plan further satisfies the requirements of due process and 735 ILCS 5/2-803. That Notice Plan is approved and accepted. This Court further finds that the Notice of Settlement and Claim Form comply with 735 ILCS 5/2-803 and are appropriate as part of the Notice Plan and the Settlement, and thus they are hereby approved and adopted. This Court further finds that no other notice other than that identified in the Notice Plan is reasonably necessary in this Litigation.*

**Judge Robert W. Gettleman, *In re Trans Union Corp.***, (September 17, 2008) MDL No. 1350 (N.D. Ill.):

*The Court finds that the dissemination of the Class Notice under the terms and in the format provided for in its Preliminary Approval Order constitutes the best notice practicable under the circumstances, is due and sufficient notice for all purposes to all persons entitled to such notice, and fully satisfies the requirements of the Federal Rules of Civil Procedure, the requirements of due process under the Constitution of the United States, and any other applicable law... Accordingly, all objections are hereby OVERRULED.*

**Judge Steven D. Merryday, *Lockwood v. Certegy Check Services, Inc.***, (September 3, 2008) No. 8:07-cv-1434-T-23TGW (M.D. Fla.):

*The form, content, and method of dissemination of the notice given to the Settlement Class were adequate and reasonable and constituted the best notice practicable in the circumstances. The notice as given provided valid, due, and sufficient notice of the proposed settlement, the terms and conditions of the Settlement Agreement, and these proceedings to all persons entitled to such notice, and the notice satisfied the requirements of Rule 23, Federal Rules of Civil Procedure, and due process.*

**Judge William G. Young, *In re TJX Companies***, (September 2, 2008) MDL No. 1838 (D. Mass.):

*The form, content, and method of dissemination of notice provided to the Settlement Class were adequate and reasonable, and constituted the best notice practicable under the circumstances. The Notice, as given, provided valid, due, and sufficient notice of the proposed settlement, the terms and conditions set forth in*



*the Settlement Agreement, and these proceedings to all Persons entitled to such notice, and said Notice fully satisfied the requirements of Fed. R. Civ. P. 23 and due process.*

**Judge Philip S. Gutierrez, *Shaffer v. Continental Casualty Co.*,** (June 11, 2008) SACV-06-2235-PSG (PJWx) (C.D. Cal.):

*...was reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice; and met all applicable requirements of the Federal Rules of Civil Procedure, the Class Action Fairness Act, the United States Constitution (including the Due Process Clauses), the Rules of the Court, and any other applicable law.*

**Judge Robert L. Wyatt, *Gunderson v. AIG Claim Services, Inc.*,** (May 29, 2008) No. 2004-002417 (14th Jud. D. Ct. La.):

*Notices given to Settlement Class members...were reasonably calculated under all the circumstances and have been sufficient, as to form, content, and manner of dissemination...Such notices complied with all requirements of the federal and state constitutions, including the due process clause, and applicable articles of the Louisiana Code of Civil Procedure, and constituted the best notice practicable under the circumstances and constituted due and sufficient notice to all potential members of the Settlement Class.*

**Judge Mary Anne Mason, *Palace v. DaimlerChrysler Corp.*,** (May 29, 2008) No. 01-CH-13168 (Ill. Cir. Ct.):

*The form, content, and method of dissemination of the notice given to the Illinois class and to the Illinois Settlement Class were adequate and reasonable, and constituted the best notice practicable under the circumstances. The notice, as given, provided valid, due, and sufficient notice of the proposed Settlement, the terms and conditions set forth in the Settlement Agreement, and these proceedings, to all Persons entitled to such notice, and said notice fully satisfied the requirements of due process and complied with 735 ILCS §§5/2-803 and 5/2-806.*

**Judge David De Alba, *Ford Explorer Cases*,** (May 29, 2008) JCCP Nos. 4226 & 4270 (Cal. Super. Ct.):

*[T]he Court is satisfied that the notice plan, design, implementation, costs, reach, were all reasonable, and has no reservations about the notice to those in this state and those in other states as well, including Texas, Connecticut, and Illinois; that the plan that was approved—submitted and approved, comports with the fundamentals of due process as described in the case law that was offered by counsel.*

**Judge Kirk D. Johnson, *Webb v. Liberty Mutual Ins. Co.*,** (March 3, 2008) No. CV-2007-418-3 (Ark. Cir. Ct.):

*The Court finds that there was minimal opposition to the settlement. After undertaking an extensive notice campaign to Class members of approximately 10,707 persons, mailed notice reached 92.5% of potential Class members.*

**Judge Carol Crafton Anthony, *Johnson v. Progressive Casualty Ins. Co.*,** (December 6, 2007) No. CV-2003-513 (Ark. Cir. Ct.):

*Notice of the Settlement Class was constitutionally adequate, both in terms of its substance and the manner in which it was disseminated...Notice was direct mailed to all Class members whose current whereabouts could be identified by reasonable effort. Notice reached a large majority of the Class members. The Court finds that such notice constitutes the best notice practicable...The forms of Notice and Notice Plan satisfy all of the requirements of Arkansas law and due process.*

**Judge Kirk D. Johnson, *Sweeten v. American Empire Insurance Co.*,** (August 20, 2007) No. CV-2007-154-3 (Ark. Cir. Ct.):

*The Court does find that all notices required by the Court to be given to class members was done within the time allowed and the manner best calculated to give notice and apprise all the interested parties of the litigation. It was done through individual notice, first class mail, through internet website and the toll-free telephone call center...The Court does find that these methods were the best possible methods to advise the class members of the pendency of the action and opportunity to present their objections and finds that these notices do comply with all the provisions of Rule 23 and the Arkansas and United States Constitutions.*

**Judge Robert Wyatt, *Gunderson v. F.A. Richard & Associates, Inc.***, (July 19, 2007) No. 2004-2417-D (14th Jud. D. Ct. La.):

*This is the final Order and Judgment regarding the fairness, reasonableness and adequacy. And I am satisfied in all respects regarding the presentation that's been made to the Court this morning in the Class memberships, the representation, the notice, and all other aspects and I'm signing that Order at this time.*

**Judge Lewis A. Kaplan, *In re Parmalat Securities Litigation***, (July 19, 2007) MDL No. 1653-LAK (S.D.N.Y.):

*The Court finds that the distribution of the Notice, the publication of the Publication Notice, and the notice methodology...met all applicable requirements of the Federal Rules of Civil Procedure, the United States Constitution, (including the Due Process clause), the Private Securities Litigation Reform Act of 1995 (15 U.S.C. 78u-4, et seq.) (the "PSLRA"), the Rules of the Court, and any other applicable law.*

**Judge Joe Griffin, *Beasley v. The Reliable Life Insurance Co.***, (March 29, 2007) No. CV-2005-58-1 (Ark. Cir. Ct.):

*[T]he Court has, pursuant to the testimony regarding the notification requirements, that were specified and adopted by this Court, has been satisfied and that they meet the requirements of due process. They are fair, reasonable, and adequate. I think the method of notification certainly meets the requirements of due process...So the Court finds that the notification that was used for making the potential class members aware of this litigation and the method of filing their claims, if they chose to do so, all those are clear and concise and meet the plain language requirements and those are completely satisfied as far as this Court is concerned in this matter.*

**Judge Lewis A. Kaplan, *In re Parmalat Securities Litigation***, (March 1, 2007) MDL No. 1653-LAK (S.D.N.Y.):

*The court approves, as to form and content, the Notice and the Publication Notice, attached hereto as Exhibits 1 and 2, respectively, and finds that the mailing and distribution of the Notice and the publication of the Publication Notice in the manner and the form set forth in Paragraph 6 of this Order...meet the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Securities Exchange Act of 1934, as amended by Section 21D(a)(7) of the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4(a)(7), and due process, and is the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons and entities entitled thereto.*

**Judge Anna J. Brown, *Reynolds v. The Hartford Financial Services Group, Inc.***, (February 27, 2007) No. CV-01-1529-BR (D. Or):

*[T]he court finds that the Notice Program fairly, fully, accurately, and adequately advised members of the Settlement Class and each Settlement Subclass of all relevant and material information concerning the proposed settlement of this action, their rights under Rule 23 of the Federal Rules of Civil Procedure, and related matters, and afforded the Settlement Class with adequate time and an opportunity to file objections to the Settlement or request exclusion from the Settlement Class. The court finds that the Notice Program constituted the best notice practicable under the circumstances and fully satisfied the requirements of Rule 23 and due process.*

**Judge Kirk D. Johnson, *Zarebski v. Hartford Insurance Company of the Midwest***, (February 13, 2007) No. CV-2006-409-3 (Ark. Cir. Ct.):

*Based on the Court's review of the evidence admitted and argument of counsel, the Court finds and concludes that the Class Notice, as disseminated to members of the Settlement Class in accordance with provisions of the Preliminary Approval Order, was the best notice practicable under the circumstances to all members of the Settlement Class. Accordingly, the Class Notice and Claim Form as disseminated are finally approved as fair, reasonable, and adequate notice under the circumstances. The Court finds and concludes that due and adequate notice of the pendency of this Action, the Stipulation, and the Final Settlement Hearing has been provided to members of the Settlement Class, and the Court further finds and concludes that the notice campaign described in the Preliminary Approval Order and completed by the parties complied fully with the requirements of Arkansas Rule of Civil Procedure 23 and the requirements of due process under the Arkansas and United States Constitutions.*

**Judge Richard J. Holwell, *In re Vivendi Universal, S.A. Securities Litigation***, 2007 WL 1490466, at \*34 (S.D.N.Y.):

*In response to defendants' manageability concerns, plaintiffs have filed a comprehensive affidavit outlining the effectiveness of its proposed method of providing notice in foreign countries. According to this...the*

*Court is satisfied that plaintiffs intend to provide individual notice to those class members whose names and addresses are ascertainable, and that plaintiffs' proposed form of publication notice, while complex, will prove both manageable and the best means practicable of providing notice.*

**Judge Samuel Conti, *Ciabattari v. Toyota Motor Sales, U.S.A., Inc.***, (November 17, 2006) No. C-05-04289-SC (N.D. Cal.):

*After reviewing the evidence and arguments presented by the parties...the Court finds as follows...The class members were given the best notice practicable under the circumstances, and that such notice meets the requirements of the Due Process Clause of the U.S. Constitution, and all applicable statutes and rules of court.*

**Judge Ivan L.R. Lemelle, *In re High Sulfur Content Gasoline Prods. Liability Litigation***, (November 8, 2006) MDL No. 1632 (E.D. La.):

*This Court approved a carefully-worded Notice Plan, which was developed with the assistance of a nationally-recognized notice expert, Hilsoft Notifications...The Notice Plan for this Class Settlement was consistent with the best practices developed for modern-style "plain English" class notices; the Court and Settling Parties invested substantial effort to ensure notice to persons displaced by the Hurricanes of 2005; and as this Court has already determined, the Notice Plan met the requirements of Rule 23 and constitutional due process.*

**Judge Catherine C. Blake, *In re Royal Ahold Securities and "ERISA" Litigation***, (November 2, 2006) MDL No. 1539 (D. Md.):

*The global aspect of the case raised additional practical and legal complexities, as did the parallel criminal proceedings in another district. The settlement obtained is among the largest cash settlements ever in a securities class action case and represents an estimated 40% recovery of possible provable damages. The notice process appears to have been very successful not only in reaching but also in eliciting claims from a substantial percentage of those eligible for recovery.*

**Judge Elaine E. Bucklo, *Carnegie v. Household International***, (August 28, 2006) No. 98 C 2178 (N.D. Ill.):

*[T]he Notice was disseminated pursuant to a plan consisting of first class mail and publication developed by Plaintiff's notice consultant, Hilsoft Notification[s]...who the Court recognized as experts in the design of notice plans in class actions. The Notice by first-class mail and publication was provided in an adequate and sufficient manner; constitutes the best notice practicable under the circumstances; and satisfies all requirements of Rule 23(e) and due process.*

**Judge Joe E. Griffin, *Beasley v. Hartford Insurance Company of the Midwest***, (June 13, 2006) No. CV-2005-58-1 (Ark. Cir. Ct.):

*Based on the Court's review of the evidence admitted and argument of counsel, the Court finds and concludes that the Individual Notice and the Publication Notice, as disseminated to members of the Settlement Class in accordance with provisions of the Preliminarily Approval Order, was the best notice practicable under the circumstances...and the requirements of due process under the Arkansas and United States Constitutions.*

**Judge Norma L. Shapiro, *First State Orthopedics et al. v. Concentra, Inc., et al.***, (May 1, 2006) No. 2:05-CV-04951-NS (E.D. Pa.):

*The Court finds that dissemination of the Mailed Notice, Published Notice and Full Notice in the manner set forth here and in the Settlement Agreement meets the requirements of due process and Pennsylvania law. The Court further finds that the notice is reasonable, and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice, is the best practicable notice; and is reasonably calculated, under the circumstances, to apprise members of the Settlement Class of the pendency of the Lawsuit and of their right to object or to exclude themselves from the proposed settlement.*



**Judge Thomas M. Hart, *Froeber v. Liberty Mutual Fire Ins. Co.***, (April 19, 2006) No. 00C15234 (Or. Cir. Ct.):

*The court has found and now reaffirms that dissemination and publication of the Class Notice in accordance with the terms of the Third Amended Order constitutes the best notice practicable under the circumstances.*

**Judge Catherine C. Blake, *In re Royal Ahold Securities and "ERISA" Litigation***, (January 6, 2006) MDL No. 1539 (D. Md.):

*I think it's remarkable, as I indicated briefly before, given the breadth and scope of the proposed Class, the global nature of the Class, frankly, that again, at least on a preliminary basis, and I will be getting a final report on this, that the Notice Plan that has been proposed seems very well, very well suited, both in terms of its plain language and in terms of its international reach, to do what I hope will be a very thorough and broad-ranging job of reaching as many of the shareholders, whether individual or institutional, as possibly can be done to participate in what I also preliminarily believe to be a fair, adequate and reasonable settlement.*

**Judge Catherine C. Blake, *In re Royal Ahold Securities & "ERISA" Litigation***, 437 F.Supp.2d 467, 472 (D. Md. 2006):

*The court hereby finds that the Notice and Notice Plan described herein and in the Order dated January 9, 2006 provided Class Members with the best notice practicable under the circumstances. The Notice provided due and adequate notice of these proceedings and the matters set forth herein, including the Settlement and Plan of Allocation, to all persons entitled to such notice, and the Notice fully satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process.*

**Judge Robert H. Wyatt, Jr., *Gray v. New Hampshire Indemnity Co., Inc.***, (December 19, 2005) No. CV-2002-952-2-3 (Ark. Cir. Ct.):

*Notice of the Settlement Class was constitutionally adequate, both in terms of its substance and the manner in which it was disseminated. The Notice contained the essential elements necessary to satisfy due process, including the Settlement Class definition, the identities of the Parties and of their counsel, a summary of the terms of the proposed settlement, Class Counsel's intent to apply for fees, information regarding the manner in which objections could be submitted, and requests for exclusions could be filed. The Notice properly informed Class members of the formula for the distribution of benefits under the settlement...Notice was direct mailed to all Class members whose current whereabouts could be identified by reasonable effort. Notice was also effected by publication in many newspapers and magazines throughout the nation, reaching a large majority of the Class members multiple times. The Court finds that such notice constitutes the best notice practicable.*

**Judge Michael J. O'Malley, *Defrates v. Hollywood Entm't Corp.***, (June 24, 2005) No. 02 L 707 (Ill. Cir. Ct.):

*[T]his Court hereby finds that the notice program described in the Preliminary Approval Order and completed by HEC complied fully with the requirements of due process, the Federal Rules of Civil Procedure and all other applicable laws.*

**Judge Wilford D. Carter, *Thibodeaux v. Conoco Phillips Co.***, (May 26, 2005) No. 2003-481 F (14<sup>th</sup> J.D. Ct. La.):

*Notice given to Class Members...were reasonably calculated under all the circumstances and have been sufficient, both as to the form and content...Such notices complied with all requirements of the federal and state constitutions, including the due process clause, and applicable articles of the Louisiana Code of Civil Procedure, and constituted the best notice practicable under the circumstances and constituted due process and sufficient notice to all potential members of the Class as Defined.*

**Judge Michael Canaday, *Morrow v. Conoco Inc.***, (May 25, 2005) No. 2002-3860 G (14<sup>th</sup> J.D. Ct. La.):

*The objections, if any, made to due process, constitutionality, procedures, and compliance with law, including, but not limited to, the adequacy of notice and the fairness of the proposed Settlement Agreement, lack merit and are hereby overruled.*

**Judge John R. Padova, *Nichols v. SmithKline Beecham Corp.***, (April 22, 2005) No. 00-6222 (E.D. Pa.):

*Pursuant to the Order dated October 18, 2004, End-Payor Plaintiffs employed Hilsoft Notifications to design*

and oversee Notice to the End-Payor Class. Hilsoft Notifications has extensive experience in class action notice situations relating to prescription drugs and cases in which unknown class members need to receive notice...After reviewing the individual mailed Notice, the publication Notices, the PSAs and the informational release, the Court concludes that the substance of the Notice provided to members of the End-Payor Class in this case was adequate to satisfy the concerns of due process and the Federal Rules.

**Judge Douglas Combs, *Morris v. Liberty Mutual Fire Ins. Co.***, (February 22, 2005) No. CJ-03-714 (D. Okla.):

*I am very impressed that the notice was able to reach – be delivered to 97 ½ percent members of the class. That, to me, is admirable. And I’m also – at the time that this was initially entered, I was concerned about the ability of notice to be understood by a common, nonlawyer person, when we talk about legalese in a court setting. In this particular notice, not only the summary notice but even the long form of the notice were easily understandable, for somebody who could read the English language, to tell them whether or not they had the opportunity to file a claim.*

**Judge Joseph R. Goodwin, *In re Serzone Products Liability Litigation***, 231 F.R.D. 221, 231 (S.D. W. Va. 2005):

*The Notice Plan was drafted by Hilsoft Notifications, a Pennsylvania firm specializing in designing, developing, analyzing and implementing large-scale, unbiased legal notification plans. Hilsoft has disseminated class action notices in more than 150 cases, and it designed the model notices currently displayed on the Federal Judicial Center’s website as a template for others to follow...To enhance consumer exposure, Hilsoft studied the demographics and readership of publications among adults who used a prescription drug for depression in the last twelve months. Consequently, Hilsoft chose to utilize media particularly targeting women due to their greater incidence of depression and heavy usage of the medication.*

**Judge Richard G. Stearns, *In re Lupron® Marketing and Sales Practice Litigation***, (November 24, 2004) MDL No. 1430 (D. Mass.):

*After review of the proposed Notice Plan designed by Hilsoft Notifications...is hereby found to be the best practicable notice under the circumstances and, when completed, shall constitute due and sufficient notice of the Settlement and the Fairness Hearing to all persons and entities affected by and/or entitled to participate in the Settlement, in full compliance with the notice requirements of Rule 23 the Federal Rules of Civil Procedure and due process.*

**Judge Richard G. Stearns, *In re Lupron® Marketing and Sales Practice Litigation***, (November 23, 2004) MDL No. 1430 (D. Mass.):

*I actually find the [notice] plan as proposed to be comprehensive and extremely sophisticated and very likely be as comprehensive as any plan of its kind could be in reaching those most directly affected.*

**Judge James S. Moody, Jr., *Mantzouris v. Scarritt Motor Group Inc.***, (August 10, 2004) No. 8:03 CV- 0015-T-30 MSS (M.D. Fla.):

*Due and adequate notice of the proceedings having been given and a full opportunity having been offered to the members of the Class to participate in the Settlement Hearing, or object to the certification of the Class and the Agreement, it is hereby determined that all members of the Class, except for Ms. Gwendolyn Thompson, who was the sole person opting out of the Settlement Agreement, are bound by this Order and Final Judgment entered herein.*

**Judge Robert E. Payne, *Fisher v. Virginia Electric & Power Co.***, (July 1, 2004) No. 3:02CV431 (E.D. Va.):

*The record here shows that the class members have been fully and fairly notified of the existence of the class action, of the issues in it, of the approaches taken by each side in it in such a way as to inform meaningfully those whose rights are affected and to thereby enable them to exercise their rights intelligently...The success rate in notifying the class is, I believe, at least in my experience, I share Ms. Kauffman’s experience, it is as great as I have ever seen in practicing or serving in this job...So I don’t believe we could have had any more effective notice.*

**Judge John Kraetzer, *Baiz v. Mountain View Cemetery***, (April 14, 2004) No. 809869-2 (Cal. Super. Ct.):

*The notice program was timely completed, complied with California Government Code section 6064, and*

*provided the best practicable notice to all members of the Settlement Class under the circumstances. The Court finds that the notice program provided class members with adequate instructions and a variety of means to obtain information pertaining to their rights and obligations under the settlement so that a full opportunity has been afforded to class members and all other persons wishing to be heard...The Court has determined that the Notice given to potential members of the Settlement Class fully and accurately informed potential Members of the Settlement Class of all material elements of the proposed settlement and constituted valid, due, and sufficient notice to all potential members of the Settlement Class, and that it constituted the best practicable notice under the circumstances.*

**Hospitality Mgmt. Assoc., Inc. v. Shell Oil Co.**, 356 S.C. 644, 663, 591 S.E.2d 611, 621 (Sup. Ct. S.C. 2004):

*Clearly, the Cox court designed and utilized various procedural safeguards to guarantee sufficient notice under the circumstances. Pursuant to a limited scope of review, we need go no further in deciding the Cox court's findings that notice met due process are entitled to deference.*

**Judge Joseph R. Goodwin, In re Serzone Prods. Liability Litigation**, 2004 U.S. Dist. LEXIS 28297, at \*10 (S.D. W. Va.):

*The Court has considered the Notice Plan and proposed forms of Notice and Summary Notice submitted with the Memorandum for Preliminary Approval and finds that the forms and manner of notice proposed by Plaintiffs and approved herein meet the requirements of due process and Fed.R.Civ.P. 23(c) and (e), are the best notice practicable under the circumstances, constitute sufficient notice to all persons entitled to notice, and satisfy the Constitutional requirements of notice.*

**Judge James D. Arnold, Cotten v. Ferman Mgmt. Servs. Corp.**, (November 26, 2003) No. 02-08115 (Fla. Cir. Ct.):

*Due and adequate notice of the proceedings having been given and a full opportunity having been offered to the member of the Class to participate in the Settlement Hearing, or object to the certification of the Class and the Agreement...*

**Judge Judith K. Fitzgerald, In re Pittsburgh Corning Corp.**, (November 26, 2003) No. 00-22876-JKF (Bankr.W.D. Pa.):

*The procedures and form of notice for notifying the holders of Asbestos PI Trust Claims, as described in the Motion, adequately protect the interests of the holders of Asbestos PI Trust Claims in a manner consistent with the principles of due process, and satisfy the applicable requirements of the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure.*

**Judge Carter Holly, Richison v. American Cemwood Corp.**, (November 18, 2003) No. 005532 (Cal. Super. Ct.):

*As to the forms of Notice, the Court finds and concludes that they fully apprised the Class members of the pendency of the litigation, the terms of the Phase 2 Settlement, and Class members' rights and options...Not a single Class member—out of an estimated 30,000—objected to the terms of the Phase 2 Settlement Agreement, notwithstanding a comprehensive national Notice campaign, via direct mail and publication Notice...The notice was reasonable and the best notice practicable under the circumstances, was due, adequate, and sufficient notice to all Class members, and complied fully with the laws of the State of California, the Code of Civil Procedure, due process, and California Rules of Court 1859 and 1860.*

**Judge Thomas A. Higgins, In re Columbia/HCA Healthcare Corp.**, (June 13, 2003) MDL No. 1227 (M.D. Tenn.):

*Notice of the settlement has been given in an adequate and sufficient manner. The notice provided by mailing the settlement notice to certain class members and publishing notice in the manner described in the settlement was the best practicable notice, complying in all respects with the requirements of due process.*

**Judge Harold Baer, Jr., Thompson v. Metropolitan Life Ins. Co.**, 216 F.R.D. 55, 68 (S.D.N.Y. 2003):

*In view of the extensive notice campaign waged by the defendant, the extremely small number of class members objecting or requesting exclusion from the settlement is a clear sign of strong support for the settlement...The notice provides, in language easily understandable to a lay person, the essential terms of the settlement, including the claims asserted...who would be covered by the settlement...[T]he notice campaign that defendant agreed to undertake was extensive...I am satisfied, having reviewed the contents of the notice package, and the extensive steps taken to disseminate notice of the settlement, that the class*

*notice complies with the requirements of Rule 23 (c)(2) and 23(e). In summary, I have reviewed all of the objections, and none persuade me to conclude that the proposed settlement is unfair, inadequate or unreasonable.*

**Judge Edgar E. Bayley, *Dimitrios v. CVS, Inc.***, (November 27, 2002) No. 99-6209; ***Walker v. Rite Aid Corp.***, No. 99-6210; and ***Myers v. Rite Aid Corp.***, No. 01-2771 (Pa. Ct. C.P.):

*The Court specifically finds that: fair and adequate notice has been given to the class, which comports with due process of law.*

**Judge Dewey C. Whinton, *Ervin v. Movie Gallery, Inc.***, (November 22, 2002) No. 13007 (Tenn. Ch.):

*The content of the class notice also satisfied all due process standards and state law requirements...The content of the notice was more than adequate to enable class members to make an informed and intelligent choice about remaining in the class or opting out of the class.*

**Judge James R. Williamson, *Kline v. The Progressive Corp.***, (November 14, 2002) No. 01-L-6 (Ill. Cir. Ct.):

*Notice to the Settlement Class was constitutionally adequate, both in terms of its substance and the manner in which it was disseminated. The notice contained the essential elements necessary to satisfy due process...*

**Judge Marina Corodemus, *Talalai v. Cooper Tire & Rubber Co.***, (September 13, 2002) No. L-008830.00 (N.J. Super. Ct.):

*Here, the comprehensive bilingual, English and Spanish, court-approved Notice Plan provided by the terms of the settlement meets due process requirements. The Notice Plan used a variety of methods to reach potential class members. For example, short form notices for print media were placed...throughout the United States and in major national consumer publications which include the most widely read publications among Cooper Tire owner demographic groups.*

**Judge Harold Baer, Jr., *Thompson v. Metropolitan Life Ins. Co.***, (September 3, 2002) No. 00 Civ. 5071-HB (S.D.N.Y.):

*The Court further finds that the Class Notice and Publication Notice provided in the Settlement Agreement are written in plain English and are readily understandable by Class Members. In sum, the Court finds that the proposed notice texts and methodology are reasonable, that they constitute due, adequate and sufficient notice to all persons entitled to be provided with notice, and that they meet the requirements of the Federal Rules of Civil Procedure (including Fed. R. Civ. P. 23(c)(2) and (e)), the United States Constitution (including the Due Process Clause), the Rules of the Court, and any other applicable law.*

**Judge Milton Gunn Shuffield, *Scott v. Blockbuster Inc.***, (January 22, 2002) No. D 162-535 (Tex. Jud. Dist. Ct.) ultimately withstood challenge to Court of Appeals of Texas. *Peters v. Blockbuster* 65 S.W.3d 295, 307 (Tex. App.-Beaumont, 2001):

*In order to maximize the efficiency of the notice, a professional concern, Hilsoft Notifications, was retained. This Court concludes that the notice campaign was the best practicable, reasonably calculated, under all the circumstances, to apprise interested parties of the settlement and afford them an opportunity to present their objections...The notice campaign was highly successful and effective, and it more than satisfied the due process and state law requirements for class notice.*

**Judge Marina Corodemus, *Talalai v. Cooper Tire & Rubber Co.***, (October 30, 2001) No. MID-L-8839-00-MT (N.J. Super. Ct.):

*The parties have crafted a notice program which satisfies due process requirements without reliance on an unreasonably burdensome direct notification process...The form of the notice is reasonably calculated to apprise class members of their rights. The notice program is specifically designed to reach a substantial percentage of the putative settlement class members.*



**Judge Marina Corodemus, *Talalai v. Cooper Tire & Rubber Co.***, (October 29, 2001) No. L-8830-00-MT (N.J. Super. Ct.):

*I saw the various bar graphs for the different publications and the different media dissemination, and I think that was actually the clearest bar graph I've ever seen in my life...it was very clear of the time periods that you were doing as to each publication and which media you were doing over what market time, so I think that was very clear.*

**Judge Stuart R. Pollak, *Microsoft I-V Cases***, (April 1, 2001) J.C.C.P. No. CJC-00-004106 (Cal. Super. Ct.):

*[C]oncerning dissemination of class notice; and I have reviewed the materials that have been submitted on that subject and basically I'm satisfied. I think it's amazing if you're really getting 80 percent coverage. That's very reassuring. And the papers that you submitted responded to a couple things that had been mentioned before and I am satisfied with all that.*

**Judge Stuart R. Pollak, *Microsoft I-V Cases***, (March 30, 2001) J.C.C.P. No. 4106 (Cal. Super. Ct.):

*Plaintiffs and Defendant Microsoft Corporation have submitted a joint statement in support of their request that the Court approve the plan for dissemination of class action notice and proposed forms of notice, and amend the class definition. The Court finds that the forms of notice to Class members attached hereto as Exhibits A and B fairly and adequately inform the Class members of their rights concerning this litigation. The Court further finds that the methods for dissemination of notice are the fairest and best practicable under the circumstances, and comport with due process requirements.*

### LEGAL NOTICE CASES

Hilsoft Notifications has served as a notice expert for planning, implementation and/or analysis in the following partial listing of cases:

<b><i>Andrews v. MCI (900 Number Litigation)</i></b>	S.D. Ga., No. CV 191-175
<b><i>Harper v. MCI (900 Number Litigation)</i></b>	S.D. Ga., No. CV 192-134
<b><i>In re Bausch &amp; Lomb Contact Lens Litigation</i></b>	N.D. Ala., No. 94-C-1144-WW
<b><i>In re Ford Motor Co. Vehicle Paint Litigation</i></b>	E.D. La., MDL No. 1063
<b><i>Castano v. Am. Tobacco</i></b>	E.D. La., No. CV 94-1044
<b><i>Cox v. Shell Oil (Polybutylene Pipe Litigation)</i></b>	Tenn. Ch., No. 18,844
<b><i>In re Amino Acid Lysine Antitrust Litigation</i></b>	N.D. Ill., MDL No. 1083
<b><i>In re Dow Corning Corp. (Breast Implant Bankruptcy)</i></b>	E.D. Mich., No. 95-20512-11-AJS
<b><i>Kunhel v. CNA Ins. Companies</i></b>	N.J. Super. Ct., No. ATL-C-0184-94
<b><i>In re Factor Concentrate Blood Prods. Litigation (Hemophiliac HIV)</i></b>	N.D. Ill., MDL No. 986
<b><i>In re Ford Ignition Switch Prods. Liability Litigation</i></b>	D. N.J., No. 96-CV-3125
<b><i>Jordan v. A.A. Friedman (Non-Filing Ins. Litigation)</i></b>	M.D. Ga., No. 95-52-COL
<b><i>Kalhammer v. First USA (Credit Card Litigation)</i></b>	Cal. Cir. Ct., No. C96-45632010-CAL
<b><i>Navarro-Rice v. First USA (Credit Card Litigation)</i></b>	Ore. Cir. Ct., No. 9709-06901

<b>Spitzfaden v. Dow Corning (Breast Implant Litigation)</b>	La. D. Ct., No. 92-2589
<b>Robinson v. Marine Midland (Finance Charge Litigation)</b>	N.D. Ill., No. 95 C 5635
<b>McCurdy v. Norwest Fin. Alabama</b>	Ala. Cir. Ct., No. CV-95-2601
<b>Johnson v. Norwest Fin. Alabama</b>	Ala. Cir. Ct., No. CV-93-PT-962-S
<b>In re Residential Doors Antitrust Litigation</b>	E.D. Pa., MDL No. 1039
<b>Barnes v. Am. Tobacco Co. Inc.</b>	E.D. Pa., No. 96-5903
<b>Small v. Lorillard Tobacco Co. Inc.</b>	N.Y. Super. Ct., No. 110949/96
<b>Naef v. Masonite Corp (Hardboard Siding Litigation)</b>	Ala. Cir. Ct., No. CV-94-4033
<b>In re Synthroid Mktg. Litigation</b>	N.D. Ill., MDL No. 1182
<b>Raysick v. Quaker State Slick 50 Inc.</b>	D. Tex., No. 96-12610
<b>Castillo v. Mike Tyson (Tyson v. Holyfield Bout)</b>	N.Y. Super. Ct., No. 114044/97
<b>Avery v. State Farm Auto. Ins. (Non-OEM Auto Parts)</b>	Ill. Cir. Ct., No. 97-L-114
<b>Walls v. The Am. Tobacco Co. Inc.</b>	N.D. Okla., No. 97-CV-218-H
<b>Tempest v. Rainforest Café (Securities Litigation)</b>	D. Minn., No. 98-CV-608
<b>Stewart v. Avon Prods. (Securities Litigation)</b>	E.D. Pa., No. 98-CV-4135
<b>Goldenberg v. Marriott PLC Corp (Securities Litigation)</b>	D. Md., No. PJM 95-3461
<b>Delay v. Hurd Millwork (Building Products Litigation)</b>	Wash. Super. Ct., No. 97-2-07371-0
<b>Guterman v. Am. Airlines (Frequent Flyer Litigation)</b>	Ill. Cir. Ct., No. 95CH982
<b>Hoeffner v. The Estate of Alan Kenneth Vieira (Un-scattered Cremated Remains Litigation)</b>	Cal. Super. Ct., No. 97-AS 02993
<b>In re Graphite Electrodes Antitrust Litigation</b>	E.D. Pa., MDL No. 1244
<b>In re Silicone Gel Breast Implant Prods. Liability Litigation, Altrichter v. INAMED</b>	N.D. Ala., MDL No. 926
<b>St. John v. Am. Home Prods. Corp. (Fen/Phen Litigation)</b>	Wash. Super. Ct., No. 97-2-06368
<b>Crane v. Hackett Assocs. (Securities Litigation)</b>	E.D. Pa., No. 98-5504
<b>In re Holocaust Victims Assets Litigation (Swiss Banks)</b>	E.D.N.Y., No. CV-96-4849
<b>McCall v. John Hancock (Settlement Death Benefits)</b>	N.M. Cir. Ct., No. CV-2000-2818
<b>Williams v. Weyerhaeuser Co. (Hardboard Siding Litigation)</b>	Cal. Super. Ct., No. CV-995787
<b>Kapustin v. YBM Magnex Int'l Inc. (Securities Litigation)</b>	E.D. Pa., No. 98-CV-6599
<b>Leff v. YBM Magnex Int'l Inc. (Securities Litigation)</b>	E.D. Pa., No. 95-CV-89

<b><i>In re PRK/LASIK Consumer Litigation</i></b>	Cal. Super. Ct., No. CV-772894
<b><i>Hill v. Galaxy Cablevision</i></b>	N.D. Miss., No. 1:98CV51-D-D
<b><i>Scott v. Am. Tobacco Co. Inc.</i></b>	La. D. Ct., No. 96-8461
<b><i>Jacobs v. Winthrop Financial Associates (Securities Litigation)</i></b>	D. Mass., No. 99-CV-11363
<b><i>Int'l Comm'n on Holocaust Era Ins. Claims – Worldwide Outreach Program</i></b>	Former Secretary of State Lawrence Eagleburger Commission
<b><i>Bownes v. First USA Bank (Credit Card Litigation)</i></b>	Ala. Cir. Ct., No. CV-99-2479-PR
<b><i>Whetman v. IKON (ERISA Litigation)</i></b>	E.D. Pa., No. 00-87
<b><i>Mangone v. First USA Bank (Credit Card Litigation)</i></b>	Ill. Cir. Ct., No. 99AR672a
<b><i>In re Babcock and Wilcox Co. (Asbestos Related Bankruptcy)</i></b>	E.D. La., No. 00-10992
<b><i>Barbanti v. W.R. Grace and Co. (Zonolite / Asbestos Litigation)</i></b>	Wash. Super. Ct., No. 00201756-6
<b><i>Brown v. Am. Tobacco</i></b>	Cal. Super. Ct., No. J.C.C.P. 4042, 711400
<b><i>Wilson v. Servier Canada Inc. (Canadian Fen/Phen Litigation)</i></b>	Ont. Super. Ct., No. 98-CV-158832
<b><i>In re Texaco Inc. (Bankruptcy)</i></b>	S.D.N.Y. No. 87 B 20142, No. 87 B 20143, No. 87 B 20144
<b><i>Olinde v. Texaco (Bankruptcy, Oil Lease Litigation)</i></b>	M.D. La., No. 96-390
<b><i>Gustafson v. Bridgestone/Firestone, Inc. (Recall Related Litigation)</i></b>	S.D. Ill., No. 00-612-DRH
<b><i>In re Bridgestone/Firestone Tires Prods. Liability Litigation</i></b>	S.D. Ind., MDL No. 1373
<b><i>Gaynoe v. First Union Corp. (Credit Card Litigation)</i></b>	N.C. Super. Ct., No. 97-CVS-16536
<b><i>Carson v. Daimler Chrysler Corp. (Fuel O-Rings Litigation)</i></b>	W.D. Tenn., No. 99-2896 TU A
<b><i>Providian Credit Card Cases</i></b>	Cal. Super. Ct., No. J.C.C.P. 4085
<b><i>Fields v. Great Spring Waters of Am., Inc. (Bottled Water Litigation)</i></b>	Cal. Super. Ct., No. 302774
<b><i>Sanders v. Great Spring Waters of Am., Inc. (Bottled Water Litigation)</i></b>	Cal. Super. Ct., No. 303549
<b><i>Sims v. Allstate Ins. Co. (Diminished Auto Value Litigation)</i></b>	Ill. Cir. Ct., No. 99-L-393A
<b><i>Peterson v. State Farm Mutual Auto. Ins. Co. (Diminished Auto Value Litigation)</i></b>	Ill. Cir. Ct., No. 99-L-394A
<b><i>Microsoft I-V Cases (Antitrust Litigation Mirroring Justice Dept.)</i></b>	Cal. Super. Ct., No. J.C.C.P. 4106
<b><i>Westman v. Rogers Family Funeral Home, Inc. (Remains Handling Litigation)</i></b>	Cal. Super. Ct., No. C-98-03165



<b><i>Rogers v. Clark Equipment Co.</i></b>	Ill. Cir. Ct., No. 97-L-20
<b><i>Garrett v. Hurley State Bank (Credit Card Litigation)</i></b>	Miss. Cir. Ct., No. 99-0337
<b><i>Ragoonanan v. Imperial Tobacco Ltd. (Firesafe Cigarette Litigation)</i></b>	Ont. Super. Ct., No. 00-CV-183165 CP
<b><i>Dietschi v. Am. Home Prods. Corp. (PPA Litigation)</i></b>	W.D. Wash., No. C01-0306L
<b><i>Dimitrios v. CVS, Inc. (PA Act 6 Litigation)</i></b>	Pa. C.P., No. 99-6209
<b><i>Jones v. Hewlett-Packard Co. (Inkjet Cartridge Litigation)</i></b>	Cal. Super. Ct., No. 302887
<b><i>In re Tobacco Cases II (California Tobacco Litigation)</i></b>	Cal. Super. Ct., No. J.C.C.P. 4042
<b><i>Scott v. Blockbuster, Inc. (Extended Viewing Fees Litigation)</i></b>	136 <sup>th</sup> Tex. Jud. Dist., No. D 162-535
<b><i>Anesthesia Care Assocs. v. Blue Cross of Cal.</i></b>	Cal. Super. Ct., No. 986677
<b><i>Ting v. AT&amp;T (Mandatory Arbitration Litigation)</i></b>	N.D. Cal., No. C-01-2969-BZ
<b><i>In re W.R. Grace &amp; Co. (Asbestos Related Bankruptcy)</i></b>	Bankr. D. Del., No. 01-01139-JJF
<b><i>Talalai v. Cooper Tire &amp; Rubber Co. (Tire Layer Adhesion Litigation)</i></b>	N.J. Super. Ct., No. MID-L-8839-00 MT
<b><i>Kent v. Daimler Chrysler Corp. (Jeep Grand Cherokee Park-to-Reverse Litigation)</i></b>	N.D. Cal., No. C01-3293-JCS
<b><i>Int'l Org. of Migration – German Forced Labour Compensation Programme</i></b>	Geneva, Switzerland
<b><i>Madsen v. Prudential Federal Savings &amp; Loan (Homeowner's Loan Account Litigation)</i></b>	3 <sup>rd</sup> Jud. Dist. Ct. Utah, No. C79-8404
<b><i>Bryant v. Wyndham Int'l., Inc. (Energy Surcharge Litigation)</i></b>	Cal. Super. Ct., No. GIC 765441, No. GIC 777547
<b><i>In re USG Corp. (Asbestos Related Bankruptcy)</i></b>	Bankr. D. Del., No. 01-02094-RJN
<b><i>Thompson v. Metropolitan Life Ins. Co. (Race Related Sales Practices Litigation)</i></b>	S.D.N.Y., No. 00-CIV-5071 HB
<b><i>Ervin v. Movie Gallery Inc. (Extended Viewing Fees)</i></b>	Tenn. Ch., No. CV-13007
<b><i>Peters v. First Union Direct Bank (Credit Card Litigation)</i></b>	M.D. Fla., No. 8:01-CV-958-T-26 TBM
<b><i>National Socialist Era Compensation Fund</i></b>	Republic of Austria
<b><i>In re Baycol Litigation</i></b>	D. Minn., MDL No. 1431
<b><i>Claims Conference–Jewish Slave Labour Outreach Program</i></b>	German Government Initiative
<b><i>Wells v. Chevy Chase Bank (Credit Card Litigation)</i></b>	Md. Cir. Ct., No. C-99-000202
<b><i>Walker v. Rite Aid of PA, Inc. (PA Act 6 Litigation)</i></b>	C.P. Pa., No. 99-6210
<b><i>Myers v. Rite Aid of PA, Inc. (PA Act 6 Litigation)</i></b>	C.P. Pa., No. 01-2771
<b><i>In re PA Diet Drugs Litigation</i></b>	C.P. Pa., No. 9709-3162

<b>Harp v. Qwest Communications (Mandatory Arbitration Lit.)</b>	Ore. Circ. Ct., No. 0110-10986
<b>Tuck v. Whirlpool Corp. &amp; Sears, Roebuck &amp; Co. (Microwave Recall Litigation)</b>	Ind. Cir. Ct., No. 49C01-0111-CP-002701
<b>Allison v. AT&amp;T Corp. (Mandatory Arbitration Litigation)</b>	1 <sup>st</sup> Jud. D.C. N.M., No. D-0101-CV-20020041
<b>Kline v. The Progressive Corp.</b>	Ill. Cir. Ct., No. 01-L-6
<b>Baker v. Jewel Food Stores, Inc. &amp; Dominick's Finer Foods, Inc. (Milk Price Fixing)</b>	Ill. Cir. Ct., No. 00-L-9664
<b>In re Columbia/HCA Healthcare Corp. (Billing Practices Litigation)</b>	M.D. Tenn., MDL No. 1227
<b>Foultz v. Erie Ins. Exchange (Auto Parts Litigation)</b>	C.P. Pa., No. 000203053
<b>Soders v. General Motors Corp. (Marketing Initiative Litigation)</b>	C.P. Pa., No. CI-00-04255
<b>Nature Guard Cement Roofing Shingles Cases</b>	Cal. Super. Ct., No. J.C.C.P. 4215
<b>Curtis v. Hollywood Entm't Corp. (Additional Rental Charges)</b>	Wash. Super. Ct., No. 01-2-36007-8 SEA
<b>Defrates v. Hollywood Entm't Corp.</b>	Ill. Cir. Ct., No. 02L707
<b>Pease v. Jasper Wyman &amp; Son, Merrill Blueberry Farms Inc., Allen's Blueberry Freezer Inc. &amp; Cherryfield Foods Inc.</b>	Me. Super. Ct., No. CV-00-015
<b>West v. G&amp;H Seed Co. (Crawfish Farmers Litigation)</b>	27 <sup>th</sup> Jud. D. Ct. La., No. 99-C-4984-A
<b>Linn v. Roto-Rooter Inc. (Miscellaneous Supplies Charge)</b>	C.P. Ohio, No. CV-467403
<b>McManus v. Fleetwood Enter., Inc. (RV Brake Litigation)</b>	D. Ct. Tex., No. SA-99-CA-464-FB
<b>Baiz v. Mountain View Cemetery (Burial Practices)</b>	Cal. Super. Ct., No. 809869-2
<b>Stetser v. TAP Pharm. Prods, Inc. &amp; Abbott Laboratories (Lupron Price Litigation)</b>	N.C. Super. Ct., No. 01-CVS-5268
<b>Richison v. Am. Cemwood Corp. (Roofing Durability Settlement)</b>	Cal. Super. Ct., No. 005532
<b>Cotten v. Ferman Mgmt. Servs. Corp.</b>	13 <sup>th</sup> Jud. Cir. Fla., No. 02-08115
<b>In re Pittsburgh Corning Corp. (Asbestos Related Bankruptcy)</b>	Bankr. W.D. Pa., No. 00-22876-JKF
<b>Mostajo v. Coast Nat'l Ins. Co.</b>	Cal. Super. Ct., No. 00 CC 15165
<b>Friedman v. Microsoft Corp. (Antitrust Litigation)</b>	Ariz. Super. Ct., No. CV 2000-000722
<b>Multinational Outreach - East Germany Property Claims</b>	Claims Conference
<b>Davis v. Am. Home Prods. Corp. (Norplant Contraceptive Litigation)</b>	D. La., No. 94-11684
<b>Walker v. Tap Pharmaceutical Prods., Inc. (Lupron Price Litigation)</b>	N.J. Super. Ct., No. CV CPM-L-682-01
<b>Munsey v. Cox Communications (Late Fee Litigation)</b>	Civ. D. La., No. Sec. 9, 97 19571

<b><i>Gordon v. Microsoft Corp. (Antitrust Litigation)</i></b>	4 <sup>th</sup> Jud. D. Ct. Minn., No. 00-5994
<b><i>Clark v. Tap Pharmaceutical Prods., Inc.</i></b>	5 <sup>th</sup> Dist. App. Ct. Ill., No. 5-02-0316
<b><i>Fisher v. Virginia Electric &amp; Power Co.</i></b>	E.D. Va., No. 3:02-CV-431
<b><i>Mantzouris v. Scarritt Motor Group, Inc.</i></b>	M.D. Fla., No. 8:03-CV-0015-T-30-MSS
<b><i>Johnson v. Ethicon, Inc. (Product Liability Litigation)</i></b>	W. Va. Cir. Ct., No. 01-C-1530, 1531, 1533, No. 01-C-2491 to 2500
<b><i>Schlink v. Edina Realty Title</i></b>	4 <sup>th</sup> Jud. D. Ct. Minn., No. 02-018380
<b><i>Tawney v. Columbia Natural Res. (Oil &amp; Gas Lease Litigation)</i></b>	W. Va. Cir. Ct., No. 03-C-10E
<b><i>White v. Washington Mutual, Inc. (Pre-Payment Penalty Litigation)</i></b>	4 <sup>th</sup> Jud. D. Ct. Minn., No. CT 03-1282
<b><i>Acacia Media Techs. Corp. v. Cybernet Ventures Inc., (Patent Infringement Litigation)</i></b>	C.D. Cal., No. SACV03-1803 GLT (Anx)
<b><i>Bardessono v. Ford Motor Co. (15 Passenger Vans)</i></b>	Wash. Super. Ct., No. 32494
<b><i>Gardner v. Stimson Lumber Co. (Forestex Siding Litigation)</i></b>	Wash. Super. Ct., No. 00-2-17633-3SEA
<b><i>Poor v. Sprint Corp. (Fiber Optic Cable Litigation)</i></b>	Ill. Cir. Ct., No. 99-L-421
<b><i>Thibodeau v. Comcast Corp.</i></b>	E.D. Pa., No. 04-CV-1777
<b><i>Cazenave v. Sheriff Charles C. Foti (Strip Search Litigation)</i></b>	E.D. La., No. 00-CV-1246
<b><i>National Assoc. of Police Orgs., Inc. v. Second Chance Body Armor, Inc. (Bullet Proof Vest Litigation)</i></b>	Mich. Cir. Ct., No. 04-8018-NP
<b><i>Nichols v. SmithKline Beecham Corp. (Paxil)</i></b>	E.D. Pa., No. 00-6222
<b><i>Yacout v. Federal Pacific Electric Co. (Circuit Breaker)</i></b>	N.J. Super. Ct., No. MID-L-2904-97
<b><i>Lewis v. Bayer AG (Baycol)</i></b>	1 <sup>st</sup> Jud. Dist. Ct. Pa., No. 002353
<b><i>In re Educ. Testing Serv. PLT 7-12 Test Scoring Litigation</i></b>	E.D. La., MDL No. 1643
<b><i>Stefanyshyn v. Consol. Indus. Corp. (Heat Exchanger)</i></b>	Ind. Super. Ct., No. 79 D 01-9712-CT-59
<b><i>Barnett v. Wal-Mart Stores, Inc.</i></b>	Wash. Super. Ct., No. 01-2-24553-8 SEA
<b><i>In re Serzone Prods. Liability Litigation</i></b>	S.D. W. Va., MDL No. 1477
<b><i>Ford Explorer Cases</i></b>	Cal. Super. Ct., No. J.C.C.P. 4226 & 4270
<b><i>In re Solutia Inc. (Bankruptcy)</i></b>	S.D.N.Y., No. 03-17949-PCB
<b><i>In re Lupron Marketing &amp; Sales Practices Litigation</i></b>	D. Mass., MDL No. 1430
<b><i>Morris v. Liberty Mutual Fire Ins. Co.</i></b>	D. Okla., No. CJ-03-714
<b><i>Bowling, et al. v. Pfizer Inc. (Bjork-Shiley Convexo-Concave Heart Valve)</i></b>	S.D. Ohio, No. C-1-91-256

<b><i>Thibodeaux v. Conoco Philips Co.</i></b>	D. La., No. 2003-481
<b><i>Morrow v. Conoco Inc.</i></b>	D. La., No. 2002-3860
<b><i>Tobacco Farmer Transition Program</i></b>	U.S. Dept. of Agric.
<b><i>Perry v. Mastercard Int'l Inc.</i></b>	Ariz. Super. Ct., No. CV2003-007154
<b><i>Brown v. Credit Suisse First Boston Corp.</i></b>	C.D. La., No. 02-13738
<b><i>In re Unum Provident Corp.</i></b>	D. Tenn., No. 1:03-CV-1000
<b><i>In re Ephedra Prods. Liability Litigation</i></b>	D.N.Y., MDL No. 1598
<b><i>Chesnut v. Progressive Casualty Ins. Co.</i></b>	Ohio C.P., No. 460971
<b><i>Froeber v. Liberty Mutual Fire Ins. Co.</i></b>	Ore. Cir. Ct., No. 00C15234
<b><i>Luikart v. Wyeth Am. Home Prods. (Hormone Replacement)</i></b>	W. Va. Cir. Ct., No. 04-C-127
<b><i>Salkin v. MasterCard Int'l Inc. (Pennsylvania)</i></b>	Pa. C.P., No. 2648
<b><i>Rolnik v. AT&amp;T Wireless Servs., Inc.</i></b>	N.J. Super. Ct., No. L-180-04
<b><i>Singleton v. Hornell Brewing Co. Inc. (Arizona Ice Tea)</i></b>	Cal. Super. Ct., BC No. 288 754
<b><i>Becherer v. Qwest Commc'ns Int'l, Inc.</i></b>	Ill. Cir. Ct., No. 02-L140
<b><i>Clearview Imaging v. Progressive Consumers Ins. Co.</i></b>	Fla. Cir. Ct., No. 03-4174
<b><i>Mehl v. Canadian Pacific Railway, Ltd</i></b>	D.N.D., No. A4-02-009
<b><i>Murray v. IndyMac Bank. F.S.B</i></b>	N.D. Ill., No. 04 C 7669
<b><i>Gray v. New Hampshire Indemnity Co., Inc.</i></b>	Ark. Cir. Ct., No. CV-2002-952-2-3
<b><i>George v. Ford Motor Co.</i></b>	M.D. Tenn., No. 3:04-0783
<b><i>Allen v. Monsanto Co.</i></b>	W. Va. Cir. Ct., No. 041465
<b><i>Carter v. Monsanto Co.</i></b>	W. Va. Cir. Ct., No. 00-C-300
<b><i>Carnegie v. Household Int'l, Inc.</i></b>	N. D. Ill., No. 98-C-2178
<b><i>Daniel v. AON Corp.</i></b>	Ill. Cir. Ct., No. 99 CH 11893
<b><i>In re Royal Ahold Securities and "ERISA" Litigation</i></b>	D. Md., MDL No. 1539
<b><i>In re Pharmaceutical Industry Average Wholesale Price Litigation</i></b>	D. Mass., MDL No. 1456
<b><i>Meckstroth v. Toyota Motor Sales, U.S.A., Inc.</i></b>	24 <sup>th</sup> Jud. D. Ct. La., No. 583-318
<b><i>Walton v. Ford Motor Co.</i></b>	Cal. Super. Ct., No. SCVSS 126737
<b><i>Hill v. State Farm Mutual Auto Ins. Co.</i></b>	Cal. Super. Ct., BC No. 194491

<b><i>First State Orthopaedics et al. v. Concentra, Inc., et al.</i></b>	E.D. Pa. No. 2:05-CV-04951-AB
<b><i>Sauro v. Murphy Oil USA, Inc.</i></b>	E.D. La., No. 05-4427
<b><i>In re High Sulfur Content Gasoline Prods. Liability Litigation</i></b>	E.D. La., MDL No. 1632
<b><i>Homeless Shelter Compensation Program</i></b>	City of New York
<b><i>Rosenberg v. Academy Collection Service, Inc.</i></b>	E.D. Pa., No. 04-CV-5585
<b><i>Chapman v. Butler &amp; Hosch, P.A.</i></b>	2 <sup>nd</sup> Jud. Cir. Fla., No. 2000-2879
<b><i>In re Vivendi Universal, S.A. Securities Litigation</i></b>	S.D.N.Y., No. 02-CIV-5571 RJH
<b><i>Desportes v. American General Assurance Co.</i></b>	Ga. Super. Ct., No. SU-04-CV-3637
<b><i>In re: Propulsid Products Liability Litigation</i></b>	E.D. La., MDL No. 1355
<b><i>Baxter v. The Attorney General of Canada (In re Residential Schools Class Action Litigation)</i></b>	Ont. Super. Ct., No. 00-CV-192059 CP
<b><i>McNall v. Mastercard Int'l, Inc. (Currency Conversion Fees)</i></b>	13 <sup>th</sup> Tenn. Jud. Dist. Ct., No. CT-002506-03
<b><i>Lee v. Allstate</i></b>	Ill. Cir. Ct., No. 03 LK 127
<b><i>Turner v. Murphy Oil USA, Inc.</i></b>	E.D. La., No. 2:05-CV-04206-EEF-JCW
<b><i>Carter v. North Central Life Ins. Co.</i></b>	Ga. Super. Ct., No. SU-2006-CV-3764-6
<b><i>Harper v. Equifax</i></b>	E.D. Pa., No. 2:04-CV-03584-TON
<b><i>Beasley v. Hartford Insurance Co. of the Midwest</i></b>	Ark. Cir. Ct., No. CV-2005-58-1
<b><i>Springer v. Biomedical Tissue Services, LTD (Human Tissue Litigation)</i></b>	Ind. Cir. Ct., No. 1:06-CV-00332-SEB-VSS
<b><i>Spence v. Microsoft Corp. (Antitrust Litigation)</i></b>	Wis. Cir. Ct., No. 00-CV-003042
<b><i>Pennington v. The Coca Cola Co. (Diet Coke)</i></b>	Mo. Cir. Ct., No. 04-CV-208580
<b><i>Sunderman v. Regeneration Technologies, Inc. (Human Tissue Litigation)</i></b>	S.D. Ohio, No. 1:06-CV-075-MHW
<b><i>Splater v. Thermal Ease Hydronic Systems, Inc.</i></b>	Wash. Super. Ct., No. 03-2-33553-3-SEA
<b><i>Peyroux v. The United States of America (New Orleans Levee Breach)</i></b>	E.D. La., No. 06-2317
<b><i>Chambers v. DaimlerChrysler Corp. (Neon Head Gaskets)</i></b>	N.C. Super. Ct., No. 01:CVS-1555
<b><i>Ciabattari v. Toyota Motor Sales, U.S.A., Inc. (Sienna Run Flat Tires)</i></b>	N.D. Cal., No. C-05-04289-BZ
<b><i>In re Bridgestone Securities Litigation</i></b>	M.D. Tenn., No. 3:01-CV-0017
<b><i>In re Mutual Funds Investment Litigation (Market Timing)</i></b>	D. Md., MDL No. 1586
<b><i>Accounting Outsourcing v. Verizon Wireless</i></b>	M.D. La., No. 03-CV-161

<b><i>Hensley v. Computer Sciences Corp.</i></b>	Ark. Cir. Ct., No. CV-2005-59-3
<b><i>Peek v. Microsoft Corporation</i></b>	Ark. Cir. Ct., No. CV-2006-2612
<b><i>Reynolds v. The Hartford Financial Services Group, Inc.</i></b>	D. Or., No. CV-01-1529 BR
<b><i>Schwab v. Philip Morris USA, Inc.</i></b>	E.D.N.Y., No. CV-04-1945
<b><i>Zarebski v. Hartford Insurance Co. of the Midwest</i></b>	Ark. Cir. Ct., No. CV-2006-409-3
<b><i>In re Parmalat Securities Litigation</i></b>	S.D.N.Y., MDL No. 1653 (LAK)
<b><i>Beasley v. The Reliable Life Insurance Co.</i></b>	Ark. Cir. Ct., No. CV-2005-58-1
<b><i>Sweeten v. American Empire Insurance Company</i></b>	Ark. Cir. Ct., No. 2007-154-3
<b><i>Govt. Employees Hospital Assoc. v. Serono Int., S.A.</i></b>	D. Mass., No. 06-CA-10613-PBS
<b><i>Gunderson v. Focus Healthcare Management, Inc.</i></b>	14 <sup>th</sup> Jud. D. Ct. La., No. 2004-2417-D
<b><i>Gunderson v. F.A. Richard &amp; Associates, Inc., et al.</i></b>	14 <sup>th</sup> Jud. D. Ct. La., No. 2004-2417-D
<b><i>Perez v. Manor Care of Carrollwood</i></b>	13 <sup>th</sup> Jud. Cir. Fla., No. 06-00574-E
<b><i>Pope v. Manor Care of Carrollwood</i></b>	13 <sup>th</sup> Jud. Cir. Fla., No. 06-01451-B
<b><i>West v. Carfax, Inc.</i></b>	Ohio C.P., No. 04-CV-1898 (ADL)
<b><i>Hunsucker v. American Standard Ins. Co. of Wisconsin</i></b>	Ark. Cir. Ct., No. CV-2007-155-3
<b><i>In re Conagra Peanut Butter Products Liability Litigation</i></b>	N.D. Ga., MDL No. 1845 (TWT)
<b><i>The People of the State of CA v. Universal Life Resources (Cal DOI v. CIGNA)</i></b>	Cal. Super. Ct., No. GIC838913
<b><i>Burgess v. Farmers Insurance Co., Inc.</i></b>	D. Okla., No. CJ-2001-292
<b><i>Grays Harbor v. Carrier Corporation</i></b>	W.D. Wash., No. 05-05437-RBL
<b><i>Perrine v. E.I. Du Pont De Nemours &amp; Co.</i></b>	W. Va. Cir. Ct., No. 04-C-296-2
<b><i>In re Alstom SA Securities Litigation</i></b>	S.D.N.Y., No. 03-CV-6595 VM
<b><i>Brookshire Bros. v. Chiquita (Antitrust)</i></b>	S.D. Fla., No. 05-CIV-21962
<b><i>Hoorman v. SmithKline Beecham</i></b>	Ill. Cir. Ct., No. 04-L-715
<b><i>Santos v. Government of Guam (Earned Income Tax Credit)</i></b>	D. Guam, No. 04-00049
<b><i>Johnson v. Progressive</i></b>	Ark. Cir. Ct., No. CV-2003-513
<b><i>Bond v. American Family Insurance Co.</i></b>	D. Ariz., No. CV06-01249-PXH-DGC
<b><i>In re SCOR Holding (Switzerland) AG Litigation (Securities)</i></b>	S.D.N.Y., No. 04-cv-7897
<b><i>Shoukry v. Fisher-Price, Inc. (Toy Safety)</i></b>	S.D.N.Y., No. 07-cv-7182



<b><i>In re: Guidant Corp. Plantable Defibrillators Prod's Liab. Litigation</i></b>	D. Minn., MDL No. 1708
<b><i>Clark v. Pfizer, Inc. (Neurontin)</i></b>	C.P. Pa., No. 9709-3162
<b><i>Angel v. U.S. Tire Recovery (Tire Fire)</i></b>	W. Va. Cir. Ct., No. 06-C-855
<b><i>In re TJX Companies Retail Security Breach Litigation</i></b>	D. Mass., MDL No. 1838
<b><i>Webb v. Liberty Mutual Insurance Co.</i></b>	Ark. Cir. Ct., No. CV-2007-418-3
<b><i>Shaffer v. Continental Casualty Co. (Long Term Care Ins.)</i></b>	C.D. Cal., No. SACV06-2235-PSG
<b><i>Palace v. DaimlerChrysler (Defective Neon Head Gaskets)</i></b>	Ill. Cir. Ct., No. 01-CH-13168
<b><i>Lockwood v. Certegy Check Services, Inc. (Stolen Financial Data)</i></b>	M.D. Fla., No. 8:07-cv-1434-T-23TGW
<b><i>Sherrill v. Progressive Northwestern Ins. Co.</i></b>	18 <sup>th</sup> D. Ct. Mont., No. DV-03-220
<b><i>Gunderson v. F.A. Richard &amp; Assocs., Inc. (AIG)</i></b>	14 <sup>th</sup> Jud. D. Ct. La., No. 2004-2417-D
<b><i>Jones v. Dominion Resources Services, Inc.</i></b>	S.D. W. Va., No. 2:06-cv-00671
<b><i>Gunderson v. F.A. Richard &amp; Assocs., Inc. (Wal-Mart)</i></b>	14 <sup>th</sup> Jud. D. Ct. La., No. 2004-2417-D
<b><i>In re Trans Union Corp. Privacy Litigation</i></b>	N.D. Ill., MDL No. 1350
<b><i>Gudo v. The Administrator of the Tulane Ed. Fund</i></b>	La. D. Ct., No. 2007-C-1959
<b><i>Guidry v. American Public Life Insurance Co.</i></b>	14 <sup>th</sup> Jud. D. Ct. La., No. 2008-3465
<b><i>McGee v. Continental Tire North America</i></b>	D.N.J., No. 2:06-CV-06234 (GEB)
<b><i>Sims v. Rosedale Cemetery Co.</i></b>	W. Va. Cir. Ct., No. 03-C-506
<b><i>Gunderson v. F.A. Richard &amp; Assocs., Inc. (Amerisafe)</i></b>	14 <sup>th</sup> Jud. D. Ct. La., No. 2004-002417
<b><i>In re Katrina Canal Breaches Consolidated Litigation</i></b>	E.D. La., No. 05-4182
<b><i>In re Department of Veterans Affairs (VA) Data Theft Litigation</i></b>	D.D.C., MDL No. 1796
<b><i>Dolen v. ABN AMRO Bank N.V. (Callable CD's)</i></b>	Ill. Cir. Ct., No. 01-L-454 and No. 01-L-493
<b><i>Pavlov v. CNA (Long Term Care Insurance)</i></b>	N.D. Ohio, No. 5:07cv2580
<b><i>Steele v. Pergo( Flooring Products)</i></b>	D. Or., No. 07-CV-01493-BR
<b><i>Opelousas Trust Authority v. Summit Consulting</i></b>	27 <sup>th</sup> Jud. D. Ct. La., No. 07-C-3737-B
<b><i>Little v. Kia Motors America, Inc. (Braking Systems)</i></b>	N.J. Super. Ct., No. UNN-L-0800-01
<b><i>Boone v. City of Philadelphia (Prisoner Strip Search)</i></b>	E.D. Pa., No. 05-CV-1851
<b><i>In re Countrywide Customer Data Breach Litigation</i></b>	W.D. Ky., MDL No.1998

<b>Miller v. Basic Research (Weight-loss Supplement)</b>	D. Utah, No. 2:07-cv-00871-TS
<b>Gunderson v. F.A. Richard &amp; Assocs., Inc. (Cambridge)</b>	14 <sup>th</sup> Jud. D. Ct. La., No. 2004-002417
<b>Weiner v. Snapple Beverage Corporation</b>	S.D.N.Y., No. 07-CV-08742
<b>Holk v. Snapple Beverage Corporation</b>	D.N.J., No. 3:07-CV-03018-MJC-JJH
<b>Coyle v. Hornell Brewing Co. (Arizona Iced Tea)</b>	D.N.J., No. 08-CV-2797-JBS-JS
<b>In re Heartland Data Security Breach Litigation</b>	S.D. Tex., MDL No. 2046
<b>Satterfield v. Simon &amp; Schuster, Inc. (Text Messaging)</b>	N.D. Cal., No. 06-CV-2893 CW
<b>Schulte v. Fifth Third Bank (Overdraft Fees)</b>	N.D. Ill., No. 1:09-CV-06655
<b>Trombley v. National City Bank (Overdraft Fees)</b>	D.D.C., No. 1:10-CV-00232 as part of MDL 2036 (S.D. Fla.)
<b>Vereen v. Lowe's Home Centers (Defective Drywall)</b>	Ga. Super. Ct., No. SU10-CV-2267B
<b>Mathena v. Webster Bank, N.A. (Overdraft Fees)</b>	D. Conn, No. 3:10-cv-01448 as part MDL 2036 (S.D. Fla.)
<b>Delandro v. County of Allegheny (Prisoner Strip Search)</b>	W.D. Pa., No. 2:06-cv-00927
<b>Gunderson v. F.A. Richard &amp; Assocs., Inc. (First Health)</b>	14 <sup>th</sup> Jud. D. Ct. La., No. 2004-002417
<b>Williams v. Hammerman &amp; Gainer, Inc. (Hammerman)</b>	27 <sup>th</sup> Jud. D. Ct. La., No. 11-C-3187-B
<b>Williams v. Hammerman &amp; Gainer, Inc. (Risk Management)</b>	27 <sup>th</sup> Jud. D. Ct. La., No. 11-C-3187-B
<b>Williams v. Hammerman &amp; Gainer, Inc. (SIF Consultants)</b>	27 <sup>th</sup> Jud. D. Ct. La., No. 11-C-3187-B
<b>Gwiazdowski v. County of Chester (Prisoner Strip Search)</b>	E.D. Pa., No. 2:08cv4463
<b>Williams v. S.I.F. Consultants (CorVel Corporation)</b>	27 <sup>th</sup> Jud. D. Ct. La., No. 09-C-5244-C
<b>Sachar v. Iberiabank Corporation (Overdraft Fees)</b>	S.D. Fla., MDL No. 2036
<b>LaCour v. Whitney Bank (Overdraft Fees)</b>	M.D. Fla., No. 8:11cv1896
<b>Lawson v. BancorpSouth (Overdraft Fees)</b>	W.D. Ark., No. 1:12cv1016
<b>McKinley v. Great Western Bank (Overdraft Fees)</b>	S.D. Fla., MDL No. 2036
<b>Wolfgeher v. Commerce Bank (Overdraft Fees)</b>	S.D. Fla., MDL No. 2036
<b>Harris v. Associated Bank (Overdraft Fees)</b>	S.D. Fla., MDL No. 2036
<b>Case v. Bank of Oklahoma (Overdraft Fees)</b>	S.D. Fla., MDL No. 2036
<b>Nelson v. Rabobank, N.A. (Overdraft Fees)</b>	Cal. Super. Ct., No. RIC 1101391
<b>Fontaine v. Attorney General of Canada (Stirland Lake and Cristal Lake Residential Schools)</b>	Ont. Super. Ct., No. 00-CV-192059 CP
<b>Opelousas General Hospital Authority v. FairPay Solutions</b>	27 <sup>th</sup> Jud. D. Ct. La., No. 12-C-1599-C

<b><i>Marolda v. Symantec Corporation (Software Upgrades)</i></b>	N.D. Cal., No. 3:08-cv-05701
<b><i>In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010—Economic and Property Damages Settlement</i></b>	E.D. La., MDL No. 2179
<b><i>In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010—Medical Benefits Settlement</i></b>	E.D. La., MDL No. 2179
<b><i>Vodanovich v. Boh Brothers Construction (Hurricane Katrina Levee Breaches)</i></b>	E.D. La., No. 05-cv-4191
<b><i>Gessele et al. v. Jack in the Box, Inc.</i></b>	D. Or., No. 3:10-cv-960
<b><i>RBS v. Citizens Financial Group, Inc. (Overdraft Fees)</i></b>	S.D. Fla., MDL No. 2036
<b><i>Mosser v. TD Bank, N.A. (Overdraft Fees)</i></b>	S.D. Fla., MDL No. 2036
<b><i>In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation (Mastercard &amp; Visa) – 2013 &amp; 2019 Notice Programs</i></b>	E.D.N.Y., MDL No. 1720
<b><i>Saltzman v. Pella Corporation (Building Products)</i></b>	N.D. Ill., No. 06-cv-4481
<b><i>In re Zurn Pex Plumbing, Products Liability Litigation</i></b>	D. Minn., MDL No. 1958
<b><i>Blahut v. Harris, N.A. (Overdraft Fees)</i></b>	S.D. Fla., MDL No. 2036
<b><i>Eno v. M &amp; I Marshall &amp; Ilsley Bank (Overdraft Fees)</i></b>	S.D. Fla., MDL No. 2036
<b><i>Casayuran v. PNC Bank (Overdraft Fees)</i></b>	S.D. Fla., MDL No. 2036
<b><i>Anderson v. Compass Bank (Overdraft Fees)</i></b>	S.D. Fla., MDL No. 2036
<b><i>Evans, et al. v. TIN, Inc. (Environmental)</i></b>	E.D. La. No. 2:11-cv-02067
<b><i>Opelousas General Hospital Authority v. Qmedtrix Systems, Inc.</i></b>	27 <sup>th</sup> Jud. D. Ct. La., No. 12-C-1599-C
<b><i>Williams v. SIF Consultants of Louisiana, Inc. et al.</i></b>	27 <sup>th</sup> Jud. D. Ct. La., No. 09-C-5244-C
<b><i>Miner v. Philip Morris Companies, Inc. et al.</i></b>	Ark. Cir. Ct., No. 60CV03-4661
<b><i>Fontaine v. Attorney General of Canada (Mistassini Hostels Residential Schools)</i></b>	Qué. Super. Ct., No. 500-06-000293-056 & No. 550-06-000021-056 (Hull)
<b><i>Glube et al. v. Pella Corporation et al. (Building Products)</i></b>	Ont. Super. Ct., No. CV-11-4322294-00CP
<b><i>Yarger v. ING Bank</i></b>	D. Del., No. 11-154-LPS
<b><i>Price v. BP Products North America</i></b>	N.D. Ill, No. 12-cv-06799
<b><i>National Trucking Financial Reclamation Services, LLC et al. v. Pilot Corporation et al.</i></b>	E.D. Ark., No. 4:13-cv-00250-JMM
<b><i>Johnson v. Community Bank, N.A. et al. (Overdraft Fees)</i></b>	M.D. Pa., No. 3:12-cv-01405-RDM
<b><i>Rose v. Bank of America Corporation, et al. (TCPA)</i></b>	N.D. Cal., No. 11-cv-02390-EJD
<b><i>McGann, et al., v. Schnuck Markets, Inc. (Data Breach)</i></b>	Mo. Cir. Ct., No. 1322-CC00800

<b><i>Simmons v. Comerica Bank, N.A. (Overdraft Fees)</i></b>	S.D. Fla., MDL No. 2036
<b><i>George Raymond Williams, M.D., Orthopedic Surgery, a Professional Medical, LLC, et al. v. Bestcomp, Inc., et al.</i></b>	27 <sup>th</sup> Jud. D. Ct. La., No. 09-C-5242-B
<b><i>Simpson v. Citizens Bank (Overdraft Fees)</i></b>	E.D. Mich, No. 2:12-cv-10267
<b><i>In re Plasma-Derivative Protein Therapies Antitrust Litigation</i></b>	N.D. Ill, No. 09-CV-7666
<b><i>In re Dow Corning Corporation (Breast Implants)</i></b>	E.D. Mich., No. 00-X-0005
<b><i>Mello et al v. Susquehanna Bank (Overdraft Fees)</i></b>	S.D. Fla., MDL No. 2036
<b><i>Wong et al. v. Alacer Corp. (Emergen-C)</i></b>	Cal. Super. Ct., No. CGC-12-519221
<b><i>In re American Express Anti-Steering Rules Antitrust Litigation (II) (Italian Colors Restaurant)</i></b>	E.D.N.Y., 11-MD-2221, MDL No. 2221
<b><i>Costello v. NBT Bank (Overdraft Fees)</i></b>	Sup. Ct. Del Cnty., N.Y., No. 2011-1037
<b><i>Gulbankian et al. v. MW Manufacturers, Inc.</i></b>	D. Mass., No. 10-CV-10392
<b><i>Hawthorne v. Umpqua Bank (Overdraft Fees)</i></b>	N.D. Cal., No. 11-cv-06700-JST
<b><i>Smith v. City of New Orleans</i></b>	Civil D. Ct., Parish of Orleans, La., No. 2005-05453
<b><i>Adkins et al. v. Nestlé Purina PetCare Company et al.</i></b>	N.D. Ill., No. 1:12-cv-02871
<b><i>Scharfstein v. BP West Coast Products, LLC</i></b>	Ore. Cir., County of Multnomah, No. 1112-17046
<b><i>Given v. Manufacturers and Traders Trust Company a/k/a M&amp;T Bank (Overdraft Fees)</i></b>	S.D. Fla., MDL No. 2036
<b><i>In re MI Windows and Doors Products Liability Litigation (Building Products)</i></b>	D. S.C., MDL No. 2333
<b><i>Childs et al. v. Synovus Bank, et al. (Overdraft Fees)</i></b>	S.D. Fla., MDL No. 2036
<b><i>Steen v. Capital One, N.A. (Overdraft Fees)</i></b>	E.D. La., No. 2:10-cv-01505-JCZ-KWR as part of S.D. Fla., MDL No. 2036
<b><i>Kota of Sarasota, Inc. v. Waste Management Inc. of Florida</i></b>	12 <sup>th</sup> Jud. Cir. Ct., Sarasota Cnty, Fla., No. 2011-CA-008020NC
<b><i>In re Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010—Economic and Property Damages Settlement (Claim Deadline Notice)</i></b>	E.D. La., MDL No. 2179
<b><i>Dorothy Williams d/b/a Dot’s Restaurant v. Waste Away Group, Inc.</i></b>	Cir. Ct., Lawrence Cnty, Ala., No. 42-cv-2012- 900001.00
<b><i>In re: Energy Future Holdings Corp., et al. (Asbestos Claims Bar Notice)</i></b>	Bankr. D. Del., No. 14-10979(CSS)
<b><i>Gattinella v. Michael Kors (USA), Inc., et al.</i></b>	S.D.N.Y., No. 14-civ-5731 (WHP)
<b><i>Kerry T. Thibodeaux, M.D. (A Professional Medical Corporation) v. American Lifecare, Inc.</i></b>	27 <sup>th</sup> Jud. D. Ct. La., No. 13-C-3212

<b><i>Russell Minoru Ono v. Head Racquet Sports USA</i></b>	C.D.Cal., No. 2:13-cv-04222-FMO(AGRx)
<b><i>Opelousas General Hospital Authority v. PPO Plus, L.L.C., et al.</i></b>	27 <sup>th</sup> Jud. D. Ct. La., No. 13-C-5380
<b><i>In re: Shop-Vac Marketing and Sales Practices Litigation</i></b>	M.D. Pa., MDL No. 2380
<b><i>In re: Caterpillar, Inc. C13 and C15 Engine Products Liability Litigation</i></b>	D. N.J., MDL No. 2540
<b><i>In Re: Citrus Canker Litigation</i></b>	11 <sup>th</sup> Jud. Cir., Fla., No. 03-8255 CA 13
<b><i>Whitton v. Deffenbaugh Industries, Inc., et al.</i> <b><i>Gary, LLC v. Deffenbaugh Industries, Inc., et al.</i></b></b>	D. Kan., No. 2:12-cv-02247 D. Kan., No. 2:13-cv-2634
<b><i>Swift v. BancorpSouth Bank (Overdraft Fees)</i></b>	N.D. Fla., No. 1:10-cv-00090 as part of MDL 2036 (S.D. Fla.)
<b><i>Forgione v. Webster Bank N.A. (Overdraft Fees)</i></b>	Sup. Ct. Conn., No. X10-UWY-CV-12-6015956-S
<b><i>Small v. BOKF, N.A.</i></b>	D. Col., No. 13-cv-01125
<b><i>Anamaria Chimeno-Buzzi &amp; Lakedrick Reed v. Hollister Co. &amp; Abercrombie &amp; Fitch Co.</i></b>	S.D. Fla., No. 14-cv-23120-MGC
<b><i>In Re: Lithium Ion Batteries Antitrust Litigation</i></b>	N.D. Cal., MDL No. 2420, 4:13-MD-02420-YGR
<b><i>MSPA Claims 1, LLC v. IDS Property Casualty Insurance Company</i></b>	11 <sup>th</sup> Jud. Cir. Fla, No. 15-27940-CA-21
<b><i>Glasko v. Independent Bank Corporation (Overdraft Fees)</i></b>	Cir. Ct. Mich., No. 13-009983-CZ
<b><i>In re: HSBC Bank USA, N.A., Checking Account Overdraft Litigation</i></b>	Sup. Ct. N.Y., No. 650562/11
<b><i>In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Product Liability Litigation (Bosch)</i></b>	N.D. Cal., MDL No. 2672
<b><i>Hawkins v. First Tennessee Bank, N.A., et al. (Overdraft Fees)</i></b>	13 <sup>th</sup> Jud. Cir. Tenn., No. CT-004085-11
<b><i>Greater Chautauqua Federal Credit Union v. Kmart Corp., et al. (Data Breach)</i></b>	N.D. Ill., No. 1:15-cv-02228
<b><i>Bias v. Wells Fargo &amp; Company, et al. (Broker's Price Opinions)</i></b>	N.D. Cal., No 4:12-cv-00664-YGR
<b><i>Klug v. Watts Regulator Company (Product Liability)</i></b>	D. Neb., No. 8:15-cv-00061-JFB-FG3
<b><i>Ratzlaff et al. v. BOKF, NA d/b/a Bank of Oklahoma, et al. (Overdraft Fees)</i></b>	Dist. Ct. Okla., No. CJ-2015-00859
<b><i>Morton v. Greenbank (Overdraft Fees)</i></b>	20 <sup>th</sup> Jud. Dist. Tenn., No. 11-135-IV
<b><i>Jacobs, et al. v. Huntington Bancshares Inc., et al. (FirstMerit Overdraft Fees)</i></b>	Ohio C.P., No. 11CV000090
<b><i>Farnham v. Caribou Coffee Company, Inc. (TCPA)</i></b>	W.D. Wis., No. 16-cv-00295-WMC

<b>Gottlieb v. Citgo Petroleum Corporation (TCPA)</b>	S.D. Fla., No. 9:16-cv-81911
<b>McKnight et al. v. Uber Technologies, Inc. et al.</b>	N.D. Cal., No 3:14-cv-05615-JST
<b>Lewis v. Flue-Cured Tobacco Cooperative Stabilization Corporation (n/k/a United States Tobacco Cooperative, Inc.)</b>	N.C. Gen. Ct of Justice, Sup. Ct. Div., No. 05 CVS 188, No. 05 CVS 1938
<b>T.A.N. v. PNI Digital Media, Inc.</b>	S.D. GA., No. 2:16-cv-132-LGW-RSB.
<b>In re: Syngenta Litigation</b>	4 <sup>th</sup> Jud. Dist. Minn., No. 27-CV-15-3785
<b>The Financial Oversight and Management Board for Puerto Rico as representative of Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy)</b>	D. Puerto Rico, No. 17-04780(LTS)
<b>Reilly v. Chipotle Mexican Grill, Inc.</b>	S.D. Fla., No. 1:15-cv-23425-MGC
<b>Ma et al. v. Harmless Harvest Inc. (Coconut Water)</b>	E.D.N.Y., No. 2:16-cv-07102-JMA-SIL
<b>Mahoney v TT of Pine Ridge, Inc.</b>	S.D. Fla., No. 9:17-cv-80029-DMM
<b>Sobiech v. U.S. Gas &amp; Electric, Inc., i/t/d/b/a Pennsylvania Gas &amp; Electric, et al.</b>	E.D. Penn., No. 2:14-cv-04464-GAM
<b>Alexander M. Rattner v. Tribe App., Inc., and Kenneth Horsley v. Tribe App., Inc.,</b>	S.D. Fla., No. 1:17-cv-21344-UU and No. 1:17-cv-23111-JLK
<b>Gordon, et al. v. Amadeus IT Group, S.A., et al.</b>	S.D.N.Y. No. 1:15-cv-05457-KPF
<b>Masson v. Tallahassee Dodge Chrysler Jeep, LLC (TCPA)</b>	S.D. Fla., No. 1:17-cv-22967-FAM
<b>Orlander v. Staples, Inc.</b>	S.D. NY, No. 13-CV-0703
<b>Larey v. Allstate Property and Casualty Insurance Company</b>	W.D. Kan., No. 4:14-cv-04008-SOF
<b>Larson v. John Hancock Life Insurance Company (U.S.A.)</b>	Cal. Sup. Court, County of Alameda, No. RG16 813803
<b>Alaska Electrical Pension Fund, et al. v. Bank of America N.A et al. (ISDAfix Instruments)</b>	S.D.N.Y., No. 14-cv-7126 (JMF)
<b>Falco et al. v. Nissan North America, Inc. et al. (Engine – CA &amp; WA)</b>	C.D. Cal., No. 2:13-cv-00686 DDP (MANx)
<b>Pantelyat, et al v. Bank of America, N.A. et al. (Overdraft/Uber)</b>	S.D.N.Y., No. 16-cv-08964-AJN
<b>In re: Parking Heaters Antitrust Litigation</b>	E.D.N.Y., No. 15-MC-0940-DLI-JO
<b>Wallace, et al, v. Monier Lifetile LLC, et al.</b>	Sup. Ct. Cal., No. SCV-16410
<b>In re: Windsor Wood Clad Window Products Liability Litigation</b>	E.D. Wis., MDL No. 16-MD-02688
<b>Farrell v. Bank of America, N.A. (Overdraft)</b>	S.D. Cal., No. 3:16-cv-00492-L-WVG
<b>Hale v. State Farm Mutual Automobile Insurance Company, et al.</b>	S.D. Ill., No. 12-cv-0660-DRH



<b>Callaway v. Mercedes-Benz USA, LLC (Seat Heaters)</b>	C.D. Cal., No. 8:14-cv-02011–JVS-DFM
<b>Poseidon Concepts Corp. et al. (Canadian Securities Litigation)</b>	Ct. of QB of Alberta, No. 1301-04364
<b>In re: Takata Airbag Products Liability Litigation (OEMs – BMW, Mazda, Subaru, Toyota, Honda, and Nissan)</b>	S.D. Fla, MDL No. 2599
<b>Watson v. Bank of America Corporation et al.; Bancroft-Snell et al. v. Visa Canada Corporation et al.; Bakopanos v. Visa Canada Corporation et al.; Macaronies Hair Club and Laser Center Inc. operating as Fuze Salon v. BofA Canada Bank et al.; Hello Baby Equipment Inc. v. BofA Canada Bank and others (Visa and Mastercard Canadian Interchange Fees)</b>	Sup. Ct. of B.C., No. VLC-S-S-112003; Ontario Sup. Ct., No. CV-11-426591; Sup. Ct. of Quebec, No. 500-06-00549-101; Ct. of QB of Alberta, No. 1203-18531; Ct. of QB of Saskatchewan, No. 133 of 2013
<b>Vergara, et al., v. Uber Technologies, Inc. (TCPA)</b>	N.D. Ill., No. 1:15-CV-06972
<b>Surrett et al. v. Western Culinary Institute, et al.</b>	Ore. Cir., County of Multnomah, No. 0803-03530
<b>Kohl's - Underwood v. Kohl's Department Stores, Inc., et al. (Cert. Notice)</b>	E.D. Penn., No. 2:15-cv-00730
<b>Ajose et al. v. Interline Brands Inc. (Plumbing Fixtures)</b>	M.D. Tenn., No. 3:14-cv-01707
<b>Gergetz v. Telenav (TCPA)</b>	N.D. Cal., No. 5:16-cv-4261
<b>Raffin v. Medcredit, Inc., et al.</b>	C.D. Cal., No 15-cv-4912
<b>First Impressions Salon, Inc. v. National Milk Producers Federation, et al.</b>	S.D. Ill., No. 3:13-cv-00454
<b>Abante Rooter and Plumbing v. Pivotal Payments Inc., d/b/a/ Capital Processing Network and CPN) (TCPA)</b>	N.D. Cal., No. 3:16-cv-05486
<b>Dipuglia v. US Coachways, Inc. (TCPA)</b>	S.D. Fla., No. 1:17-cv-23006-MGC
<b>Knapper v. Cox Communications</b>	D. Ariz., No. 2:17-cv-00913
<b>Martin v. Trott (MI - Foreclosure)</b>	E.D. Mich., No. 2:15-cv-12838
<b>Cowen v. Lenny &amp; Larry's Inc.</b>	N.D. Ill., No. 1:17-cv-01530
<b>AI's Pals Pet Card, LLC, et al v. Woodforest National Bank, N.A., et al.</b>	S.D. Tex., No. 4:17-cv-3852
<b>In Re: Community Health Systems, Inc. Customer Data Security Breach Litigation</b>	N.D. Ala., MDL No. 2595, 2:15-CV-222
<b>Tashica Fulton-Green et al. v. Accolade, Inc.</b>	E.D. Penn., No. 2:18-cv-00274
<b>37 Besen Parkway, LLC v. John Hancock Life Insurance Company (U.S.A.)</b>	S.D.N.Y., No. 15-cv-9924
<b>Stahl v. Bank of the West</b>	Sup. Ct. Cal., No. BC673397
<b>Parsons v. Kimpton Hotel &amp; Restaurant Group, LLC (Data Breach)</b>	N.D. Cal., No. 3:16-cv-05387
<b>Waldrup v. Countrywide</b>	C.D. Cal., No. 2:13-cv-08833
<b>In re: Valley Anesthesiology Consultants, Inc. Data Breach Litigation</b>	Sup. Ct. Cal., No. CV2016-013446

<b><i>Naiman v. Total Merchant Services, Inc., et al. (TCPA)</i></b>	N.D. Cal., No. 4:17-cv-03806
<b><i>In re Dealer Management Systems Antitrust Litigation</i></b>	N.D. Ill., MDL No. 2817, No. 18-cv-00864
<b><i>In re HP Printer Firmware Update Litigation</i></b>	N.D. Cal., No. 5:16-cv-05820
<b><i>Zaklit, et al. v. Nationstar Mortgage LLC, et al. (TCPA)</i></b>	C.D. Cal., No. 5:15-CV-02190
<b><i>Luib v. Henkel Consumer Goods Inc.</i></b>	E.D.N.Y., No. 1:17-cv-03021
<b><i>Lloyd, et al. v. Navy Federal Credit Union</i></b>	S.D. Cal., No. 17-cv-1280-BAS-RBB
<b><i>Waldrup v. Countrywide Financial Corporation, et al.</i></b>	C.D. Cal., No. 2:13-cv-08833
<b><i>Adlouni v. UCLA Health Systems Auxiliary, et al.</i></b>	Sup. Ct. Cal., No. BC589243
<b><i>Di Filippo v. The Bank of Nova Scotia, et al. (Gold Market Instrument)</i></b>	Ontario Sup. Ct., No. CV-15-543005-00CP & No. CV-16-551067-00CP
<b><i>McIntosh v. Takata Corporation, et al.; Vitoratos, et al. v. Takata Corporation, et al.; and Hall v. Takata Corporation, et al.</i></b>	Ontario Sup Ct., No. CV-16-543833-00CP; Quebec Sup. Ct of Justice, No. 500-06-000723-144; & Court of Queen's Bench for Saskatchewan, No. QBG. 1284 or 2015
<b><i>Rabin v. HP Canada Co., et al.</i></b>	Quebec Ct., Dist. of Montreal, No. 500-06-000813-168
<b><i>Lightsey, et al. v. South Carolina Electric &amp; Gas Company, a Wholly Owned Subsidiary of SCANA, et al.</i></b>	Ct. of Com. Pleas., S.C., No. 2017-CP-25-335
<b><i>In re: Comcast Corp. Set-Top Cable Television Box Antitrust Litigation</i></b>	E.D. Penn., No. 2:09-md-02034
<b><i>Henrikson v. Samsung Electronics Canada Inc.</i></b>	Ontario Sup. Ct., No. 2762-16cp
<b><i>Burrow, et al. v. Forjas Taurus S.A., et al.</i></b>	S.D. Fla., No. 1:16-cv-21606-EGT

Hilsoft-cv-143

# Attachment 2

1                                   **UNITED STATES DISTRICT COURT**  
2                                   **SOUTHERN DISTRICT OF CALIFORNIA**

3 JAMES WALTERS, on behalf of himself  
4 and all others similarly situated,

5                                   Plaintiffs,

6                                   v.

7 Target Corp.,

8                                   Defendant.

CASE NO. 3:16-cv-1678-L-MDD

9                                   **DECLARATION OF STEPHANIE J. FIERECK, ESQ.**  
10                                  **ON IMPLEMENTATION OF CAFA NOTICE**

11                               I, STEPHANIE J. FIERECK, ESQ., hereby declare and state as follows:

12                           1.       My name is Stephanie J. Fiereck, Esq. I am over the age of 21 and I have personal  
13 knowledge of the matters set forth herein, and I believe them to be true and correct.

14                           2.       I am the Legal Notice Manager for Epiq Class Action & Claims Solutions, Inc.  
15 (“Epiq”), a firm that specializes in designing, developing, analyzing and implementing large-scale,  
16 un-biased, legal notification plans.

17                           3.       Epiq is a firm with more than 20 years of experience in claims processing and  
18 settlement administration. Epiq’s class action case administration services include coordination  
19 of all notice requirements, design of direct-mail notices, establishment of fulfillment services,  
20 receipt and processing of opt-outs, coordination with the United States Postal Service, claims  
21 database management, claim adjudication, funds management and distribution services.

22                           4.       The facts in this Declaration are based on what I personally know, as well as  
23 information provided to me in the ordinary course of my business by my colleagues at Epiq.  
24  
25  
26

27                               DECLARATION OF STEPHANIE J. FIERECK, ESQ. ON IMPLEMENTATION OF CAFA NOTICE

**CAFA NOTICE IMPLEMENTATION**

5. At the direction of counsel for the Defendant Target Corp., 52 officials, which included the Attorney General of the United States and the Attorneys General of each of the 50 states, and the District of Columbia were identified to receive the CAFA notice.

6. Epiq prepared a list of these state and federal officials with contact information for the purpose of providing CAFA notice. Prior to mailing, the names and addresses from Epiq's list were verified, then run through the Coding Accuracy Support System ("CASS") maintained by the United States Postal Service ("USPS").<sup>1</sup>

7. On June 28, 2019, Epiq sent 52 CAFA Notice Packages ("Notice"). The Notice was mailed by certified mail to 51 officials, including the Attorneys General of each of the 50 states, and the District of Columbia. The Notice was also sent by United Parcel Service ("UPS") to the Attorney General of the United States. The CAFA Notice Service List (USPS Certified Mail and UPS) is included hereto as **Attachment 1**.

8. The materials sent to the federal and states officials included a cover letter, which provided notice of the proposed settlement of the above-captioned case. The cover letter is included hereto as **Attachment 2**.

9. The cover letter was accompanied by a CD, which included the following:

- a. Class Action Complaint and First Amended Class Action Complaint;
- b. Notice of Motion and Plaintiffs' Unopposed Motion for Preliminary Approval of Class Settlement and for Certification of Settlement Class;

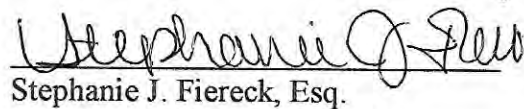
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<sup>1</sup> CASS improves the accuracy of carrier route, 5-digit ZIP®, ZIP + 4® and delivery point codes that appear on mail pieces. The USPS makes this system available to mailing firms who want to improve the accuracy of postal codes, i.e., 5-digit ZIP®, ZIP + 4®, delivery point (DPCs), and carrier route codes that appear on mail pieces.

c. Settlement Agreement and Release (with exhibits);

1. Exhibit A – Email Notice;
2. Exhibit B – Postcard Notice;
3. Exhibit C – Detailed Notice; and
4. Exhibit D - [Proposed] Order Granting Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Settlement and for Certification of Settlement Class.
5. Geographic Distribution of Potential Class Members

I declare under penalty of perjury that the foregoing is true and correct. Executed on  
July 5, 2019.

  
Stephanie J. Fiereck, Esq.

DECLARATION OF STEPHANIE J. FIERECK, ESQ. ON IMPLEMENTATION OF CAFA NOTICE



# Attachment 1

## CAFA Notice Service List

## USPS Certified Mail

Company	FullName	Address1	Address2	City	State	Zip
Office of the Attorney General	Kevin G Clarkson	PO Box 110300		Juneau	AK	99811
Office of the Attorney General	Steve Marshall	501 Washington Ave		Montgomery	AL	36104
Office of the Attorney General	Leslie Carol Rutledge	323 Center St	Suite 200	Little Rock	AR	72201
Office of the Attorney General	Mark Brnovich	2005 N Central Ave		Phoenix	AZ	85004
Office of the Attorney General	CAFA Coordinator	Consumer Law Section	455 Golden Gate Ave Ste 11000	San Francisco	CA	94102
Office of the Attorney General	Phil Weiser	Ralph L Carr Colorado Judicial Center	1300 Broadway 10th Fl	Denver	CO	80203
Office of the Attorney General	William Tong	55 Elm St		Hartford	CT	06106
Office of the Attorney General	Karl A. Racine	441 4th St NW		Washington	DC	20001
Office of the Attorney General	Kathy Jennings	Carvel State Office Bldg	820 N French St	Wilmington	DE	19801
Office of the Attorney General	Ashley Moody	State of Florida	The Capitol PL-01	Tallahassee	FL	32399
Office of the Attorney General	Chris Carr	40 Capitol Square SW		Atlanta	GA	30334
Department of the Attorney General	Clare E. Connors	425 Queen St		Honolulu	HI	96813
Iowa Attorney General	Thomas J Miller	1305 E Walnut St		Des Moines	IA	50319
Office of the Attorney General	Lawrence G Wasden	700 W Jefferson St Ste 210	PO Box 83720	Boise	ID	83720
Office of the Attorney General	Kwame Raoul	100 W Randolph St		Chicago	IL	60601
Indiana Attorney General's Office	Curtis T Hill Jr	Indiana Government Center South	302 W Washington St 5th Fl	Indianapolis	IN	46204
Office of the Attorney General	Derek Schmidt	120 SW 10th Ave 2nd Fl		Topeka	KS	66612
Office of the Attorney General	Andy Beshear	Capitol Ste 118	700 Capitol Ave	Frankfort	KY	40601
Office of the Attorney General	Jeff Landry	1885 N Third St		Baton Rouge	LA	70802
Office of the Attorney General	Maura Healey	1 Ashburton Pl		Boston	MA	02108
Office of the Attorney General	Brian E. Frosh	200 St Paul Pl		Baltimore	MD	21202
Office of the Attorney General	Aaron Frey	6 State House Sta		Augusta	ME	04333
Department of Attorney General	Dana Nessel	PO Box 30212		Lansing	MI	48909
Office of the Attorney General	Keith Ellison	445 Minnesota St	Suite 1400	St Paul	MN	55101
Missouri Attorney General's Office	Eric Schmitt	PO Box 899		Jefferson City	MO	65102
MS Attorney General's Office	Jim Hood	Walter Sillers Bldg	550 High St Ste 1200	Jackson	MS	39201
Office of the Attorney General	Tim Fox	Department of Justice	PO Box 201401	Helena	MT	59620
Attorney General's Office	Josh Stein	9001 Mail Service Ctr		Raleigh	NC	27699
Office of the Attorney General	Wayne Stenehjem	State Capitol	600 E Boulevard Ave Dept 125	Bismarck	ND	58505
Nebraska Attorney General	Doug Peterson	2115 State Capitol		Lincoln	NE	68509
Office of the Attorney General	Gordon MacDonald	NH Department of Justice	33 Capitol St	Concord	NH	03301
Office of the Attorney General	Gurbir S Grewal	8th Fl West Wing	25 Market St	Trenton	NJ	08625
Office of the Attorney General	Hector Balderas	408 Galisteo St	Villagra Bldg	Santa Fe	NM	87501
Office of the Attorney General	Aaron Ford	100 N Carson St		Carson City	NV	89701
Office of the Attorney General	Letitia James	The Capitol		Albany	NY	12224
Office of the Attorney General	Dave Yost	30 E Broad St 14th Fl		Columbus	OH	43215
Office of the Attorney General	Mike Hunter	313 NE 21st St		Oklahoma City	OK	73105
Office of the Attorney General	Ellen F Rosenblum	Oregon Department of Justice	1162 Court St NE	Salem	OR	97301
Office of the Attorney General	Josh Shapiro	16th Fl Strawberry Square		Harrisburg	PA	17120
Office of the Attorney General	Peter F Neronha	150 S Main St		Providence	RI	02903
Office of the Attorney General	Alan Wilson	Rembert Dennis Office Bldg	1000 Assembly St Rm 519	Columbia	SC	29201
Office of the Attorney General	Jason Ravnsborg	1302 E Hwy 14 Ste 1		Pierre	SD	57501
Office of the Attorney General	Herbert H. Slatery III	PO Box 20207		Nashville	TN	37202
Office of the Attorney General	Ken Paxton	300 W 15th St		Austin	TX	78701
Office of the Attorney General	Sean D. Reyes	Utah State Capitol Complex	350 North State St Ste 230	Salt Lake City	UT	84114
Office of the Attorney General	Mark R. Herring	202 North Ninth Street		Richmond	VA	23219
Office of the Attorney General	TJ Donovan	109 State St		Montpelier	VT	05609
Office of the Attorney General	Bob Ferguson	800 Fifth Avenue	Suite 2000	Seattle	WA	98104
Office of the Attorney General	Josh Kaul	PO Box 7857		Madison	WI	53707
Office of the Attorney General	Patrick Morrissey	State Capitol Complex	Bldg 1 Room E 26	Charleston	WV	25305
Office of the Attorney General	Bridget Hill	2320 Capitol Avenue		Cheyenne	WY	82002

CAFA Notice Service List

UPS

Company	FullName	Address1	Address2	City	State	Zip
US Department of Justice	William Barr	950 Pennsylvania Ave NW		Washington	DC	20530

# Attachment 2

**MORRISON | FOERSTER**

425 MARKET STREET  
SAN FRANCISCO  
CALIFORNIA 94105-2482  
  
TELEPHONE: 415.268.7000  
FACSIMILE: 415.268.7522  
  
WWW.MOFO.COM

MORRISON & FOERSTER LLP  
BEIJING, BERLIN, BOSTON,  
BRUSSELS, DENVER, HONG KONG,  
LONDON, LOS ANGELES, NEW YORK,  
NORTHERN VIRGINIA, PALO ALTO,  
SAN DIEGO, SAN FRANCISCO, SHANGHAI  
SINGAPORE, TOKYO, WASHINGTON, D.C.

June 28, 2019

Writer's Direct Contact  
+1 (415) 268.7013  
JMcGuire@mofo.com

VIA UPS OR USPS CERTIFIED MAIL

William Barr  
U.S. Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Additional recipients listed on Attachment A

Re: Notice of Proposed Class Action Settlement under the Class Action Fairness Act (28 U.S.C. § 1715)

Dear Madams and Sirs:

This is to inform you of a proposed class action settlement of *Walters v. Target Corporation*, No. 3:16-cv-01678 (S.D. Cal). Morrison & Foerster LLP represents the Defendant Target Corporation ("Target") in this case.

On June 19, 2019, Plaintiff filed a Motion for Preliminary Approval of Class Settlement and for Certification of Settlement Class, together with the Settlement Agreement and Release (the "Proposed Settlement") entered into between Plaintiff and Target on June 18, 2019.<sup>1</sup> (The Proposed Settlement is included on the enclosed CD) The Motion for Preliminary Approval is set for hearing on July 29, 2019 at 10:30 a.m. However, no oral argument will be held unless requested by the Court. In the Proposed Settlement, Target continues to deny Plaintiff's claims and maintains that it has done nothing wrong, improper, or unlawful.

By this letter and its enclosures, Target provides notice of the Proposed Settlement pursuant to 28 U.S.C. § 1715 to the following authorities:

- Attorney General of the United States.

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<sup>1</sup> The Settlement Agreement and Release also resolves a separate action filed in the United States District Court for the District of Minnesota, *Dixon v. Target Corporation*, 0:18-cv-02660.

**MORRISON | FOERSTER**

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- Attorneys general of all the states in which class members reside.

**Walters and its Proposed Settlement:**

The *Walters* action began on June 29, 2016, when Plaintiff filed a complaint in the United States District Court for the Southern District of California on behalf of a purported nationwide class. In the First Amended Complaint, Plaintiff claimed that Target misleadingly named the Target Debit Card a “debit card.” Plaintiff alleged that, at the point of sale, bank-issued debit cards immediately debit transactions if customers have sufficient funds or decline transactions if customers have insufficient funds. Plaintiff further alleged that because the Target Debit Card instead takes several days to process transactions, he incurred Returned Payment Fees from Target and nonsufficient funds fees from his bank. Plaintiff asserted claims for breach of contract, including the implied covenant of good faith and fair dealing; unjust enrichment; unconscionability; conversion; violation of the “unfair” prong of California’s unfair competition law (“UCL”); violation of the “fraudulent” prong of the UCL; violation of the “unlawful” prong of the UCL; and violation of the Consumers Legal Remedies Act (“CLRA”).

In September 2016, Target sought dismissal of the action as a matter of law primarily relying on the Target Debit Card Agreement, which explained that the electronic funds transfers for Target Debit Card transactions may take several business days after the transactions occur. The Court granted the motion in part and denied it in part in February 2017. Plaintiff’s UCL, CLRA, and breach of the implied covenant of good faith and fair dealing claims survived.

In June 2017, Target filed a motion for reconsideration of the Court’s order on its motion to dismiss. In October 2017, the Court issued an order granting in part and denying in part the motion for reconsideration, further limiting the scope of the good faith and fair dealing claim.

After extended discovery, Target filed a motion for summary judgment in September 2018 and Plaintiff filed a motion for class certification that same month.

Before the Court decided the motions, the parties were able to reach an agreement and entered into the Proposed Settlement on June 18, 2019.

The Proposed Settlement sets forth a proposed Settlement Class consisting of “All [Target Debit Card] holders in the United States who, within the Class Period, incurred at least one RPF in connection with their [Target Debit Card], that was not refunded or waived.” (Exhibit 1 at § 2.1(a).)

As noted above, Plaintiff filed a Motion for Preliminary Approval on June 19, 2019. The Motion for Preliminary Approval is set for hearing on July 29, 2019 at 10:30 a.m. In



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connection with preliminary and final approval, Target will ask the Court to certify that its notification complies with the applicable requirements of 28 U.S.C. § 1715.

**Specific Elements of 28 U.S.C. § 1715:**

1. Section 1715(b)(1)

The Complaint filed on June 29, 2016 and the First Amended Complaint filed on August 15, 2016 are included on the enclosed CD.

2. Section 1715(b)(2)

The Motion for Preliminary Approval is set for hearing on July 29, 2019 at 10:30 a.m. However, no oral argument will be held unless requested by the Court. The Notice of Motion setting the hearing is included on the enclosed CD.

3. Section 1715(b)(3)

The proposed form of email, mail and long-form notice is located at Exhibits A, B, and C to the Settlement Agreement - Exhibit 1. The notice plan is described in Section 2.5 of the Settlement Agreement – Exhibit 1. Both the notice and notice plan have been submitted to the Court as part of the Proposed Settlement, and are subject to the Court's approval. The forms of notice are included on the enclosed CD as exhibits to the Settlement Agreement.

4. Section 1715(b)(4)

Exhibit 1 is a copy of the Settlement Agreement reached by Plaintiff and Target on June 18, 2019, together with exhibits thereto. The Settlement Agreement with attachments is included on the enclosed CD.

5. Section 1715(b)(5)

Other than the Settlement Agreement, there is no agreement between class counsel and counsel for the defendant.

6. Section 1715(b)(6)

At this time, there is no proposed final judgment or notice of dismissal.

7. Section 1715(b)(7)

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At this time, Target does not know the names of the class members residing in each state. This information will be available to Target after completion of the data analysis process and preparation of the class member list, which is ongoing.

Based on the information currently available, however, Target has made a reasonable estimate of the number of class members residing in each state and the estimated proportionate share of the claims of such members to the entire settlement. This information is included on the enclosed CD.

8. Section 1715(b)(8)

At this time there are no written judicial opinions relating to the materials described in subparagraphs (3) through (6) of 28 U.S.C. § 1715.

\* \* \*

The foregoing information is provided based on the data currently available to Target, and on the status of the proceedings at the time of the submission of this notification. Target reserves its right to provide updated information concerning the proposed settlement or upon request. Please contact me if you require additional information or if you have any questions concerning this letter.

Sincerely,



James R. McGuire

Enclosures

## Attachment A

Company	FullName	Address1	Address2	City	State	Zip
Office of the Attorney General	Kevin G Clarkson	PO Box 110300		Juneau	AK	99811
Office of the Attorney General	Steve Marshall	501 Washington Ave		Montgomery	AL	36104
Office of the Attorney General	Leslie Carol Rutledge	323 Center St	Suite 200	Little Rock	AR	72201
Office of the Attorney General	Mark Brnovich	2005 N Central Ave		Phoenix	AZ	85004
Office of the Attorney General	CAFA Coordinator	Consumer Law Section	455 Golden Gate Ave Ste 11000	San Francisco	CA	94102
Office of the Attorney General	Phil Weiser	Ralph L Carr Colorado Judicial Center	1300 Broadway 10th Fl	Denver	CO	80203
Office of the Attorney General	William Tong	55 Elm St		Hartford	CT	06106
Office of the Attorney General	Karl A. Racine	441 4th St NW		Washington	DC	20001
Office of the Attorney General	Kathy Jennings	Carvel State Office Bldg	820 N French St	Wilmington	DE	19801
Office of the Attorney General	Ashley Moody	State of Florida	The Capitol PL-01	Tallahassee	FL	32399
Office of the Attorney General	Chris Carr	40 Capitol Square SW		Atlanta	GA	30334
Department of the Attorney General	Clare E. Connors	425 Queen St		Honolulu	HI	96813
Iowa Attorney General	Thomas J Miller	1305 E Walnut St		Des Moines	IA	50319
Office of the Attorney General	Lawrence G Wasden	700 W Jefferson St Ste 210	PO Box 83720	Boise	ID	83720
Office of the Attorney General	Kwame Raoul	100 W Randolph St		Chicago	IL	60601
Indiana Attorney General's Office	Curtis T Hill Jr	Indiana Government Center South	302 W Washington St 5th Fl	Indianapolis	IN	46204
Office of the Attorney General	Derek Schmidt	120 SW 10th Ave 2nd Fl		Topeka	KS	66612
Office of the Attorney General	Andy Beshear	Capitol Ste 118	700 Capitol Ave	Frankfort	KY	40601
Office of the Attorney General	Jeff Landry	1885 N Third St		Baton Rouge	LA	70802
Office of the Attorney General	Maura Healey	1 Ashburton Pl		Boston	MA	02108
Office of the Attorney General	Brian E. Frosh	200 St Paul Pl		Baltimore	MD	21202
Office of the Attorney General	Aaron Frey	6 State House Sta		Augusta	ME	04333
Department of Attorney General	Dana Nessel	PO Box 30212		Lansing	MI	48909
Office of the Attorney General	Keith Ellison	445 Minnesota St	Suite 1400	St Paul	MN	55101
Missouri Attorney General's Office	Eric Schmitt	PO Box 899		Jefferson City	MO	65102
MS Attorney General's Office	Jim Hood	Walter Sillers Bldg	550 High St Ste 1200	Jackson	MS	39201
Office of the Attorney General	Tim Fox	Department of Justice	PO Box 201401	Helena	MT	59620
Attorney General's Office	Josh Stein	9001 Mail Service Ctr		Raleigh	NC	27699
Office of the Attorney General	Wayne Stenehjem	State Capitol	600 E Boulevard Ave Dept 125	Bismarck	ND	58505
Nebraska Attorney General	Doug Peterson	2115 State Capitol		Lincoln	NE	68509
Office of the Attorney General	Gordon MacDonald	NH Department of Justice	33 Capitol St	Concord	NH	03301
Office of the Attorney General	Gurbir S Grewal	8th Fl West Wing	25 Market St	Trenton	NJ	08625
Office of the Attorney General	Hector Balderas	408 Galisteo St	Villagra Bldg	Santa Fe	NM	87501
Office of the Attorney General	Aaron Ford	100 N Carson St		Carson City	NV	89701
Office of the Attorney General	Letitia James	The Capitol		Albany	NY	12224
Office of the Attorney General	Dave Yost	30 E Broad St 14th Fl		Columbus	OH	43215
Office of the Attorney General	Mike Hunter	313 NE 21st St		Oklahoma City	OK	73105
Office of the Attorney General	Ellen F Rosenblum	Oregon Department of Justice	1162 Court St NE	Salem	OR	97301
Office of the Attorney General	Josh Shapiro	16th Fl Strawberry Square		Harrisburg	PA	17120
Office of the Attorney General	Peter F Neronha	150 S Main St		Providence	RI	02903
Office of the Attorney General	Alan Wilson	Rembert Dennis Office Bldg	1000 Assembly St Rm 519	Columbia	SC	29201
Office of the Attorney General	Jason Ravnsborg	1302 E Hwy 14 Ste 1		Pierre	SD	57501
Office of the Attorney General	Herbert H. Slatery III	PO Box 20207		Nashville	TN	37202
Office of the Attorney General	Ken Paxton	300 W 15th St		Austin	TX	78701
Office of the Attorney General	Sean D. Reyes	Utah State Capitol Complex	350 North State St Ste 230	Salt Lake City	UT	84114
Office of the Attorney General	Mark R. Herring	202 North Ninth Street		Richmond	VA	23219
Office of the Attorney General	TJ Donovan	109 State St		Montpelier	VT	05609
Office of the Attorney General	Bob Ferguson	800 Fifth Avenue	Suite 2000	Seattle	WA	98104
Office of the Attorney General	Josh Kaul	PO Box 7857		Madison	WI	53707
Office of the Attorney General	Patrick Morrisey	State Capitol Complex	Bldg 1 Room E 26	Charleston	WV	25305
Office of the Attorney General	Bridget Hill	2320 Capitol Avenue		Cheyenne	WY	82002

# Attachment 3

EMAIL NOTICE

**If You had a Target Debit Card and Paid a Return Payment Fee, You May Be Eligible for a Payment or Debt Reduction from a Class Action Settlement.**

A \$5,000,000 Settlement has been reached in a class action lawsuit about whether Target deceptively marketed its Target Debit Card (“TDC”), and whether Target breached consumer agreements in the way it processed TDC Transactions and assessed Returned Payment Fees (“RPFs”) on consumers. The RPFs were assessed when the bank account the consumer chose to link to their TDC did not have sufficient funds to cover a TDC Transaction and the bank returned the transaction to Target unpaid. Target maintains that there was nothing wrong with its marketing of the TDC and that it complied, at all times, with applicable laws and regulations and the terms of its agreements with its customers.

**Who is Included? You were sent this email because Target’s records show you are member of the Settlement Class.** The Settlement Class includes all TDC holders in the United States who, between June 29, 2012 and Month Day, 2019, incurred at least one RPF in connection with their TDC, that was not refunded or waived.

**What Are the Settlement Terms?** Target has agreed to establish a Settlement Fund of \$5,000,000 from which eligible Settlement Class Members will receive payments, and a Debt Reduction fund of \$\_\_\_\_\_ from which eligible Class Members will receive reductions on outstanding balances on their TDC accounts. Once the Court approves the Settlement, each eligible Settlement Class Member will *automatically* receive their payment by check or debt reduction to their account. The Settlement also includes several Business Practice Changes to how RPFs are assessed to TDC transactions.

**Your Rights May Be Affected.** If you do not want to be legally bound by the Settlement, you must exclude yourself from the Settlement Class by **Month Day, 2019**. If you do not timely exclude yourself, you will release your RPF claims against Target, and you will not be able to sue Target for any claim relating to the lawsuit. If you stay in the Settlement Class, you may object to the Settlement in writing by **Month Day, 2019**. The [Detailed Notice](#) explains how to exclude yourself from or object to the Settlement. The Court will hold a hearing on **Month Day, 2019**, to consider whether to approve the Settlement and Class Counsel’s request for attorneys’ fees of up to 30% of the Settlement Fund, plus expenses and Class Representatives’ Service Awards. You may appear at the hearing, but you are not required to attend. To appear and speak at the hearing, you must object to the Settlement in writing pursuant to the instructions in the Settlement Agreement. You may also hire your own attorney, at your own expense, to appear or speak for you at the hearing. Click [here](#) for a copy of the full Detailed Notice or call 1-XXX-XXX-XXXX to request a paper copy be mailed to you.

# Attachment 4



POSTCARD NOTICE

**If You had a Target Debit Card and Paid a Return Payment Fee, You May Be Eligible for a Payment or Debt Reduction from a Class Action Settlement.**

A \$5,000,000 Settlement has been reached in a class action lawsuit about whether Target deceptively marketed its Target Debit Card (“TDC”), and whether Target breached consumer agreements in the way it processed TDC Transactions and assessed Returned Payment Fees (“RPFs”) on consumers. The RPFs were assessed when the bank account the consumer chose to link to their TDC did not have sufficient funds to cover a TDC Transaction and the bank returned the transaction to Target unpaid. Target maintains that there was nothing wrong with its marketing of the TDC and that it complied, at all times, with applicable laws and regulations and the terms of its agreements with its customers.

**Who is Included? You were sent this notice because Target’s records show you are member of the Settlement Class.** The Settlement Class includes all TDC holders in the United States who, between June 29, 2012 and Month Day, 2019, incurred at least one RPF in connection with their TDC, that was not refunded or waived.

**What Are the Settlement Terms?** Target has agreed to establish a Settlement Fund of \$5,000,000 from which eligible Settlement Class Members will receive payments, and a Debt Reduction fund of \$\_\_\_\_\_ from which eligible Class Members will receive reductions on outstanding balances on their TDC accounts. Once the Court approves the Settlement, each eligible Settlement Class Member will *automatically* receive their payment by check or debt reduction to their account. The Settlement also includes several Business Practice Changes to how RPFs are assessed to TDC transactions.

**Your Rights May Be Affected.** If you do not want to be legally bound by the Settlement, you must exclude yourself from the Settlement Class by **Month Day, 2019**. If you do not timely exclude yourself, you will release your RPF claims against Target, and you will not be able to sue Target for any claim relating to the lawsuit. If you stay in the Settlement Class, you may object to the Settlement in writing by **Month Day, 2019**. The Detailed Notice available at the website below explains how to exclude yourself from or object to the Settlement. The Court will hold a hearing on **Month Day, 2019**, to consider whether to approve the Settlement and Class Counsel’s request for attorneys’ fees of up to 30% of the Settlement Fund, plus expenses and Class Representatives’ Service Awards. You may appear at the hearing, but you are not required to attend. To appear and speak at the hearing, you must object to the Settlement in writing pursuant to the instructions in the Settlement Agreement. You may also hire your own attorney, at your own expense, to appear or speak for you at the hearing. Visit the website below for a copy of the full Detailed Notice or call to request a paper copy be mailed to you.

**www.XXXXXXXXXXXXXX.com**

**1-XXX-XXX-XXXX**

# Attachment 5

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

## If You had a Target Debit Card and Paid a Return Payment Fee, You May Be Eligible for a Payment or Debt Reduction from a Class Action Settlement.

*A federal court authorized this notice. This is not a solicitation from a lawyer.*

- A \$5,000,000 Settlement has been reached in a class action lawsuit about whether Target deceptively marketed its Target Debit Card (“TDC”), and whether Target breached consumer agreements in the way it processed TDC Transactions and assessed Returned Payment Fees (“RPFs”) on consumers. The RPFs were assessed when the bank account the consumer chose to link to their TDC did not have sufficient funds to cover a TDC Transaction and the bank returned the transaction to Target unpaid. Target maintains that there was nothing wrong with its marketing of the TDC and that it complied, at all times, with applicable laws and regulations and the terms of its agreements with its customers.
- Class Members are entitled to either an automatic payment or an automatic reduction of any outstanding balance on their TDC account. The settlement also mandates changes to several of Target’s business practices related to TDC transactions.
- The Settlement Class includes all TDC holders in the United States who, between June 29, 2012 and Month Day, 2019 incurred at least one RPF in connection with their TDC that was not refunded or waived.
- Your legal rights are affected whether you act or don’t act. Read this notice carefully.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
<b>Receive a Cash Payment or Debt Reduction</b>	If you are entitled under the Settlement to a Cash Payment or Debt Reduction, you do not have to do anything to receive it. If the Court approves the Settlement and it becomes final and effective, and you remain in the Settlement Class, you will automatically receive a Cash Payment by check or Debt Reduction.
<b>Exclude Yourself from the Settlement</b>	Receive no benefit from the Settlement. This is the only option that allows you to retain your right to bring any other lawsuit against Target about the claims in this case.
<b>Object</b>	Write to the Court if you do not like the terms of the Settlement.
<b>Go to a Hearing</b>	Ask to speak in Court about the fairness of the Settlement.
<b>Do Nothing</b>	You will receive any payment or reduction of debt to which you are entitled, and will give up your right to bring your own lawsuit against Target about the claims in this case.

- These rights and options — **and the deadlines to exercise them** — are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Cash Payments and Debt Reduction will be provided if the Court approves the Settlement and after any appeals are resolved. Please be patient.

**Questions? Call 1-XXX-XXX-XXXX or visit [www.XXXXXXXXXXXXXXXXXX.com](http://www.XXXXXXXXXXXXXXXXXX.com)**

**WHAT THIS NOTICE CONTAINS**

**BASIC INFORMATION..... PAGE 3**

1. Why is there a notice?
2. What is this lawsuit about?
3. What do “TDC,” “TDC Agreement,” “RPF” and “Linked Deposit Account” mean?
4. Why is this a class action?
5. Why is there a Settlement?

**WHO IS IN THE SETTLEMENT..... PAGE 3**

6. Who is included in the Settlement?

**THE SETTLEMENT’S BENEFITS..... PAGE 4**

7. What does the Settlement provide?
8. How do I receive a payment or debt reduction?
9. What am I giving up to stay in the Settlement Class?

**EXCLUDING YOURSELF FROM THE SETTLEMENT..... PAGE 5**

10. How do I get out of the Settlement?
11. If I do not exclude myself, can I sue Target for the same thing later?
12. If I exclude myself from the Settlement, can I still receive a payment?

**THE LAWYERS REPRESENTING YOU..... PAGE 5**

13. Do I have a lawyer in this case?
14. How will the lawyers be paid?

**OBJECTING TO THE SETTLEMENT ..... PAGE 6**

15. How do I tell the Court that I don’t like the Settlement?
16. What’s the difference between objecting and excluding?

**THE COURT’S FINAL APPROVAL HEARING..... PAGE 7**

17. When and where will the Court decide whether to approve the Settlement?
18. Do I have to come to the hearing?
19. May I speak at the hearing?

**IF YOU DO NOTHING ..... PAGE 7**

20. What happens if I do nothing at all?

**GETTING MORE INFORMATION..... PAGE 7**

21. How do I get more information?

## BASIC INFORMATION

### 1. Why is there a notice?

A Court authorized this notice because you have a right to know about the proposed Settlement of this class action lawsuit, and about all of your options, before the Court decides whether to give Final Approval to the Settlement. This notice explains the lawsuit, the Settlement and your legal rights.

Judge M. James Lorenz of the United States District Court for the Southern District of California is overseeing this case. The case is known as *Walters v. Target Corp.*, No. 3:16-cv-1678-L-MDD (the “Action”). The persons who sued are called the “Plaintiffs.” The Defendant is Target.

### 2. What is this lawsuit about?

The lawsuit claims that the TDC (as defined below) is deceptively marketed. The lawsuit further alleges that Target breached the TDC Agreement as well as the duty of good faith and fair dealing by the manner in which Target processes TDC Transactions and assesses RPFs (also defined below) on consumers. The First Amended Complaint is posted at [www.XXXXXXXXXXXXXX.com](http://www.XXXXXXXXXXXXXX.com) and contains all of the allegations and claims asserted against Target.

Target denied, and continues to deny each and every claim and allegation of wrongdoing asserted in the Action, and Target believes it would ultimately be successful in its defense of all claims asserted in the Action.

### 3. What do “TDC,” “TDC Agreement,” “RPF” and “Linked Deposit Account” mean?

“TDC” means the Target Debit Card.

“TDC Agreement” means the TDC terms and conditions as may be amended from time to time that all consumers accept when they open a TDC account.

“RPF” or, plural, “RPFs,” means the Returned Payment Fee that Target applies to a TDC when a TDC transaction is returned unpaid by the customer’s financial institution holding the Linked Deposit Account, as described in the TDC Agreement.

“Linked Deposit Account” means the deposit account linked to a consumer’s TDC from which the TDC withdraws funds to pay TDC Transactions.

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

In a class action, one or more people called class representatives (in this case, Plaintiffs James Walters, Michelle Dixon, and Charles Powell) sue on behalf of people who have similar claims. The people included in the class action are called the Settlement Class or Settlement Class members. One court resolves the issues for all Settlement Class members, except for those who timely exclude themselves from the Settlement Class.

### 5. Why is there a Settlement?

The Court has not decided in favor of either the Plaintiffs or Target. Instead, both sides agreed to the Settlement. By agreeing to the Settlement, the Parties avoid the costs and uncertainty of a trial, and Settlement Class Members receive the benefits described in this notice. The Class Representatives and Class Counsel believe the Settlement is best for everyone who is affected.

## WHO IS IN THE SETTLEMENT?

To see if you will be affected by the Settlement or if you can get a payment or debt reduction from it, you first have to determine if you are a Settlement Class member.

**Questions? Call 1-XXX-XXX-XXXX or visit [www.XXXXXXXXXXXXXX.com](http://www.XXXXXXXXXXXXXX.com)**

## 6. Who is included in the Settlement?

All TDC holders in the United States who, within the Class Period, incurred at least one RPF in connection with their TDC, that was not refunded or waived.

Based on a review of Target's data, it is estimated that the Settlement Class numbers approximately \_\_\_\_\_. You may contact the Settlement Administrator if you have any questions as to whether you are in the Settlement Class.

## THE SETTLEMENT'S BENEFITS

### 7. What does the Settlement provide?

Under the Settlement target has agreed to provide both Business Practice Changes and Monetary Relief (money) to Class Members.

#### **Business Practice Changes**

Beginning on Month Day, 2019 Target agrees not to implement or assess RFPs, or any equivalent fee, in connection with TDC transactions of less than \$7.00. Beginning on Month Day, 2019 Target agrees that any RFPs charged will be the lesser of the RFP as disclosed by the TDC Agreement or the amount of the TDC transaction that was returned unpaid. Both changes will remain in effect for a period of 2 years, or until Month Day, 20\_\_.

Plaintiffs and Target will work collaboratively to amend the TDC Agreement to provide better language so Target's customers will have more information on how the TDC functions and the risks associated with use of the TDC, including how the TDC differs from a consumer's bank-issued debit card and the risks of incurring RPFs and NSF fees from their bank and/or credit union.

#### **Monetary Relief**

Target has agreed to pay a Cash Settlement Amount of \$5,000,000.00 and to waive \$\_\_\_\_\_ in RFPs currently due and owing by Settlement Class Members.

How will Cash Payments be Calculated? Each Settlement Class Member who paid at least one RPF that was assessed during the Class Period and not refunded or charged off will be entitled to receive a cash payment from the Net Settlement Fund. The Net Settlement Fund will be divided by the number of Settlement Class Members who paid at least one RPF that was not refunded or waived. Each Settlement Class Member Cash Payment will be adjusted based upon the dollar amount of the RPF paid by the Settlement Class Member. Joint accountholders will be entitled to their pro rata share of a single Settlement Class Member Cash Payment.

How will Debt Reduction Payments be Calculated? For Settlement Class Members who were assessed an RPF during the Class Period but have not paid it at the time the Settlement Class Member Cash Payments are to be distributed, the Debt Reduction Amount will be used by Target to make Debt Reduction Payments toward the outstanding balance on the TDC account in an amount of 25% of the first RPF that was assessed and not paid. To the extent Target has reported the accounts to any credit bureaus or ChexSystems, Target will update the reporting. In the event the Debt Reduction Payment brings the account balance to zero, the reporting will be updated to state that the account was paid in full. In the event the Debt Reduction Payment does not bring the account balance to zero, the reporting will be updated only to state that a partial payment has been made on the account.

Under the Settlement a Class Member may not qualify for relief from both the Cash Settlement Amount and Debt Reduction Amount even if they paid one or more RPFs during the Class Period that was not refunded and were assessed at least one other RPF during the Class Period that is still due and owing.

**Questions? Call 1-XXX-XXX-XXXX or visit [www.XXXXXXXXXX.com](http://www.XXXXXXXXXX.com)**

#### 8. How do I receive a payment or debt reduction?

If you are in the Settlement Class and entitled to receive a Cash Payment or Debt Reduction, you do not need to do anything to receive it. If the Court approves the Settlement and it becomes final and effective, you will *automatically* receive a payment by check or reduction of your debt.

#### 9. What am I giving up to stay in the Settlement Class?

Unless you exclude yourself from the Settlement Class, you cannot sue or be part of any other lawsuit against Target about the legal issues in this Action. It also means that all of the decisions by the Court will bind you. The “Release” included in the Settlement Agreement describes the precise legal claims that you give up if you remain in the Settlement. The Settlement Agreement is available at [www.XXXXXXXXXXXXXXXXXXXXXX.com](http://www.XXXXXXXXXXXXXXXXXXXXXX.com).

### EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want benefits from the Settlement, and you want to keep the right to sue Target on your own about the legal issues in this Action, then you must take steps to get out of the Settlement. This is called excluding yourself — or it is sometimes referred to as “opting-out” of the Settlement Class.

#### 10. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must send a letter that includes the following:

- Your name and your TDC account number(s);
- A short statement that you are opting-out of the Settlement Class and that you understand that you will not receive a Settlement Class Member Cash Payment or a Debt Reduction Payment from the Settlement of the Action; and
- Your signature and the date you sign.

You must mail your exclusion request, postmarked no later than **Month Day, 2019**, to:

TDC Settlement  
P.O. Box XXXX  
Portland, OR XXXXX-XXXX

#### 11. If I do not exclude myself, can I sue Target for the same thing later?

No. Unless you exclude yourself, you give up the right to sue Target for the claims that the Settlement resolves. You must exclude yourself from this Settlement Class in order to try to pursue your own lawsuit.

#### 12. If I exclude myself from the Settlement, can I still receive a payment?

No. You will not receive a payment or debt reduction if you exclude yourself from the Settlement.

### THE LAWYERS REPRESENTING YOU

#### 13. Do I have a lawyer in this case?

The Court has appointed a number of lawyers to represent you and others in the Settlement Class as “Class Counsel,” including the law firms Kopelowitz Ostrow Ferguson Weiselberg Gilbert, Kaliel PLLC, and Tycko & Zavareei LLP.



Class Counsel will represent you and others in the Settlement Class. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

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

Class Counsel intends to request up to 30% of the Settlement Value to reimburse Class Counsel for attorneys' fees incurred in researching, preparing for, and litigating this Action, and Class Counsel may also apply for reimbursement for costs and expenses incurred in the Action. The fees and expenses awarded by the Court will be paid out of the Settlement Fund. The Court will determine the amount of fees and expenses to award.

Based on their respective levels of participation in the Actions, Class Counsel will request for Plaintiff Walters a Class Representative Service Award in an amount not exceeding \$7,500.00 in recognition of his service to the Settlement Class and will request for Plaintiffs Dixon and Powell a Class Representative Service Award in an amount not exceeding \$3,000.00 in recognition of their service to the Settlement Class.

## OBJECTING TO THE SETTLEMENT

#### 15. How do I tell the Court that I don't like the Settlement?

If you are a Settlement Class Member, you can object to any part of the Settlement, the Settlement as a whole, Class Counsel's requests for fees and expenses and/or Class Counsel's request for a Service Award for the Class Representative. To object, you must submit a letter that includes the following:

- The case name and case number and your name, address, telephone number, and signature;
- An explanation of the nature of your objection and citation to any relevant legal authority;
- The number of times you have objected to a class action settlement in the past 5 years and the caption for any such case(s);
- The name of any counsel representing you; and
- Whether you (on your own or through you attorney) intend to testify at the final approval hearing (see below).

You must send your objection to the Clerk of Court, class counsel, and defense counsel at the addresses below, by first class mail and postmarked no later than **Month Day, 2019**.

Clerk of the Court	Class Counsel	Defense Counsel
United States District Court Southern District of California 333 West Broadway, Suite 420 San Diego, CA 92101	Jeff Ostrow KOPELOWITZ OSTROW FERGUSON WEISELBERG GILBERT 1 West Las Olas Blvd., Suite 500 Fort Lauderdale, FL 33301	James McGuire, Esq. MORRISON & FOERSTER LLP 425 Market St. San Francisco, CA 94105

The Parties shall have the right to take discovery, including via subpoenas and depositions, from any objector.

#### 16. What's the difference between objecting and excluding?

Objecting is telling the Court that you do not like something about the Settlement. You can object to the Settlement only if you do not exclude yourself from the Settlement. Excluding yourself from the

Settlement is telling the Court that you don't want to be part of the Settlement. If you exclude yourself from the Settlement, you have no basis to object to the Settlement because it no longer affects you.

## **THE COURT'S FINAL APPROVAL HEARING**

The Court will hold a Final Approval Hearing to decide whether to approve the Settlement, and the request for attorneys' fees, expenses and Service Awards for the Class Representatives. You may attend and you may ask to speak, but you don't have to do so.

### **17. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Final Approval Hearing at \_\_:\_\_ a.m. on **Month Day, 2019**, at the Edward J. Schwartz United States Courthouse, 221 West Broadway, San Diego, CA 92101, Courtroom 5B. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check [www.XXXXXXXXXXXXXXXXXXXXXXXX.com](http://www.XXXXXXXXXXXXXXXXXXXXXXXX.com) for updates. At this hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. The Court will also consider any request by Class Counsel for attorneys' fees and expenses and for Service Awards for the Class Representatives. If there are objections, the Court will consider them at this time. After the hearing, the Court will decide whether to approve the Settlement. We do not know when the Court will make its decision. It is a good idea to check [www.XXXXXXXXXXXXXXXXXXXXXXXX.com](http://www.XXXXXXXXXXXXXXXXXXXXXXXX.com) for updates.

### **18. Do I have to come to the hearing?**

No. Class Counsel will answer any questions the Court may have. But, you may come at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you submit your written objection on time, to the proper addresses and it complies with the requirements set forth previously, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

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

You may speak at the Final Approval Hearing if you have filed and served a timely objection to the Settlement according to the procedures set out in Section \_\_ above.

## **IF YOU DO NOTHING**

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

If you do nothing, you will still receive the benefits to which you are entitled under the Settlement Agreement. Unless you exclude yourself, you will not be able to start a lawsuit or be part of any other lawsuit against Target relating to the issues in this Action.

## **GETTING MORE INFORMATION**

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

This Detailed Notice summarizes the proposed Settlement. More details can be found in the Settlement Agreement. You can obtain a copy of the Settlement Agreement at [www.XXXXXXXXXXXXXXXXXXXXXXXX.com](http://www.XXXXXXXXXXXXXXXXXXXXXXXX.com). You may also write with questions to TDC Settlement, P.O. Box XXXX, Portland, OR XXXXX-XXXX, or call the toll-free number, 1-XXX-XXX-XXXX. Do not contact Target or the Court for information.

# Attachment 6



**Walters v Target  
Opt Out Report**

<b>Epiq ID</b>	<b>Name</b>
362650	SHARMALLEE K REZENTES
373594	JULIE SORIA
517630	BRENDA A WAGNER
643343	BARBARA A GREVE
742028	BRITTANY J DELAHAUT
1026588	LINDA A CORRIGAN
118068	ROBIN C YATES
743863	MARLENIS RIVERA
526564	JEAN B LEE

1 JEFF OSTROW (*pro hac vice*)  
2 **KOPELOWITZ OSTROW**  
3 **FERGUSON WEISELBERG GILBERT**  
4 One West Las Olas Blvd, 5<sup>th</sup> Floor  
Fort Lauderdale, FL 33301  
Telephone: (954) 525-4100  
5 Facsimile: (954) 525-4300  
6 ostrow@kolawyers.com

7 *Attorneys for Plaintiffs and the Settlement Class*

8  
9 UNITED STATES DISTRICT COURT  
10 SOUTHERN DISTRICT OF CALIFORNIA

11 JAMES WALTERS, MICHELLE DIXON,  
12 DEANA POLCARE and CHARLES  
13 POWELL, on behalf of themselves and all  
others similarly situated,

14 Plaintiffs,

15 vs.

16  
17 TARGET CORP.,

18 Defendant.  
19  
20  
21

CASE NO. 3:16-cv-1678-L-MDD

**CERTIFICATE OF SERVICE**

22 I, Jeff Ostrow, hereby certify that on this 22<sup>nd</sup> day of May 2020, the following  
23 documents were filed via the Court's CM/ECF system, thereby causing a true and correct  
24 copy to be sent to all ECF-registered counsel of record:

- 25 - Notice of Motion and Plaintiffs' Unopposed Motion for Final Approval of Class  
26 Settlement, Application for Attorneys' Fees and Costs and Service Awards; and  
27  
28

- 1 - Memorandum of Points and Authorities in Support of Plaintiffs' Unopposed  
2 Motion for Final Approval of Class Settlement and for Certification of Settlement  
3 Class and exhibits thereto.  
4

5 /s/ Jeff Ostrow

6 JEFF OSTROW (*pro hac vice*)

7 **KOPELOWITZ OSTROW FERGUSON**  
8 **WEISELBERG GILBERT**

9 1 West Las Olas Blvd., Suite 500

10 Fort Lauderdale, FL 33301

11 Telephone: (954) 525-4100

12 Facsimile: (954) 525-4300

13 ostrow@kolawyers.com

14 *Attorneys for Plaintiffs and the Settlement Class*  
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