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FIRST CIRCUIT COURT
STATE OF HAWAII
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all others similarly situated.

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

LINDA ROBINSON, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

FIRST HAWAIIAN BANK and DOE
DEFENDANTS 1-50,

Defendants.

) Civil No. 17-1-0167-01 GWBC
) (Class Action)
)
) **PLAINTIFF'S FIRST AMENDED**
) **MOTION FOR FINAL APPROVAL OF**
) **SETTLEMENT AGREEMENT, FOR**
) **APPROVAL OF COUNSEL'S FEES**
) **AND COSTS, AND SERVICE AWARD**
) **TO THE CLASS REPRESENTATIVE;**
) **MEMORANDUM IN SUPPORT OF**
) **MOTION; DECLARATION OF BRANDEE**
) **J.K. FARIA; EXHIBITS "1"- "4";**
) **DECLARATION OF JEFFREY KALIEL;**
) **AFFIDAVIT OF CAMERON R. AZARI;**
) **ATTACHMENTS "1"- "4";**
) **SUPPLEMENTAL AFFIDAVIT OF**
) **CAMERON R. AZARI; ATTACHMENTS**
) **"1"- "2"; NOTICE OF HEARING AND**
) **CERTIFICATE OF SERVICE**
)
) Hearing Date: August 6, 2019
) Hearing Time: 3:00 p.m.
No Trial Date Set
Judge: Honorable Gary W. B. Chang


PLEASE NOTE CHANGES

**PLAINTIFF'S FIRST AMENDED MOTION FOR FINAL APPROVAL OF SETTLEMENT
AGREEMENT, FOR APPROVAL OF COUNSEL'S FEES AND COSTS, AND SERVICE
AWARD TO THE CLASS REPRESENTATIVE**

Plaintiff LINDA ROBINSON, individually and on behalf of all others similarly situated. (the "Class") as defined hereinafter, respectfully moves this Court for the foregoing reasons. Plaintiffs respectfully request that the Court enter the proposed order attached hereto: (1) determining that the Settlement is fair, adequate and reasonable, (2) finally certifying the Settlement Class for settlement purposes, (3) determining that the notice program satisfied the due process requirements (4) approving Plaintiffs' fees, and costs of \$129,511.84 and the class representative Service Award of \$10,000 as reasonable, (5) entering Judgment dismissing the Action with prejudice, (5) barring and enjoining all Releasing Parties from pursuing any Released Claims, (6) releasing FHB and the Released Parties from the Released Claims; and (7) reserving the Court's continuing and exclusive jurisdiction over the Parties to this Agreement, and for (8) entry of Final Judgement. All capitalized terms are defined terms under the Settlement Agreement which is also attached hereto.

This Motion is made pursuant to rules 7, 23, and 58 of the Hawai'i Rules of Civil Procedure and is based on the attached memorandum, exhibit, affidavits and declarations, and the files and records in this case.

DATED: Honolulu, Hawai'i, July 22, 2019.



BRANDEE J.K. FARIA
JOHN FRANCIS PERKIN
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Linda Robinson, individually and on
behalf of all others similarly situated.

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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

LINDA ROBINSON, individually and on)	Civil No.17-1-0167-01 GWBC
behalf of all others similarly situated,)	(Class Action)
)	
Plaintiff,)	
)	
vs.)	MEMORANDUM IN SUPPORT
)	
FIRST HAWAIIAN BANK and DOE)	
Defendants 1-50,)	
)	
Defendant.)	

MEMORANDUM IN SUPPORT

I. INTRODUCTION

Plaintiff LINDA ROBINSON (hereinafter “Plaintiff” or “Representative”), on behalf of herself and other similarly situated (collectively “Plaintiffs”), move for final approval of this class action settlement, which provides timely and significant benefits to a settlement class of over 82,000 current and former First Hawai’ian Bank (“FHB” or “Defendant”) accountholders—*not one of whom has objected or opted out to the settlement.* The settlement class members’ unanimous support for the Settlement Agreement in addition to other benefits described herein, argue strongly in favor of final approval. This Court’s final approval of the Settlement Agreement will allow a prompt and efficient distribution of settlement benefits to class members.

Plaintiffs filed this class action against FHB alleging, among other things, that FHB’s practice of assessing overdraft fees on debit card transactions that were authorized in a positive available balance, but settled into insufficient funds was unfair, deceptive, unconscionable, and in bad faith. Defendant denies all wrongdoing and maintains that its fee assessment procedures were proper. Nevertheless, and with the assistance of an experienced mediator, Plaintiffs and FHB have reached a settlement that provides for a Settlement Fund for \$4,125,000.00 to resolve these claims and compensate class members. In addition, under the Settlement, FHB issued revised disclosures reminding customers of its fee practices, including its policies regarding authorization/settlement procedures relating to debit transactions and the potential impact on

overdraft transactions and the timing of FHB's deduction of overdraft fees. These revised disclosures provide another important benefit that accrues to the benefit of the class.

The settlement was negotiated at arm's length by counsel experienced in litigating and resolving class actions of this nature. Given the various challenges the Plaintiffs faced in this litigation, Plaintiffs' counsel is of the collective opinion that a total settlement of \$4,125,000 is a fair and reasonable resolution of this case. This settlement will allow the class to avoid the risks inherent in any lawsuit, as well as the delay of further litigation and potential appeal. While Defendant denies all wrongdoing, both parties agree that settlement of this case is an appropriate resolution. This Court agreed with Counsel's assessment and preliminarily approved the settlement on March 13, 2019. In accordance with the Court's order and agreement of the parties, notice of this litigation and the proposed settlement has been given to the class, and Plaintiffs now move for final approval of the Settlement.

Class Counsel also respectfully seeks the Court's approval of attorneys' fees in the amount of \$1,361,250, which is 33.33% of the \$4,125,000 common fund created for the benefit of the class. In addition, Class Counsel seeks reimbursement of expenses reasonably expended in pursuing the litigation, largely comprised of expert fees and mediation expenses, in the amount of \$129,511.84. The requested attorneys' fees will fairly compensate Class Counsel for work already performed in this case and for all of the work remaining to be performed, including ensuring that the settlement is properly administered and implemented, preparing for and attending the final fairness hearing, assisting the claims administrator with payment, and obtaining dismissal of the action. Plaintiffs also request a Service Award of \$10,000 to the class representative for her initiative and involvement in this case, which helped procure for the class a favorable result.

As stated, *not one class member has objected or asked to be excluded from the settlement.* See *Affidavit of Cameron R. Azari*. Furthermore, the settlement was negotiated at arm's length by professional mediators. First Keith Hunter attempted to assist the parties in resolving the case without success. A mediation was scheduled with the Honorable Victoria Marks and briefs were submitted but, FHB did not want to proceed at that point and the mediation was cancelled. Ultimately, a third mediation was scheduled and Jerry M. Hiatt was able to settle the case. Given the manner in which the settlement was reached, and the fact that

currently there are no objectors or class members who have opted out, the settlement warrants final approval under Hawai'i law.

Evaluation of the settlement's terms only further confirms the presumption that the settlement is fair, adequate and reasonable. The proposed settlement provides a significant monetary benefit of \$4,125,000.00 to class members. A second round of payments to class members will be made with residual funds after the first distribution. Ultimately, any undistributed residual funds still remaining after the second round of payments will be paid to Hawai'i Foodbank and Aloha Harvest upon Court approval. FHB will not receive any residual *cy pres* funds.

Plaintiffs submit that the settlement is fair, adequate, and reasonable and easily meets Hawai'i standards for final approval, as outlined below.

II. SUMMARY OF LITIGATION

On January 27, 2017, Plaintiffs filed this putative class action on their own behalf and on behalf of all similarly situated Hawai'i residents. Plaintiffs asserted claims arising from FHB's allegedly unfair, deceptive, unconscionable, and bad faith assessment and collection of overdraft fees. *Second Amended Complaint* ("SAC"), ¶ 1. Plaintiffs' primary allegation is in regard to FHB's assessment of overdraft fees on debit card transactions that were authorized when a customer had sufficient funds available in their account, but which settled into insufficient funds. *Id.* ¶46. Essentially, the allegation is that, by making overdraft determinations during the "nightly batch posting," FHB charged overdraft fees to checking accounts that have not been over-draft. *Id.* Plaintiff also challenged the adequacy of FHB's disclosures regarding how it calculates its overdraft fees. *Id.* ¶89

The parties attempted early settlement efforts with Keith Hunter in August, 2017. Unfortunately, despite their best efforts, the facts of the case had not yet been adequately developed to make settlement feasible. *Declaration of Brandee J.K. Faria*

On November 6, 2017, Plaintiffs filed its *First Amended Complaint*. On November 16, 2017, FHB filed a *Motion to Dismiss the First Amended Complaint* ("MTD"). Due to a conflict, in December, 2017, Judge Hiraoka recused himself and was replaced by the Honorable Gary W. B. Chang. *Faria Decl.* A hearing on FHB's MTD was held on January 23, 2018, and a hearing for additional argument was rescheduled from February 7, 2018, to June 20, 2018.

In May, 2018, the parties agreed to attempt to mediate the case again, but FHB felt that a resolution was unlikely at that stage and the mediation was cancelled. *Id.* On July 23, 2018, after the Court granted leave, Plaintiffs filed their *Second Amended Complaint*. On August 20, 2018, FHB filed its *Motion to Dismiss the Second Amended Complaint*.

On October 1, 2018, the Parties participated in a mediation with Jerry M. Hiatt. *Faria Decl.* During settlement discussions and prior to the mediation, FHB voluntarily disclosed anonymized sampling data concerning the estimated amount of overdraft fees at issue, which were analyzed by Plaintiffs' expert to facilitate the mediation. *Id.* After protracted negotiations, the Parties were able to agree upon the material terms of a settlement. *Id.* On or about October 2, 2018, Defendant withdrew its pending MTD and the Parties notified the Court of the Settlement and requested a stay of all proceedings until the filing of the Settlement Agreement and a Stipulation for Preliminary Approval. *Id.* Thereafter, the parties drafted settlement documents and presented them to this Court for preliminary approval. *Id.* On March 13, 2019, this Court entered its *Order 1) Preliminarily Approving Class Action Settlement Agreement, 2) Approving Form Of Notice, 3) Establishing Objection Deadlines, 4) Directing Dissemination of Notice, and 5) Scheduling "Final Fairness Hearing" Of Settlement between Plaintiffs and Defendants*. On March 18, 2019, this Court entered an amended *Order 1) Preliminarily Approving Class Action Settlement Agreement, 2) Approving Form Of Notice, 3) Establishing Objection Deadlines, 4) Directing Dissemination of Notice, and 5) Scheduling "Final Fairness Hearing" Of Settlement between Plaintiffs and Defendants. Exhibit "1"*.

Thereafter, the administrator disseminated the notice pursuant to the terms set forth in the Settlement Agreement. Based on the information and facts known to Class Counsel, and upon consideration of the benefits that the settlement provides to Plaintiffs and the class, Class Counsel considers the settlement to be in the best interest of all class members and urges approval by this Court.

III. STANDARD FOR APPROVAL

The Court must approve the compromise of a class action under HRCP 23(e) ("Dismissal or compromise. A class action shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs...."). As a general rule, a properly executed settlement precludes future litigation for its parties. A settlement agreement is an agreement to

terminate, by means of mutual concessions, a claim which is disputed in good faith or unliquidated. It is an amicable method of settling or resolving *bona fide* differences or uncertainties and is designed to prevent or put an end to litigation. 15A Am.Jur.2d Compromise and Settlement § 1 (1976).

The Hawai'i Supreme Court acknowledges the well-settled rule that the law favors the resolution of controversies through compromise or settlement rather than by litigation. *Kamaunu v. Kaaea*, 99 Hawai'i 503, 507, 57 P.3d 428, 432 (2002) (citing *Sylvester v. Animal Emergency Clinic*, 72 Haw. 560, 566, 825 P.2d 1053, 1056 (1992)). Such an alternative to court litigation not only brings finality to the uncertainties of the parties, but is consistent with this court's policy to foster amicable, efficient, and inexpensive resolution of disputes. In turn, it is advantageous to judicial administration and thus to government and its citizens as a whole. *Exotics Hawai'i v. E.I. Du Pont De Nemours*, 172 P.3d 1021, 116 Hawai'i 277 (Hawai'i, 2007).

Courts have universally accepted that the applicable standard for the Court to approve the compromise of a class action under HRCp 23(e) is whether the settlement is "fair, adequate and reasonable." See, e.g. *In re Pacific Enterprises Sec. Litig.*, 47 F.3d 373, 377 (9th Cir. 1995); *Officers for Justice v. Civil Serv.*, 688 F.2d 615, 625 (9th Cir. 1982), *cert. denied* 459 U.S. 1217 (1983).¹ The law favors settlements and this has "particular force in class actions". *Newberg* § 13:63. Therefore, in considering a proposed class settlement, "the courts generally view facts in a light favorable to settlement." *Id.*

The settlement must be evaluated as a whole to determine whether it is generally fair to the class. See *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998):

It is the settlement taken as a whole, rather than the individual component parts, that must be examined for overall fairness. *Officers for Justice v. Civil Serv. Comm'n of San Francisco*, 688 F.2d 615, 628 (9th Cir. 1982). Neither the district court nor this court have the ability to "delete, modify or substitute certain provisions." *Id.* at 630. The settlement must stand or fall in its entirety. *Id.*

¹ Because Haw. R. Civ. P. Rule 23(e) is identical to its federal counterpart, decisions interpreting federal law are persuasive. See, *Canalez v. Bob's Appliance Serv. Ctr., Inc.*, 89 Hawai'i 292, 306, 972 P.2d 295, 309 (1999) ("Where a Hawai'i rule of civil procedure is identical to the federal rule, the interpretation of this rule by federal courts is highly persuasive.") (citing *Shaw v. North American Title Co.*, 76 Haw. 323, 326, 876 P.2d 1291, 1295 (1994) (citations omitted)).

The Ninth Circuit has identified factors that may be considered in evaluating the fairness of a class action settlement:

Although Rule 23(e) is silent respecting the standard by which a proposed settlement is to be evaluated, the universally applied standard is whether the settlement is fundamentally fair, adequate and reasonable. The district court's ultimate determination will necessarily involve a balancing of several factors which may include, among others, some or all of the following: strength of Plaintiffs case; the risk, expense, complexity and likely duration of further litigation; the risk of maintaining class action status throughout the trial; the amount offered in settlement; the extent of discovery completed, and the stage of the proceedings; the experience and views of counsel . . . and the reaction of the class members to the proposed settlement.

Officers for Justice, 688 F.2d at 625 (citations omitted).

IV. THE SETTLEMENT

The Settlement Agreement (the "Agreement") identifies the settlement class as:

[A]ll current and former FHB members who were charged a Relevant Overdraft Fee during the Class Period. Excluded from the Settlement Class is FHB, its parents, subsidiaries, affiliates, officers and directors, all Settlement Class members who make a timely election to be excluded, and all judges assigned to this litigation and their immediate family members.

Exhibit "2," at ¶ 39. Defendant agrees to pay a total of \$4,125,000.00, and this Settlement Fund "will be used to pay the "Settlement Class Member Payment," any attorneys' fees, costs and Service Awards ordered by the Court, any Settlement Administration Costs, and any *cy pres* payment required under this Agreement." *Id.*, ¶ 42. In addition, and pursuant to the negotiated settlement, FHB issued revised disclosures for consumer checking Account holders, effective February 1, 2019, reminding customers of FHB's policy with respect to (1) the authorization/settlement procedures relating to debit transactions, and that policy's potential impact on overdraft transactions; (2) the timing of FHB's deduction of Overdraft Fees; and (3) the overdraft balances that are subject to continuous overdraft notification fees. *Id.*, ¶ 47. FHB drafted these disclosures in consultation with Class Counsel and Plaintiff. Thus, the benefits to class members far exceeds the \$4,125,000 monetary benefit; indeed, the revised disclosures sent to class members alerts them on a forward going basis of FHB's practices so that they may avoid overdraft charges. The funds of class members who cannot be located or otherwise paid after the best efforts of the settlement administrator will be disseminated a second time, and then

ultimately the residual *cy pres* after two rounds of payments will be paid to worth local non-profits agreed upon by the parties. *Id.*, ¶ 73.

A. Notice

Mailed and emailed notice was delivered to class members on May 31, 2019. *Affidavit of Cameron R. Azari*. The administrator, Epiq, cross checked all provided addresses with the National Change of Address (“NCOA”) database. Thereafter, 60,371 class members were sent notice via email. *Id.* For the 6,940 emails that were bounced back, Epiq is currently preparing mailed notice to be sent to those members. *Id.* Epiq mailed 28,186 notices to class members via First Class U.S. Mail. *Id.* The 3,178 postcards that were returned are being researched for new addresses now and will be re-mailed. *Id.* All notices alerted class members that the opt-out deadline for class members occurs on July 5, 2019, as directed by this Court’s March 18, 2019 *Amended Order* 1) *Preliminarily Approving Class Action Settlement Agreement*, 2) *Approving Form Of Notice*, 3) *Establishing Objection Deadlines*, 4) *Directing Dissemination of Notice*, and 5) *Scheduling “Final Fairness Hearing” Of Settlement between Plaintiffs and Defendants*. *Exhibit “1”* Notice was also published on May 30, 2019 at www.FHBOverdraftLitigation.com.

No objections or exclusion requests have been received as of this filing. *Id.* The initial email and mailed notices have reached approximately 86% of the Settlement Class and additional efforts are ongoing. *Id.* The Administrator has and will continue to respond to any mailed Settlement Class member inquiries, email or telephonic questions, and will mail distribution checks to Class Members where it is not feasible or reasonable for FHB to make the payment by a credit to the Settlement Class Members’ Accounts. *Exhibit “2”*, ¶ 52.

V. THE SETTLEMENT IS FAIR, REASONABLE AND ADEQUATE, AND SHOULD BE APPROVED

A. The Standard for Approval Is Met In This Case

This Court is tasked with approving the proposed settlement under HRCP 23(e). It is well-established that “the law favors the resolution of controversies through compromise or settlement rather than by litigation,” *Kamaunu v. Kaaea*, 57 P.3d 428, 432 (2002) (citations omitted), for the Hawai’i Supreme Court recognizes that settlement “not only brings finality to the uncertainties of the parties, but is consistent with [the] court’s policy to foster amicable, efficient, and inexpensive resolutions of disputes.” *Sylvester v. Animal Emergency Clinic of Oahu*, 825 P.2d 1053, 1056-57 (1992). The appropriate standard for evaluating a settlement is

whether it is “fair, adequate and reasonable.” *Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992) (citations omitted).² Several factors must be balanced to determine if this standard is met:

[T]he strength of Plaintiffs case; the risk, expense, complexity and likely duration of further litigation; the risk of maintaining class action status throughout the trial; the amount offered in settlement; the extent of discovery completed, and the stage of the proceedings; the experience and views of counsel . . . and the reaction of the class members to the proposed settlement.

Officers for Justice v. Civil Serv. Comm'n of City & County of San Francisco, 688 F.2d 615, 625 (9th Cir. 1982). All these factors weigh in favor of final approval of the Settlement Agreement.

The Settlement Agreement was negotiated by experienced counsel on all sides. It meets the criteria set forth by the Ninth Circuit and is fundamentally fair, adequate and reasonable. The lawyers who negotiated the settlement are experienced litigators from well-recognized law practices. Under the terms of the settlement, class members will be provided a significant portion of potential damages, despite litigation risk that they could receive nothing. Moreover, the settlement benefits will be distributed to the class members based upon an equitable formula related to the proportionate losses of each class member.

For these reasons and those that follow below, the Settlement Agreement should be finally approved.

B. The Settlement Agreement Appropriately Balances The Risks Of Litigation And The Benefit To The Class of a Certain Recovery

Where a proposed class settlement has been reached after arm's length negotiation conducted by capable counsel it is presumptively fair, *see M. Berenson Co. v. Faneuil Hall Marketplace, Inc.*, 671 F.Supp. 819, 822 (D. Mass. 1987), and only a limited inquiry into the merits and potential outcomes is justified in this situation. *See Officers for Justice*, 688 F.2d at 625. Class

2. Haw. R. Civ. P. Rule 23(e) is identical to its federal counterpart, and “the interpretation of [a] rule by federal courts is highly persuasive” for interpreting an identical state rule. *Shaw v. N. Am. Title Co.*, 76 Haw. 323, 326, 876 P.2d 1291, 1294 (1994) (citations omitted); *see Officers for Justice v. Civil Serv. Comm'n of City & County of San Francisco*, 688 F.2d 615, 625 (9th Cir. 1982) (“Although Rule 23(e) is silent respecting the standard by which a proposed settlement is to be evaluated, the universally applied standard is whether the settlement is fundamentally fair, adequate and reasonable.”) (citations omitted).

Counsel is highly experienced with class actions of this sort. Plaintiffs' legal team combines the experience of two firms: Perkin & Faria and Kaliel PLLC. Both firms have significant background in and experience with consumer class action cases. *Faria Declaration*.

The extensive background of Plaintiffs' counsel in class action cases regarding bank fee practices facilitated their assessment as to what a fair settlement would be for Plaintiffs in this case. Their collective opinions should provide this Court with assurance as to the reasonableness of the instant settlement

Moreover, two years of litigation preceded the settlement of this case. The Parties engaged in motion practice, including Defendant's substantive motion to dismiss and Plaintiffs' amendment of the original Complaint twice. Informal settlement discussions, and a total of three mediation efforts, with two prior mediations, preceded the settlement of this case. *Faria Decl.* Discovery was also conducted, consisting of both documents and electronic data that needed to be reviewed and analyzed in order to calculate damages. *Id.* These factors demonstrate that this settlement was clearly reached as a result of good faith, spirited arm's length negotiations.

Continuing litigation, including appeals, poses risks to both sides in this action. The Supreme Court's decision in *Davis v. Four Seasons*, 122 Hawai'i 423, 434-35 (2010), required allegations of harm to competition, for the HRS § 480-2 claim which could have required inquiry into the defendants' business methods and the need to hire experts on both sides. *Id.* Defendant faced liability for treble damages if all defenses were overcome and would be required to pay a substantial sum in statutory attorneys' fees if they did not prevail on the claim. In addition, while Defendant's MTD the Second Amended Complaint was never heard, there was real risk to Plaintiffs that said motion might be granted, in part or in the entirety. Thus, the Class members faced the risk of recovering nothing.

This case brought a number of complicated legal issues involved in this case that could have led to an appeal and years of additional delay before recovery to the Class. Despite these risks, under the terms of the settlement, class members will receive compensation this year for the losses that they have suffered. Consequently, the proposed settlement is fair to the Class.

C. The Recommendation of Experienced Counsel Heavily Favors Approval of the Settlement Agreement

The Settlement Agreement was negotiated by experienced counsel on all sides from well-recognized firms. It meets all legal criteria set and is fundamentally fair, adequate and reasonable.

Under the terms of the settlement, class members will receive their *pro rata* share from the net settlement proceeds based on the number of relevant overdraft fees they paid.

Plaintiffs' counsel is highly experienced in similar litigation and settlement negotiation. Perkin & Faria has handled in excess of 30 class actions on behalf of more than 300,000 consumers, yielding settlements or verdicts in excess of \$40,000,000.00. *Faria Decl.* John Francis Perkin and Brandee J.K. Faria are both experienced Martindale Hubbell "AV" rated and capable civil litigators, with significant background and emphasis in class action cases. *Id.*

Jeffrey Kalien of Kalien PLLC has extensive experience in litigating consumer class actions in the banking industry. *Declaration of Jeffrey Kalien.* Mr. Kalien has substantial experience with consumer class actions in general, and specifically with cases in the consumer financial services sector—cases in which he has recovered hundreds of millions of dollars for his clients. *Id.* For example, Mr. Kalien played an active role in filing, litigating and resolving *Farrell v. Bank of America*, 3:16-cv-00492-L-WVG (S.D. Cal.), a case in which Bank of America agreed to a fundamental change to a central aspect of its "extended" overdraft fee policies and agreed to provide \$66 million in settlement benefits to the class. *Id.* Mr. Kalien, who is a graduate of Yale Law School and an Army veteran of the second Iraq war, founded Kalien PLLC in 2017. *Id.*

Jeff has been appointed lead Class Counsel in numerous nationwide and state-specific class actions. *Id.* 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. *Id.* Jeff has also successfully resolved numerous class actions by settlement, resulting in hundreds of millions of dollars in relief for millions of class members. *Id.*

Kalien is currently class counsel in numerous ongoing putative class action lawsuits.³ *Id.* Additionally, Kalien has been named Class Counsel or Settlement Class Counsel in

³ *Woolley et al., v. Ygrene Energy Fund, Inc. et al.*, No. 3:17-cv-01258 (N.D. Cal.); *Dornaus v. Best Buy Co., Inc.*, No. 4:18-cv-04085 (N.D. Cal.); *Figuerroa v. Capital One, N.A. et al.*, No. 3:18-cv-00692 (S.D. Cal.); *Barbanell v. One Medical Group, Inc. et al.*, No. CGC-18-566232 (Super. Ct. of Cal. Cty. of San Francisco); *Chandler et al. v. Arvest Bank*, No. 3:18-cv-00043 (E.D. Ark.); *Roberts v. Capital One*, No. 1:16-cv-04841 (S.D.N.Y.); *Dress v. Capital One*, No. 4:18-cv-40064 (D. Mass.); *Boone v. MB Financial Bank, N.A.*, No. 1:18-cv-01771 (N.D. Ill.); *Hurst v. Educational Employees' Credit Union*, No. 18CECG02541 (Super. Ct. of Cal. Cty. of Fresno); *Jones v. United Community Bank, Inc.*, No. 3:18-cv-00190 (E.D. Tenn.); *DeMoss v. BOKF, N.A.*, No. CJ-2018-01511 (Dist. Ct. for Tulsa Cty., Okla.).

numerous class actions. 4 *Id.* In sum, over the last dozen years, Kaliel has built substantial class action experience, especially in the banking sector. *Id.* He has received "Washington D.C. Rising Stars Super Lawyers 2015" recognition. *Id.*

Plaintiffs' counsel is therefore demonstrably experienced in representing class members. See *Specialty Cabinets & Fixtures v. Am. Equitable Life Ins.*, 140 F.R.D. 474, 476 (S.D. Ga. 1991)). Plaintiffs' counsel is thus well versed in the law in this area. Their experience in this area provided the putative class members with a high degree of expertise. Plaintiffs' counsel used the knowledge derived from these other cases in determining what would be a fair settlement for Plaintiffs in this case.

Where, as here, a proposed class settlement has been reached after arm's length negotiation conducted by capable counsel it is presumptively fair. See *M. Berenson Co. v. Faneuil Hall Marketplace, Inc.*, 671 F.Supp. 819, 822 (D. Mass. 1987). Only a limited inquiry into the merits and potential outcomes is justified in this situation. See *Officers for Justice*, 688 F.2d at 625. FHB does not oppose Plaintiffs' motion for final approval of the settlement.

D. The Reaction of the Class Supports Approval of the Settlement Agreement

Pursuant to the Court's order, notice of the proposed settlement was sent by United States mail to all known class members. To date, none of the 82,939 class members requested exclusion or have objected. *Affidavit of Cameron R. Azari*. To date, notice has been received by approximately 86% of class members and Epiq is undertaking ongoing efforts to locate the

4 *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.); *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.).

addresses of the remainder. *Id.* The existing lack of objection and zero opt out rate as to the proposed settlement amounts to an overwhelming endorsement of the settlement by the affected Class members.

As described in the notice to class members, the settlement funds will be distributed in proportion to the amount of relevant overdraft charges class members paid during the class period (January 27, 2011 through March 13, 2019), which has been calculated by the settlement administrator. *Affidavit of Cameron R. Azari*. Pursuant to HRCF Rule 23(f), Epiq has prepared a spreadsheet identifying the total amount payable to each class member, which is attached to the *Supplemental Affidavit of Cameron R. Azari* as Attachment 2. This spreadsheet was originally 1800 pages and accordingly was condensed but unfortunately the font on the modified version is small, so for the Court's ready reference, counsel will bring the larger version with her to Court should the Court wish to review the same or have the record supplemented. For these reasons and those that follow below, the Settlement Agreement should be finally approved.

VI. THE SETTLEMENT MERITS FINAL APPROVAL

A. Final Approval of the Settlement is Appropriate

The Court in *Kamaunu* established that "the law favors the resolution of controversies through compromise or settlement rather than by litigation." *Kamaunu*, 99 Hawai'i at 507, 57 P.3d 428, 432 (2002) (citing *Sylvester v. Animal Emergency Clinic*, 72 Haw. 560, 566, 825 P.2d 1053, 1056 (1992)). A court should approve a settlement if it "is fundamentally fair, adequate and reasonable." *Torrissi*, 8 F.3d 1370, 1375 (internal question marks omitted); *accord In re Mego Fin. Corp. Sec Litig.*, 213 F.3d 454, 458 (9th Cir. 2000) (citing *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir 1998)).

Here, it is the opinion of Class Counsel that the proposed Settlement is not only fair and adequate, but an excellent result for the Class. *Faria Decl.* Before agreeing to the proposed settlement on behalf of the class, Plaintiffs' counsel thoroughly considered such factors as the substantial benefits provided by the Settlement and the considerable risk, uncertainty, and delay of continued litigation at both the Hawai'i court level and on appeal. They concluded that it was fair, reasonable and adequate and in the best interests of the class. *Faria Decl.* Consequently, Class Counsel now recommends that the Settlement be granted final approval. *Faria Decl.*

B. Final Certification of the Settlement Class is Proper and Should be Granted

The proposed Settlement contemplates the certification of a settlement class for settlement purposes only. Although the parties have agreed to the certification of the class for settlement purposes, the Court nonetheless must find the proposed class is appropriate for certification pursuant to HRCF Rule 23(a). Under HRCF Rule 23(a), there are four requirements for class certification. *See also Amchem Products, Inc. v. Windsor*, 521 U.S. 591, 117 S. Ct. 2231, 138 L. Ed. 2d 689 (1997) (settlement class must be certifiable under Rule 23). Additionally, at least one of the alternate requirements of HRCF Rule 23(b) must also be met. The requirements of HRCF Rule 23(a) and the alternate requirements of HRCF Rule 23(b) are covered in detail below.

As this Court recognized in its Preliminary Approval Order, the proposed Settlement Class meets all the requirements of Rule 23(a), as well as those of Rule 23(b)(3).

1. The proposed class meets the requirements of Rule 23(a)

To be certified, a class must satisfy HRCF 23(a)(1) through the prerequisites of numerosity, commonality of questions of fact or law, typicality of the claims of the Class Representatives and Class Members, and fair and adequate representation by counsel and class representatives. The proposed Class meets each of these requirements.

a. Numerosity

Rule 23(a)(1) requires that the class be so numerous that the joinder of all members would be impracticable. *Life of the Land v. Burns*, 59 Haw. 244, 254, 580 P.2d 405, 411 (1978). In Hawai'i, the numerosity requirement has been satisfied with as few as thirteen potential class members. *Life of the Land*, 59 Haw. at 254, 580 P.2d at 411; *see also Life of the Land v. Land Use Commission*, 63 Haw. 166, 182, 623 P.2d 431, 444 (1981). Here, the Class consists of 82,939 individuals who were customers of Defendant and who fall within the class definition, satisfying the numerosity requirement.

b. Commonality

HRCF Rule 23(a)(2) requires that there are questions of law or fact common to the class. A question is considered common when it arises from a common nucleus of operative facts, even though underlying facts of the case may fluctuate over the entire class period and vary among the individual class members. *In re Asbestos School Litigation*, 104 F.R.D. 422 (E.D. Pa. 1984), *aff'd in part, vacated in part*, 789 F.2d 996 (3rd Cir. 1986), *cert denied*, 479 U.S. 852 (1986); *Bowling v. Pfizer, Inc.*, 143 F.R.D. 141 (S.D. Ohio 1992) (Defendants' conduct arose out of a singular nucleus of fact and law); *Newberg on Class Actions*, §3.10, at 154 (4th ed. 2002).

Here, questions of law and fact are common to the class in this case. The underlying factual background is identical for all class members. All class members are past and present customers of FHB who between January 27, 2011 and March 13, 2019, paid overdraft charges associated with FHB's challenged practices. Each Class Member's claim also presents the same questions of law: (1) whether the conduct at issue violates HRS Chapter 480, and (2) how much damages each Class member suffered and the appropriate amount of compensation they should be awarded. All questions of fact and law are common amongst class members and the Class satisfies this requirement of HRCR Rule 23.

c. Typicality

The HRCR Rule 23(a)(3) typicality requirement is satisfied "whenever there are co-extensive interests on the part of the representatives that are not antagonistic to the interests of the absentees." See *Buchholz v. Swift & Co.*, 62 F.R.D. 581 (D. Minn. 1973). In other words, the claims of the representative must be typical of the claims of the class as a whole." *Gurrobat v. HTH Corporation*, 133 Hawai'i 1, 14 (2014) (citing *Kemp v. State of Hawai'i Child Support Enforcement Agency*, 111 Hawai'i 367, 385, 141 P.3d 1014, 1032 (2006)). Here the representative Plaintiff's claims arise from the same course of conduct as all the other putative Class members' claims. There is therefore no conflict between Plaintiff's claims and those of the Class, thus, the Class satisfies the typicality requirement.

d. Adequacy of Representation

The fourth requirement of HRCR Rule 23(a) is satisfied where "the representative part[y] will adequately protect the interests of the class" and class counsel is able to prosecute the action vigorously on behalf of the Class. *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1029 (9th Cir. 1998); *In re THQ*, 2002 U.S. Dist. LEXIS 7753 at 20. (2002). As stated by the United States Supreme Court in *Amchem Products, Inc. v. Windsor*, 521 U.S. 591, 625-26 (1997) (internal citation omitted):

The adequacy inquiry under Rule 23(a)(4) serves to uncover conflicts of interest between named parties and the class they seek to represent. '[A] class representative must be part of the class and "possess the same interest and suffer the same injury" as the class members.'

See 7A Wright, Miller & Kane § 1766, at 302-303 (stating that the "general standard is that the representatives must be of such character as to assure the vigorous prosecution or defense of the action so that the members' rights are certain to be protected.")

Here, the representative party will fairly and adequately protect the interests of the Class. As noted, the interests of the representative is coextensive and wholly compatible with those of the Class Members. *See Sosna v. Iowa*, 419 U.S. 393, 403 (1975) (finding that the requirement of adequacy of representation was met because the interests of the Plaintiffs did not conflict with those of the other class members.) Linda Robinson is actively pursuing her claims on behalf of herself and the Class as a whole, and is zealously seeking relief from and recompense for the alleged damages caused by Defendant. *Faria Decl.* There are no special circumstances which would prevent Plaintiff from acting in this representative capacity. *Id.*

There are also no conflicts between Plaintiff's Attorney's and the putative Class. *Id.* Plaintiffs' legal team has prosecuted the action vigorously on behalf of Plaintiff and the putative Class. *Id.* Plaintiff's legal team combines the experience of two firms: Perkin & Faria and Kaliel PLLC. As noted in section IV(C), Plaintiffs' counsel is therefore demonstrably competent and has a track record that shows they will fairly and skillfully prosecute this action with vigor on behalf of all class members. Attached hereto is a declaration attesting to the qualifications and experiences of the lawyers who have assumed primary responsibility as counsel for the Class. *Id.* Thus, the Class satisfies the adequacy of representation requirement.

2. The Proposed Class Meets the Requirements of HRCP 23(b)(3)

In addition to satisfying the prerequisites of HRCP 23(a) the proposed class also fulfills the Rule 23(b)(3) requirements of 1) predominance and 2) superiority. Rule 23(b)(3) provides that an action may be maintained as a class action if the prerequisites of subdivision (a) are satisfied, and if in addition:

the court finds that the questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy. The matters pertinent to these findings include: (A) the class members' interests in individually controlling the prosecution or defense of separate actions; (B) the extent and nature of any litigation concerning the controversy already begun by or against class members; (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and (D) the likely difficulties in managing a class action.

As discussed below, the proposed Settlement Class satisfies these requirements.

a. Predominance

The Rule 23(b)(3) predominance requirement "tests whether proposed classes are sufficiently cohesive to warrant adjudication by representation." *Amchem Prods., Inc. v. Windsor*,

521 U.S. 591, 623, 117 S.Ct. 2231, 138 L.Ed.2d 689 (1997). When common questions are a significant aspect of the case and they can be resolved for all members of the class in a single adjudication, there is clear justification for handling the dispute on a representative rather than an individual basis. *Hanlon*, 150 F.3d 1011, 1019-20.

In this case, common questions far outweigh any individual questions. The legal and factual issues in this case are common to all Class Members. As noted in the commonality discussion above, there are multiple issues of law and fact common to all of the Class Members. All Class Members challenge certain overdraft fees that were imposed under common circumstances, and that were subject to uniform account disclosures. Each Class Member alleges that they suffered damages as a result of this common practice and disclosures.

b. Superiority of a class resolution

Under Rule 23(b)(3), class certification is appropriate if a class action is superior to other available methods for the fair and efficient adjudication of the controversy. HRCP Rule 23 (b)(3). This test requires the court to compare the class action vehicle with other potential methods of litigation. Here, proceeding via class action in this matter is superior to any other method of litigation and by far the most efficient and economical means of adjudicating these claims.

First, certification of a class is a superior method of adjudication particularly where, as here, the individual claims are small, and private enforcement via class action serves the public interest.

Second, in assessing whether class certification is the “superior” method to adjudicate the litigation, Rule 23(b)(3) requires that the Court consider the desirability of proceeding via class action in contrast to allowing individual claims to proceed on their own, including an assessment of the difficulties in managing the dispute as a class action. As to these elements of the analysis, class certification is the preferred course to pursue. At least 82,939 current and former customers have been affected by Defendant’s challenged practices. *Azari Aff.* The individual litigation of such a large number of claims would obviously consume a huge amount of judicial resources in trial courts in state and territorial courts across the country.

Damages are determinable by formula and will be determined on an individual basis using data provided by Defendant, thereby making class resolution the superior method.

C. The Proposed Settlement is Fair, Adequate and Reasonable

The Settlement in this case provides a significant recovery for Defendants' current and former checking account customers who make up the class. The Ninth Circuit has identified eight factors to be considered when determining whether a settlement agreement is fair, adequate and reasonable: (1) the strength of the Plaintiffs case; (2) the risk, expense, complexity and 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. *Hanlon*, 150 F.3d at 1027; see also *Torrissi*, 8 F.3d at 1375-76 (citation omitted); accord *Linney v. Cellular Alaska P'ship*, 151 F.3d 1234, 1242 (9th Cir. 1998). Each of these *Hanlon* factors will be analyzed in turn.

1. The Proposed Settlement Terms Are Fair, Reasonable and Adequate in Relation to the Strength of Plaintiffs' Case and Risks and Expense of Further Class Litigation

The first four *Hanlon* factors (the strength of the Plaintiffs' case; risks and expenses of further litigation; risk of maintaining class action status; and amount offered in settlement) strongly support final approval of this settlement.

This case involves many complex legal issues. Continued litigation would require substantial additional pretrial preparation and expense, as Defendant has denied all liability. Plaintiffs' counsel has successfully represented customers in similar cases, but many of these cases were appealed, sometimes all the way to the Hawai'i Supreme Court, dragging the litigation on for years. The expense, complexity, and time commitment associated with litigating this case to a verdict would undoubtedly be very high for both parties. Moreover, the process would require many hours of this Court's time and resources.

While Plaintiffs believe they have a strong case on the merits, they also are familiar with and appreciate the risks associated with continuing to litigate this case. This case depends primarily on legal theories that are in continual flux. In short, a victory at trial and after appeal is far from certain for the Class in this matter, and Class Counsel were required to evaluate the settlement amount in light of this reality.

Plaintiffs faced the risk of Defendant's MTD being granted in whole or in part, thereby eliminating some or all of their claims. Plaintiffs would also face the risk that Defendant would

successfully block class certification, which Defendant would have contested, but for the proposed settlement. And even if the Court certified the class, there is no assurance that the certification would be maintained, as courts may exercise their discretion to re-evaluate the appropriateness of class certification at any time. Moreover, if Plaintiffs successfully navigated around these and other potential obstacles, they would still have to prevail at trial, and even that would not guarantee relief for the class. While Class Counsel is optimistic about the strength of the present case and other similar cases, they fully appreciate the risk of continuing to litigate the claims in this case.

The proposed settlement eliminates the significant risks of continued litigation while entitling class members to receive a *pro rata* distribution from the Settlement Fund. In contrast to prolonged litigation, class members have received and will continue to receive immediate relief if this *Motion* is approved. These substantial and timely benefits provided by the settlement are a significant factor weighing in favor of final approval.

2. Plaintiffs Completed Significant Investigation and Informal Discovery

Hanlon's fifth factor requires an analysis of the extent of discovery completed at the time of the settlement agreement. Plaintiffs had extensive knowledge of the merits of their claims and the defenses that would be asserted in this case. In addition to engaging in thorough investigation, informal discovery and communications with Defendant prior to negotiating the proposed settlement, the parties promulgated formal written discovery, including document requests, interrogatories, and requests for admission. *Faria Decl.*

Prior to filing this lawsuit, Class Counsel engaged in exhaustive research into the law surrounding these banking practices. *Faria Decl.* Class Counsel also performed targeted and necessary formal discovery prior to and during settlement discussions, which resulted in the production of nonpublic information regarding Defendant's overdraft charging practices and policies, and lists of customers who were harmed by these practices and policies. *Faria Decl.*

In sum, Class Counsel has a well-founded understanding of the merits of the case, as well as the litigation risks described above. Class Counsel also possessed well-founded views of the potential for, and likely amount of, any recovery prior to entering into the settlement currently before this Court. Such views have been confirmed by the work Class Counsel has done in confirmatory discovery. *Faria Decl.* The end result here vindicates the significant work Class Counsel did prior to agreeing to the settlement. *Faria Decl.*

3. The Opinion of Experienced Counsel Supports Approval of the Settlement, Which Resulted from Arms-Length Negotiations

The sixth *Hanlon* factor requires that the experience and views of counsel support approval of the settlement. *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998). Class Counsel are experienced litigators in class actions and other complex civil litigation. *Id.* Class Counsel collectively have successfully litigated over 60 class actions and specifically have been actively involved in at least 15 bank overdraft fee cases. *Faria Decl.* As a result of this broad litigation experience, together with the focused efforts on overdraft fee class actions, class counsel were well-suited to evaluate and negotiate the settlement of this matter.

The settlement negotiations in this case were conducted at arm's-length negotiation between the settling parties, including multiple direct settlement conferences between Counsel for the parties, which culminated with a successful mediation. *Faria Decl.* The negotiations were conducted by experienced litigators well-versed in class action litigation. *Id.* In short, this settlement is the product of extended and hard-fought negotiations, with skilled attorneys on both sides of the table. Because there is absolutely no hint or suggestion of fraud or collusion, this factor weighs strongly in favor of final approval.

Before agreeing to the proposed settlement on behalf of the class, Class Counsel thoroughly considered such factors as the substantial benefits provided by the Settlement and the considerable risk, uncertainty, and delay of continued litigation. They concluded that it was fair, reasonable, and adequate and in the best interests of the class. *Faria Decl.* They now recommend that it be granted final approval.

4. The Settlement Class' Response Supports the Settlement

The final *Hanlon* factor focuses on the class members' responses to the settlement. The class members' responses overwhelmingly support final approval. Unlike many class action settlements, as of this filing, there have been *no objections or opt-outs* to the proposed Settlement. These numbers reveal broad support for the Settlement's terms. *Azari Aff.*

VII. THE REQUESTED CLASS REPRESENTATIVE'S SERVICE AWARD AND CLASS COUNSELS' FEES AND COSTS ARE FAIR AND REASONABLE

A. Plaintiff Robinson's Service Award

Plaintiffs request a service award in the amount of \$10,000 for the named Plaintiff, Linda Robinson, who participated in the litigation and assisted counsel in prosecuting it. Incentive payments have been routinely approved by the courts in class action settlements as a way of compensating class representatives who have lent their names and efforts to the prosecution of litigation on behalf of others.

The courts have also recognized that such payments can serve an important function in promoting class action settlements. See *Sheppard v. Consolidated Edison Company of New York, Inc.*, 2002 WL 2003206, *5-6 (E.D.N.Y. 2002) (collecting cases approving incentive payments). Courts in this circuit routinely approve such incentive payments. See, e.g., *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 463 (9th Cir. 2000); *Trujillo v. City of Ontario*, 2009 WL 2632723, at *5 (C.D. Cal. 2009) (approving \$10,000 and \$30,000 incentive payments for sixteen named Plaintiffs); *Hughes v. Microsoft Corp.*, 2001 WL 34089697, at *13 (W.D. Wash. 2001) (approving \$25,000 incentive payments to named Plaintiffs); *Presley v. Carter Hawley Hale Profit Sharing Plan*, 2000 WL 16437, at *2 (N.D. Cal. 2000) (approving \$25,000 incentive payments to each of the two named Plaintiffs).

In this case, the named Plaintiff put herself on the line for the benefit of all other similarly impacted FHB customers. She provided extensive documentation supporting her claims and was involved in the litigation for over two years. The Court should approve the requested Service Award

A. The Litigation Resulted in Significant Benefit to the Class

Under the terms of the settlement, Defendants agreed to pay \$4,125,000 into a Settlement Fund. This Settlement Fund will be distributed in proportion to the amount of relevant overdraft fees each Class Member paid. Defendants do not oppose Plaintiff and Class Counsel's request that the Class Representative receive a \$10,000 stipend for her involvement paid from the Settlement Fund. In addition to the foregoing monies, Defendant agreed that the Class Counsel's attorney's fees and costs would be paid from the Settlement Fund.

B. The Fee Request by Plaintiffs' Counsel Is Reasonable and Warranted by the Result in this Case

By engaging in aggressive and diligent litigation, which lasted more than two years, Plaintiffs' Counsel have achieved a terrific result for the settlement class. Plaintiffs' Counsel undertook significant risk in representing the class, and has to date received no compensation for the hundreds and hundreds of hours it has expended on the case. *Faria Decl.* Plaintiffs' Counsel now requests a reasonable and common fee award of one-third of the value of the settlement fund procured in this case. Defendant does not oppose this request, and no settlement class member has objected to it or any part of the settlement as of the date of this filing.

Hawai'i law on the compensation of attorneys is controlled in general terms by the Hawai'i Rules of Professional Conduct ("HRPC"), adopted by the Supreme Court of Hawai'i for the regulation and governance of attorneys practicing in that state. Rule 1.5 of the HRPC speaks directly to attorneys' fees and provides that "a lawyer's fees shall be reasonable." HRPC Rule 1.5(a).

Rule 1.5 Fees

(a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:

- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) the fee customarily charged in the locality for similar legal services;
- (4) the amount involved and the results obtained;
- (5) the time limitations imposed by the client or by the circumstances;
- (6) the nature and length of the professional relationship with the client;
- (7) the experience, reputation, and ability of the lawyer or lawyers performing the services;
- (8) whether the fee is fixed or contingent, and in contingency fee cases the risk of no recovery and the conscionability of the fee in light of the net recovery to the client;
- (9) the relative sophistication of the lawyer and the client; and
- (10) the informed consent of the client to the fee agreement.

The Rule sets forth a number of factors to be considered in determining the reasonableness of a fee, which in large part are consistent with the twelve factors set forth in the 5th Circuit's seminal opinion in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974), and

adopted by the 9th Circuit in *Kerr v. Screen Extras Guild*, 526 F.2d 67 (9th Cir. 1975), cert. denied, 425 U.S. 951 (1976). The factors consist of:

- (1) the time and labor required,
- (2) the novelty and difficulty of the questions involved,
- (3) the skill requisite to perform the legal service properly,
- (4) the preclusion of other employment by the attorney due to acceptance of the case,
- (5) the customary fee,
- (6) whether the fee is fixed or contingent,
- (7) time limitations imposed by the client or the circumstances,
- (8) the amount involved and the results obtained,
- (9) the experience, reputation, and ability of the Attorney's,
- (10) the "undesirability" of the case,
- (11) the nature and length of the professional relationship with the client, and
- (12) awards in similar cases.

Kerr, 526 F.2d at 70.

Every one of the relevant factors in *Johnson* and *Kerr* supports Plaintiffs' fee request. As set forth in the declaration of counsel, significant time and labor were required in this case. *Faria Decl.* The issues presented here were both novel and difficult, thereby demanding a high degree of skill and proficiency to litigate. Plaintiffs' Counsel is both able and experienced in these types of cases, with both firms carrying Martindale Hubbell's highest rating "AV". *Faria Decl.* Plaintiffs' Counsel accepted this case on a contingency fee basis, undertaking significant risk. And most importantly, Plaintiffs' Counsel achieved a terrific result for the settlement class, which will receive over 40% of its best-cases damages in a case with significant legal risk. This \$4,125,000 settlement benefit does not even include or value another significant benefit: the issuance of revised disclosures that remind customers of the overdraft practices relevant to this case, and describe them in detail, allowing class members and all Hawai'i residents to compare bank policies and accounts with transparency.

Given the foregoing, an award of Attorneys' fees and costs to Class Counsel in the amount of 1/3 of the settlement \$1,361,250 is reasonable considering both the amount of time expended by Class Counsel as well as the result achieved for the Class. To determine a reasonable fee, the twelve factors enumerated in *Johnson v. Highway Express*, 488 F.2d 714 (5th Cir. 1974) is considered in a three-step process:

- (1) Ascertain the nature and extent of the services supplied by the attorney;
- (2) Value the services according to the customary fee and quality of the legal work; and

- (3) Adjust the compensation on the basis of the other Johnson factors that may be of significance in the particular case.

Alberti v. Kelvenhagen, 896 F.2d 927 (5th Cir. 1990) (citing *Leroy v. City of Houston*, 831 F.2d 576, 583, n.11 (5th Cir. 1987), *cert. denied*, 486 U.S. 1008, 108 S. Ct. 1735 (1988)).

This requested attorneys' fee is supported by the named Plaintiff and was set forth in the notice to class members. No class member has objected to this provision as of the date of this filing. Plaintiffs' counsel accepted this case on a fully contingent arrangement, with no payment at all made up front.

Courts generally favor awarding fees from a common fund based upon the percentage of the fund. As the Supreme Court has explained:

[T]his Court has recognized consistently that a litigant or a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable Attorneys' fee from the fund as a whole Jurisdiction over the fund involved in the litigation allows a Court to prevent . . . inequity by assessing proportionately among those benefited by the suit. *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980) (citations omitted.) *See also Blum v. Stenson*, 465 U.S. 886, 900 n.16 (1984); *Staton*, 327 F.3d at 972 (affirming district court's approval of attorney fee recovery from common fund; quoting *Boeing*); *Six Mexican Workers v. Arizona Citrus Growers*, 904 F.2d 1301, 1311 (9th Cir. 1990) (same); *Vasquez v. Coast Valley Roofing, Inc.*, 266 F.R.D. 482, 491 (E.D. Cal. Mar. 9, 2010).

A one-third attorneys' fee request in a common fund case has been consistently approved as reasonable. The proposed attorneys' fee of 33% is the standard share that has been routinely approved by judges who have ruled on the fairness of the other settlements. Examples of cases in which a one-third fee was approved include: *Vasquez*, 266 F.R.D. at 491 (approving one-third of fund plus expenses); *In re Lithotripsy Antitrust Litig.*, No. 98 C 83373, 2000 U.S. Dist. LEXIS 8143 at *6-7 (N.D. Ill. June 12, 2000) (noting that 33.3% of the fund plus expenses is well within the generally accepted range of the Attorney's fee awards in class-action lawsuits); *In re: Medical X-Ray Film Antitrust Litigation*, CV-935904, 1998 U.S. Dist. LEXIS 14888 at *21 (E.D.N.Y. Aug. 7, 1998) (awarding a fee of \$13 million, which represented one-third of the settlement); *In re Crazy Eddie Securities Litig.*, 824 F. Supp. 320, 325-26 (E.D.N.Y. 1993) (awarding 34% of a \$42 million fund); *City National Bank v. American Com. Financial Corp.*, 657 F. Supp. 817 (W.D.N.C. 1987); *In re Franklin Nat'l Bank*, [1980 Transfer Binder], Fed. Sec. L. Rep. (CCH) &97,571 (E.D.N.Y. 1980) (34% of settlement fund); *Hwang v. Smith Corona*

Corp., B.89-450 (D. Conn. Mar. 12, 1992) (awarding one-third of \$24 million fund); *Chalverus v. Pegasystems, Inc.*, C.A. No. 97-12570WGY (D. Mass. December 19, 2000) (awarding as an Attorney's' fee one-third of a more than \$5 million recovery); *In re: Peritus Software Services, Inc. Sec. Litig.*, C.A. No. 98-10578-WGY (D. Mass. February 28, 2000); *In re: Copley Pharmaceutical, Inc. Sec. Litig.*, C.A. No. 373-11897-WGY (D. Mass. Feb. 8, 1996) (awarding one-third of a \$6.3 million settlement fund); *In re Picturatel Corporation Sec. Litig.*, C.A. No. 97 12135-DPW (D. Mass. Nov. 4, 1999) (approving award of one-third of a \$12 million settlement fund); *Zeid v. Open Environment Corp.*, C.A. No. 96-12466-EFH (D. Mass. June 24, 1999) (awarding a fee of one-third of a \$6 million settlement).

Plaintiffs' counsels' request is reasonable particularly considering the substantial benefits obtained for the class members. This is not a class action where individual class members will receive a meager award, or a coupon, as compared to the large fee requested by their counsel. Rather, each class member will receive their pro rata portion of the settlement fund, related to the number of overdraft fees they paid. In addition, in this case, all of the settlement fund will be distributed to class members by way of the two rounds of distributions, or contributed to a *cypres*. Under the agreement, there will be no reversion of unclaimed funds to the Defendant.

After the settlement was reached, Plaintiffs' counsel undertook and completed all matters necessary to effectuate notice to the Class of this settlement, as well as all attendant matters related thereto. *Faria Decl.* Plaintiffs' counsel prepared initial drafts of all notices, the claim form, and settlement documents, procured proposals and handled both the mailed, emailed and published notices, as well as coordinated with defense counsel as to all of the foregoing. *Id.* Plaintiffs' counsel also drafted and filed the instant Motion. *Id.* Under the terms of the Settlement, after final approval, two rounds of payments will be made before the *cypres* is distributed. *Id.* Class counsel will also have to oversee the distribution process in coordination with the claims administrator which will also require additional resources without any additional compensation. *Id.*

Given this precedent approving a third recovery for attorneys' fees in class action cases, the Court should recognize that such a recovery in this case is completely reasonable. Therefore, Plaintiffs request an order awarding \$1,361,250 for attorneys' fees.

In addition, during the pendency of the litigation, Plaintiffs' Counsel expended out-of-pocket costs that were reasonable and necessary. These costs included: expert fees of ~\$120,000, incurred in order to allow Plaintiffs to decipher and analyze the voluminous damages data


produced by FHB; expenses involved in three mediations, including significant fees paid to mediators; and travel expenses. *Faria Decl.* The total amount of these costs was \$129,511.84. *Id.*, *Exhibit "3"*. Epiq has estimated that it will cost approximately \$120,000 to pay for the administration of the case, for all of its work preceding notice, notice, following-up on bounced emails and mailed notices and through distribution. *Azari Aff.* Each of these costs were necessary to pursue the litigation properly on behalf of the class. *Faria Decl.*

Thus, the total fees, costs, and ~~taxes~~ requested by Plaintiffs is \$1,490,761.84 (this does not include Epiq's estimated administrative costs). The requested stipend and administration costs are not included in this total, but are also both fair and reasonable.

VIII. CONCLUSION

For the foregoing reasons Plaintiffs respectfully request that the Court enter an order: (1) determining that the Settlement is fair, adequate and reasonable, (2) finally certifying the Settlement Class for settlement purposes, (3) determining that the notice program satisfied the due process requirements, (4) approving Plaintiffs' fees, and costs of \$1,554,903.94 and the class representative Service Award of \$10,000 as reasonable, (5) entering Judgment dismissing the Action with prejudice, (5) bar and enjoining all Releasing Parties from pursuing any Released Claims, (6) releasing FHB and the Released Parties from the Released Claims; and (7) reserving the Court's continuing and exclusive jurisdiction over the Parties to this Agreement, in the form attached hereto as Exhibit "4".

DATED: Honolulu, Hawai'i, July 22, 2019.



BRANDHE J.K. FARIA
JOHN FRANCIS PERKIN
JEFFREY D. KALIEL
Attorneys for Plaintiff
Linda Robinson, individually and on
behalf of all others similarly situated.

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

LINDA ROBINSON, individually and on behalf of all others similarly situated,

Plaintiff,

Y.

FIRST HAWAIIAN BANK and DOE
DEFENDANTS 1-50,

Defendant.

Civil No. 17-1-0167-01 (GWBC)
(CLASS ACTION)

DECLARATION OF BRANDEE J.K
FARIA

DECLARATION OF BRANDEE J.K FARIA

1. I am above the age of 18 and legally competent to testify to the facts below and so testify based upon personal knowledge. I am licensed to practice in all courts in the State of Hawai'i.

2. I am an attorney with the law firm of Perkin & Faria, LLC, counsel for Plaintiff LINDA ROBINSON, individually and on behalf of all others similarly situated.

3. Both Perkin & Faria, LLC, and Kaliel PLLC have significant background in and experience with consumer class action cases.

4. To date, none of the class members have requested exclusion or have objected.

5. Unfortunately, despite their best efforts, the facts of the case had not yet been adequately developed to make settlement feasible.

6. Due to a conflict, in December, 2017, Judge Hiraoka recused himself and was replaced by the Honorable Gary W. B. Chang.

7. In May, 2018, I agreed to attempt to mediate the case again, but ultimately FHB decided it did not want to proceed and the mediation was cancelled.

8. On October 1, 2018, I participated in a mediation with Jerry M. Hiatt.

9. During settlement discussions and prior to the mediation, FHB voluntarily disclosed anonymized sampling data concerning the estimated amount of overdraft fees at issue, which were analyzed by my expert to facilitate the mediation.

10. After protracted negotiations, I was able to agree upon the material terms of a settlement.

11. On or about October 2, 2018, Defendant withdrew its pending MTD and the I notified the Court of the Settlement and requested a stay of all proceedings until the filing of the Settlement Agreement and a Stipulation for Preliminary Approval.

12. Thereafter, I drafted settlement documents and presented them to this Court for preliminary approval.

13. Informal settlement discussions, and a total of three mediation efforts, with two prior mediations, preceded the settlement of this case.

14. Discovery was also conducted, consisting of both documents and electronic data that needed to be reviewed and analyzed in order to calculate damages.

15. I have handled in excess of 30 class actions on behalf of more than 300,000 consumers, yielding settlements or verdicts in excess of \$40,000,000.00.

16. John Francis Perkin and I are both experienced Martindale Hubbell "AV" rated and capable civil litigators, with significant background and emphasis in class action cases.

17. The proposed Settlement is not only fair and adequate, but an excellent result for the Class.

18. Consequently, I now recommend that the Settlement be granted final approval.

19. Linda Robinson is actively pursuing her claims on behalf of herself and the Class

as a whole, and is zealously seeking relief from and recompense for the damages wrongfully caused by Defendant.

20. There are no special circumstances which would prevent Plaintiff from acting in this representative capacity.

21. There are also no conflicts between me and the putative Class.

22. I have prosecuted the action vigorously on behalf of Plaintiffs and the putative Class.

23. In addition to engaging in thorough investigation, informal discovery and communications with Defendant prior to negotiating the proposed settlement, I promulgated formal written discovery, including document requests, interrogatories, and requests for admission.

24. Prior to filing this lawsuit, I engaged in exhaustive research into the law surrounding these banking practices.

25. I also performed targeted and necessary formal discovery prior to and during settlement discussions, which resulted in the production of nonpublic information regarding Defendant's overdraft charging practices and policies, and lists of customers who were harmed by these practices and policies.

26. Such views have been confirmed by the work I have done in confirmatory discovery.

27. The end result here vindicates the significant work I did prior to agreeing to the settlement.

28. I collectively have successfully litigated over 60 class actions and specifically have been actively involved in at least 15 bank overdraft fee cases.

29. The settlement negotiations in this case were conducted at arm's-length negotiation

between the settling parties, including multiple direct settlement conferences between Counsel for the parties, which culminated with a successful mediation.

30. The negotiations were conducted by experienced litigators well-versed in class action litigation.

31. They concluded that it was fair, reasonable, and adequate and in the best interests of the class.

32. I undertook significant risk in representing the class, and has to date received no compensation for the hundreds and hundreds of hours it has expended on the case.

33. Significant time and labor were required in this case.

34. I am both able and experienced in these types of cases, with both firms carrying Martindale Hubbell's highest rating "AV".

35. After the settlement was reached, I undertook and completed all matters necessary to effectuate notice to the Class of this settlement, as well as all attendant matters related thereto.

36. I prepared initial drafts of all notices, the claim form, and settlement documents, procured proposals and handled both the mailed, emailed and published notices, as well as coordinated with defense counsel as to all of the foregoing.

37. I also drafted and filed the instant Motion.

38. Under the terms of the Settlement, after final approval, two rounds of payments will be made before the *cy pres* is distributed.

39. I will also have to oversee the distribution process in coordination with the claims administrator which will also require additional resources without any additional compensation.

40. These costs included; expert fees of ~\$120,000, incurred in order to allow me to decipher and analyze the voluminous damage data produced by FHB; expenses involved in three

mediations, including significant fees paid to mediators; and travel expenses.

41. Each of these costs were necessary to pursue the litigation properly on behalf of the class.

42. Attached hereto as Exhibit "1" is a true and correct copy of the Amended Order 1) *Preliminarily Approving Class Action Settlement Agreement*, 2) *Approving Form Of Notice*, 3) *Establishing Objection Deadlines*, 4) *Directing Dissemination of Notice*, and 5) *Scheduling "Final Fairness Hearing" Of Settlement between Plaintiffs and Defendants*.

43. Attached hereto as Exhibit "2" is a true and correct copy of the *Settlement Agreement and Release*.

44. Attached hereto as Exhibit "3-A" is a true and correct copy of the Expense Statements for Perkin & Faria, LLC.

45. Attached hereto as Exhibit "3-B" is the true and correct copy of the Expense Statements for Kaliel, PLLC.

46. Attached hereto as Exhibit "4" is a true and correct copy of Plaintiffs *Proposed Order Granting Plaintiffs' Motion for Final Approval of Settlement Agreement, for Approval of Counsel's Fees and Costs, and Service Award to the Class Representative*.

I, BRANDEE J.K. FARIA, do declare under penalty of law that the foregoing is true and correct to the best of my knowledge.

DATED: Honolulu, Hawai'i, June 24, 2019.



BRANDEE J.K. FARIA

PERKIN & FARIA, LLC
JOHN F. PERKIN 1673
BRANDEE J.K. FARIA 6970
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FIRST CIRCUIT COURT
STATE OF HAWAII
FILED

2019 MAR 15 AM 10:36

H. MOYATA
CLERK

KALIEL PLLC
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Telephone: (202) 350-4783

Attorneys for Plaintiff
LINDA ROBINSON, individually and on
behalf of all others similarly situated.

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

LINDA ROBINSON, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

FIRST HAWAIIAN BANK and DOE
DEFENDANTS 1-50,

Defendants.

) Civil No. 17-f-0167-01 GWBC
) (Class Action)
)
) AMENDED ORDER: (1)
) PRELIMINARILY APPROVING
) CLASS ACTION SETTLEMENT AND
) RELEASE AGREEMENT, (2)
) APPROVING FORM OF NOTICE, (3)
) ESTABLISHING OPT-OUT AND
) OBJECTION DEADLINE, (4)
) DIRECTING DISSEMINATION OF
) NOTICE, AND (5) SCHEDULING
) FINAL "FAIRNESS HEARING"

) Judge: Honorable Gary W. B. Chang

) No trial date

PLEASE NOTE CHANGES

EXHIBIT

**AMENDED ORDER: (1) PRELIMINARILY APPROVING CLASS ACTION
SETTLEMENT AND RELEASE AGREEMENT, (2) APPROVING FORM OF NOTICE,
(3) ESTABLISHING OPT-OUT AND OBJECTION DEADLINE,
(4) DIRECTING DISSEMINATION OF NOTICE,
AND (5) SCHEDULING FINAL "FAIRNESS HEARING"**

The Court, having considered the Stipulation Regarding Entry of Order: (1) *Preliminarily Approving Class Action Settlement and Release Agreement*, (2) *Approving Form of Notice*, (3) *Establishing Opt-Out and Objection Deadline*, (4) *Directing Dissemination of Notice*, and (5) *Scheduling Final "Fairness Hearing"* (the "Stipulation"), and the records and files in this action, and being otherwise fully advised in the premises, orders, adjudges and decrees, pursuant to Hawai'i Rules of Civil Procedure, Rule 23, that:

1. This Court has jurisdiction over the claims at issue and parties involved in this action.

2. The Settlement and Release Agreement ("Settlement Agreement") between and among the Plaintiff, LINDA ROBINSON, individually and on behalf of all others similarly situated in this Class Action, and Defendant FIRST HAWAIIAN BANK (the "Parties") is incorporated fully herein by reference and attached as Exhibit "1" to the Parties' Stipulation. The definitions used in the Settlement Agreement are adopted for use herein.

3. This Court has been advised by counsel for the Parties that the Settlement Agreement has been reached between and among the Class Representative, individually, and for and on behalf of the Settlement Class, Class Counsel for and on behalf of the Settlement Class, and Defendant, independently.

Robinson v. First Hawaiian Bank, Civ. No. 17-1-0167-01 (GWBC) AMENDED ORDER: (1) PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT AND RELEASE AGREEMENT, (2) APPROVING FORM OF NOTICE, (3) ESTABLISHING OPT-OUT AND OBJECTION DEADLINE, (4) DIRECTING DISSEMINATION OF NOTICE, AND (5) SCHEDULING FINAL "FAIRNESS HEARING"

4. The Court has reviewed the Settlement Agreement proposed by the Parties, finds that it is without obvious deficiencies, and that it is sufficiently fair, adequate, and reasonable to warrant providing notice to the Settlement Class of its terms. The Settlement Agreement is hereby preliminarily approved as sufficiently fair, adequate, and reasonable to warrant providing notice to the Settlement Class of its terms.

5. The Settlement Agreement appears to have been the product of arms-length negotiation between the Parties, including mediation sessions with Jerry M. Hiatt, and appears to have been made in good faith.

6. The prerequisites for a class action under Hawaii Rule 23(a) and (b)(3) have been preliminarily satisfied in that (a) the number of Settlement Class members is so numerous that joinder of all members thereof is impracticable; (b) there are questions of law and fact common to the Settlement Class; (c) the claims of the Class Representative are typical of the claims of the Settlement Class she seeks to represent; (d) the Class Representative will fairly and adequately represent the interests of the Settlement Class; (e) the questions of law and fact common to the members of the Settlement Class predominate over any questions affecting only individual members of the Settlement Class; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

7. Accordingly, the following Settlement Class is conditionally certified, in accordance with FRCP, Rule 23:

All current and former FHB members who were charged a Relevant Overdraft Fee during the Class Period. Excluded from the Settlement Class is FHB, its parents, subsidiaries, affiliates, officers and directors, all Settlement Class members who make a timely

Robinson v. First Hawaiian Bank, Civ. No. 17-1-0167-01 (GWBC) AMENDED ORDER; (1) PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT AND RELEASE AGREEMENT, (2) APPROVING FORM OF NOTICE, (3) ESTABLISHING OPT-OUT AND OBJECTION DEADLINE, (4) DIRECTING DISSEMINATION OF NOTICE, AND (5) SCHEDULING FINAL "FAIRNESS HEARING"

election to be excluded, and all judges assigned to this litigation and their immediate family members.

8. For settlement purposes only, Plaintiff Linda Robinson is hereby approved as an appropriate class representative and the following counsel are hereby approved as appropriate and qualified Class Counsel:

John F. Perkin
Brandee J.K. Faria
Perkin & Faria LLC
700 Bishop Street, Suite 1111
Honolulu, Hawaii 96813

Jeffrey D. Kalief
Kalief PLLC
1875 Connecticut Ave. NW, 10th Floor
Washington, D.C. 20009

9. The Postcard Notice, Email Notice and Long Form Notice, (collectively, "Notice"), attached to the Parties' Stipulation as Exhibit "2," are constitutionally adequate, and are hereby approved. The Notice contains all of the essential elements necessary to satisfy the requirements of Hawaii state law and state due process provisions, including the Settlement Class definition, the identities of the Parties and their counsel, a summary of the terms of the proposed settlement, benefits to Settlement Class members, the amount of attorneys' fees that may be requested, the claims being released, and information regarding the manner in which requests for exclusion/to opt out and objections may be submitted. The Notice informs Settlement Class members of opt-out and objection procedures and deadlines, and of the date and

Robinson v. First Hawaiian Bank, Civ. No. 17-1-0167-01 (GWBC) AMENDED ORDER: (1) PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT AND RELEASE AGREEMENT, (2) APPROVING FORM OF NOTICE, (3) ESTABLISHING OPT-OUT AND OBJECTION DEADLINE, (4) DIRECTING DISSEMINATION OF NOTICE, AND (5) SCHEDULING FINAL "FAIRNESS HEARING"

location of the final "Fairness Hearing" of the settlement, defined in the Agreement as the Final Approval Hearing. The plan for dissemination of Notice also satisfies due process and all requirements of federal law, and constitutes the best practical notice under the circumstances of this case.

10. The Court hereby directs that Notice be disseminated in accordance with the Settlement Agreement.

11. The Court appoints Epiq Class Action and Claims Solutions, Inc. ("Epiq") as Settlement Administrator with responsibility for carrying out all obligations under the Settlement Agreement, including Notice.

12. The Court sets the following schedule for the Final Approval Hearing and the actions which must precede it. All such dates shall be identified in the Notice:

- a) Class Notice shall be completed no later than 60 days before the Final Approval Hearing.
- b) Settlement Class members must file objections to the settlement or requests for exclusion from the Settlement no later than 30 days prior to the Final Approval Hearing.
- c) The Class Representative shall file her Motion for Final Approval and any application for attorney's fees, costs and expenses, and for a Service Award no less than 45 days before the Final Approval Hearing.
- d) The Final Approval Hearing will take place on August 6, 2019, at 3:00 p.m. Settlement Class Members do not need to appear at the hearing or

Robinson v. First Hawaiian Bank, Civ. No. 17-1-0167-01 (GWBC) AMENDED ORDER: (1) PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT AND RELEASE AGREEMENT, (2) APPROVING FORM OF NOTICE, (3) ESTABLISHING OPT-OUT AND OBJECTION DEADLINE, (4) DIRECTING DISSEMINATION OF NOTICE, AND (5) SCHEDULING FINAL "FAIRNESS HEARING"

take any other action to indicate their approval.

13. A Settlement Class Member wishing to make a request for exclusion from the Settlement Class shall mail the request in written form, by first class mail, postage prepaid, and postmarked by the date specified in Paragraph 12(b); above, to Epiq at the address specified in the Notice. Such request for exclusion shall clearly indicate:

- (a) The Settlement Class member's printed or typed name, address and telephone number;
- (b) A short statement that the Settlement Class member wants to be excluded from the FHB Overdraft Settlement; and
- (c) The Settlement Class member's signature.

14. Any member of the Settlement Class who is not excluded from the Settlement Class and who objects to the approval of the proposed settlement must mail or hand-deliver a written objection to the Settlement Agreement to Class Counsel and Counsel for the Defendant, at the addresses set forth in the Class Notice, and mail or hand-deliver the Objection simultaneously to the Court. Each Objection must include:

GWBC/JP

- (a) the name of the Action;
- (b) the objector's full name, address and telephone number
- (c) an explanation of the basis upon which the objector claims to be a Settlement Class Member;
- (d) all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel;

Robinson v. First Hawaiian Bank, Civ. No. 17-1-0167-01 (GWBC) AMENDED ORDER: (1) PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT AND RELEASE AGREEMENT, (2) APPROVING FORM OF NOTICE, (3) ESTABLISHING OPT-OUT AND OBJECTION DEADLINE, (4) DIRECTING DISSEMINATION OF NOTICE, AND (5) SCHEDULING FINAL "FAIRNESS HEARING"

- (e) the number of times in which the objector has objected to a class action settlement within the five years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector's prior objections that were issued by the trial and appellate courts in each listed case;
- (f) the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement or fee application;
- (g) a copy of any orders related to or ruling upon counsel's or the counsel's law firm's prior objections that were issued by the trial and appellate courts in each listed case in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the preceding 5 years;
- (h) any and all agreements that relate to the objection or the process of objecting—whether written or oral—between objector or objector's counsel and any other person or entity;
- (i) the identity of all counsel (if any) representing the objector who will appear at the Final Approval Hearing;
- (j) a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection;

Robinson v. First Hawaiian Bank, Civ. No. 17-1-0167-01 (GWBC) AMENDED ORDER: (1) PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT AND RELEASE AGREEMENT, (2) APPROVING FORM OF NOTICE, (3) ESTABLISHING OPT-OUT AND OBJECTION DEADLINE, (4) DIRECTING DISSEMINATION OF NOTICE, AND (5) SCHEDULING FINAL "FAIRNESS HEARING"

- (k) a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and
- (l) the objector's signature (an attorney's signature is not sufficient).

15. Any Settlement Class Member who does not submit a timely Objection in complete accordance with this Order, the Class Notice, and otherwise as ordered by the Court shall not be treated as having filed a valid Objection to the Settlement.

16. The Settlement Agreement is not and shall not be deemed and construed to be an admission or evidence of any violation of any state or federal statute or law or of any liability or wrongdoing, or of the truth of any of the claims or allegations contained in the Second Amended Complaint, or any other pleading, and the evidence shall not be used directly, or indirectly, in whole or in part, in any way, whether in the action or in any other action or proceeding of whatever nature or kind. The provisions of this paragraph do not apply to the Notices referenced in and attached to the Settlement Agreement.

17. If the Settlement Agreement does not become effective in accordance with the Settlement Agreement, or if the Settlement Agreement is not finally approved, or if the Settlement Agreement is canceled, terminated, or fails to become effective for any reason, this Order shall be rendered null and void and shall be vacated.

IT IS SO ORDERED

DATED: HONOLULU, HAWAII, MAR 18 2019

Gary Won Buo Chang



THE HONORABLE GARY W.B. CHANG
JUDGE OF THE ABOVE-ENTITLED COURT

APPROVED AS TO FORM:

A handwritten signature in dark ink, appearing to read "C. Shikuma", with a long horizontal line extending to the right.

CRAIG K. SHIKUMA
JESSE W. SCHIEL
JESSICA KAUFMAN
JAMES R. MCGUIRE

Attorneys for Defendant
FIRST HAWAIIAN BANK

Robinson v. First Hawaiian Bank, Civ. No. 17-1-0167-01 (GWBC) AMENDED ORDER: (1) PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT AND RELEASE AGREEMENT, (2) APPROVING FORM OF NOTICE, (3) ESTABLISHING OPT-OUT AND OBJECTION DEADLINE, (4) DIRECTING DISSEMINATION OF NOTICE, AND (5) SCHEDULING FINAL "FAIRNESS HEARING"

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is made and entered into this ___th day of February, 2019, by and among (1) Plaintiff, Linda Robinson, individually, and on behalf of the Settlement Class, and (2) Defendant, First Hawaiian Bank ("FHB"), subject to Preliminary Approval and Final Approval as required by the Hawai'i Rules of Civil Procedure. As provided herein, Plaintiff, Class Counsel and FHB hereby stipulate and agree that, in consideration of the promises and covenants set forth in this Agreement and upon entry by the Court of a Final Approval Order and Final Judgment, all claims of the Settlement Class against FHB in the action titled *Robinson v. First Hawaiian Bank*, Civil No. 17-1-0167-01 ("Action") shall be settled and compromised upon the terms and conditions contained herein.

I. Recitals

1. On January 27, 2017, Plaintiff filed her Complaint against FHB alleging improper assessment and collection of overdraft fees and seeking, *inter alia*, monetary damages, interest, attorneys' fees, restitution, and equitable relief.
2. On November 6, 2017, Plaintiff filed her First Amended Complaint.
3. On November 16, 2017, FHB filed a Motion to Dismiss the First Amended Complaint ("MTD"), and on July 24, 2018 the MTD was withdrawn.
4. On July 23, 2018, Plaintiff filed her Second Amended Complaint.

EXHIBIT
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5. On August 20, 2018, FHB filed its Motion to Dismiss the Second Amended Complaint.

6. On October 1, 2018, the Parties participated in a mediation with Jerry M. Hiatt, which resulted in the Parties agreeing on the material terms of a settlement.

7. During settlement discussions and prior to the mediation, FHB voluntarily disclosed anonymized sampling data concerning the estimated amount of overdraft fees at issue, which was analyzed by Plaintiff's expert to facilitate the mediation.

8. On or about October 2, 2018, the Parties notified the Court of the Settlement and requested a stay of all proceedings until the filing of this Settlement Agreement and a Stipulation for Preliminary Approval.

9. The Parties now agree to settle the Action in its entirety, without any admission of liability, with respect to all Released Claims of the Releasing Parties (definitions below). The Parties intend this Agreement to bind Plaintiff, FHB, and all Settlement Class Members.

NOW, THEREFORE, in light of the foregoing, for good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties agree, subject to approval by the Court, as follows.

II. Definitions

In addition to the terms defined at various points within this Agreement, the following Defined Terms apply throughout this Agreement:

10. "Account" means any consumer checking account maintained by FHB in the United States and its territories.

11. "Account Holder" means any person who has or had any interest, whether legal or equitable, in an Account during the Class Period.

12. "Class Counsel" means Kaliel, PLLC and Perkin & Faria and such other counsel as are identified in Class Counsel's request for attorneys' fees and costs.

13. "Class Period" means the period from January 27, 2011, through the date of preliminary approval.

14. "Class Representative" means Plaintiff, Linda Robinson.

15. "Court" means the Circuit Court of the First Circuit, State of Hawai'i.

16. "Current Account Holder" means a Settlement Class Member who continues to maintain an Account as of the date that the Net Settlement Fund is distributed to Settlement Class Members pursuant to this Agreement.

17. "Debit Card" means a card or similar device issued or provided by FHB, including a debit card, check card, or automated teller machine ("ATM")

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card that can or could be used to debit funds from an Account by Point of Sale and/or ATM transactions.

18. "Effective Date" means the third business day after which all of the following events have occurred:

a. The Court has entered without material change the Final Approval Order and Final Judgment; and

b. The time for seeking rehearing or appellate or other review has expired, and no appeal or petition for rehearing or review has been timely filed; or the Settlement is affirmed on appeal or review without material change, no other appeal or petition for rehearing or review is pending, and the time period during which further petition for hearing, review, appeal, or certiorari could be taken has finally expired and relief from a failure to file same is not available.

19. "Escrow Account" means the account into which FHB will deposit the Settlement Fund.

20. "Final Approval" means the date that the Court enters both an order granting final approval to the Settlement and final judgment, and determines the amount of attorneys' fees, costs, and expenses awarded to Class Counsel and the amount of any Service Award to the Class Representative. The proposed Final Approval Order shall be in a form agreed upon by Class Counsel and FHB. In the event that the Court issues separate orders addressing the foregoing matters, then

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Final Approval means the date of the last of such orders or of the entry of the final judgment.

21. "Final Approval Order" means the order and final judgment that the Court enters upon Final Approval, which shall be substantially in the form attached as an exhibit to the Motion for Final Approval. The proposed Final Approval Order shall be in a form agreed to by Class Counsel and FHB.

22. "Net Settlement Fund" means the Settlement Fund, minus Court approved attorneys' fees, costs and expenses, any Settlement Administration Costs incurred, and the Court approved Service Award to Plaintiff.

23. "Notice" means the notices that the Parties will ask the Court to approve in connection with the Stipulation for Preliminary Approval of the Settlement.

24. "Notice Program" means the methods provided for in this Agreement for giving the Notice and consists of Postcard Notice, Email Notice and Long Form Notice (all defined below), which shall be substantially in the forms as the exhibits attached to the Stipulation for Preliminary Approval.

25. "Opt-Out Period" means the period that begins the day after the earliest date on which the Notice is first mailed, and that ends no later than 30 days before the Final Approval Hearing. The deadline for the Opt-Out Period will be specified in the Notice.

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26. "Overdraft Fee" means any fee or fees assessed to a holder of an Account for items paid when the Account has insufficient funds at the time of settlement.

27. "Parties" means Plaintiff and FHB.

28. "Past Account Holder" means a Settlement Class Member who no longer maintains an Account as of the date that the Net Settlement Fund is distributed to Settlement Class Members pursuant to this Agreement.

29. "Preliminary Approval" means the date that the Court enters, without material change, an order preliminarily approving the Settlement, substantially in the form of the exhibit attached to the Stipulation for Preliminary Approval.

30. The "Releases" means all of the releases contained in Section XIII hereof.

31. "Released Claims" means all claims to be released as specified in Section XIII hereof.

32. "Released Parties" means those persons released as specified in Section XIII hereof.

33. "Releasing Parties" means Plaintiff and all Settlement Class Members, and each of their respective executors, representatives, heirs, predecessors, assigns, beneficiaries, successors, bankruptcy trustees, guardians,

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joint tenants, tenants in common, tenants by the entireties, agents, attorneys, and all those who claim through them or on their behalf.

34. "Relevant Overdraft Fee" means an Overdraft Fee on a transaction that was authorized and approved when sufficient funds were available to cover the amount of authorization.

35. "Service Award" means any Court-ordered payment to Plaintiff for serving as a Class Representative, which is in addition to any payment due to Plaintiff as a Settlement Class Member.

36. "Settlement" means the settlement into which the Parties have entered to resolve the Action. The terms of the Settlement are as set forth in this Agreement.

37. "Settlement Administration Costs" means all costs of the Settlement Administrator regarding notice and settlement administration.

38. "Settlement Administrator" means Epiq Class Action & Claims Solutions, Inc. ("Epiq").

39. "Settlement Class" means all current and former FHB members who were charged a Relevant Overdraft Fee during the Class Period. Excluded from the Settlement Class is FHB, its parents, subsidiaries, affiliates, officers and directors, all Settlement Class members who make a timely election to be

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excluded, and all judges assigned to this litigation and their immediate family members.

40. "Settlement Class Member" means any person included in the Settlement Class who does not timely opt-out of the Settlement.

41. "Settlement Class Member Payment" means the cash distribution that will be made from the Net Settlement Fund to each Settlement Class Member, pursuant to the allocation terms of the Settlement.

42. "Settlement Fund" means the \$4,125,000.00 common cash fund that FHB has agreed to pay in full and complete satisfaction of its obligations under the Settlement. The Settlement Fund will be used to pay the "Settlement Class Member Payment," any attorneys' fees, costs and Service Awards ordered by the Court, any Settlement Administration Costs, and any *cy pres* payment required under this Agreement.

43. "Settlement Website" means the website that the Settlement Administrator will use as a means for Settlement Class members to obtain notice of and information about the Settlement, through and including hyperlinked access to this Agreement, the Long Form Notice, the order preliminarily approving this Settlement, and such other documents as Class Counsel and FHB agree to post or that the Court orders posted on the website. These documents shall remain on the Settlement Website at least until Final Approval. The URL of the Settlement

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Website shall be www.FHBOverdraftLitigation.com, or such other URL as Class Counsel and FHB agree upon in writing.

III. Certification of the Settlement Class

44. For Settlement purposes only, Plaintiff and FHB agree to ask the Court to certify the Settlement Class under Hawai'i Rules of Civil Procedure.

IV. Settlement Consideration

45. Subject to approval by the Court, the total cash consideration to be provided by FHB pursuant to the Settlement shall be \$4,125,000.00, inclusive of the amount paid to Settlement Class Members, any and all attorneys' fees, costs and expenses awarded to Class Counsel, any Service Award to the Class Representative, all Settlement Administration Costs, and any *cy pres* payment.

46. Within ten calendar days of Preliminary Approval, FHB shall deposit the Settlement Funds into an Escrow Account. The funds in the Escrow 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 Escrow Account. All taxes (including any estimated taxes, and any interest or penalties relating to them) arising with respect to the income earned by the Escrow Account or otherwise, including any taxes or tax detriments that may be imposed upon FHB, FHB's Counsel, Plaintiff and/or Class Counsel with respect to income earned by the Escrow Account for any period during which the Escrow Account does not qualify

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as a "qualified settlement fund" for the purpose of federal or state income taxes or otherwise (collectively "Taxes"), shall be paid out of the Escrow Account. FHB and FHB's Counsel and Plaintiff and Class Counsel shall have no liability or responsibility for any of the Taxes. The Escrow Account shall indemnify and hold FHB and FHB's Counsel and Plaintiffs and Class Counsel harmless for all Taxes (including, without limitation, Taxes payable by reason of any such indemnification).

47. In addition, in consideration of this Agreement, FHB issued revised disclosures for consumer checking Account holders, effective February 1, 2019, reminding customers of FHB's policy with respect to (1) the authorization/settlement procedures relating to debit transactions, and that policy's potential impact on overdraft transactions; (2) the timing of FHB's deduction of Overdraft Fees; and (3) the overdraft balances that are subject to continuous overdraft notification fees. FHB drafted these disclosures in consultation with Class Counsel and Plaintiff.

V. Settlement Approval

48. Upon execution of this Agreement by all Parties, Class Counsel shall promptly request by stipulation an Order granting Preliminary Approval of this Settlement ("Preliminary Approval Order"). The proposed Preliminary Approval

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Order that will be attached to the stipulation shall be in a form agreed upon by Class Counsel and FHB. The Stipulation for Preliminary Approval shall request that the Court: (1) approve the terms of the Settlement as within the range of fair, adequate and reasonable; (2) provisionally certify the Settlement Class pursuant to the Hawai'i Rules of Civil Procedure for settlement purposes only; (3) approve the Notice Program set forth herein and approve the form and content of the Notices of the Settlement; (4) approve the procedures set forth herein below for Settlement Class members to exclude themselves from the Settlement Class or to object to the Settlement; (5) stay the Action pending Final Approval of the Settlement; and (6) schedule a Final Approval Hearing for a time and date mutually convenient for the Court, Class Counsel and counsel for FHB, at which the Court will conduct an inquiry into the fairness of the Settlement, determine whether it was made in good faith, and determine whether to approve the Settlement and Class Counsel's application for attorneys' fees, costs and expenses and for a Service Award to the Class Representative ("Final Approval Hearing").

VI. Discovery and Settlement Data

49. Class Counsel and FHB already have engaged in informal discovery related to liability and damages. Additionally, for purposes of effectuating this Settlement, FHB will make available to Class Counsel and its expert anonymized data for the entirety of the Class Period necessary for determination of class

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membership and settlement payment allocation. Plaintiff's expert shall use that data to determine Settlement Class membership and the number of Relevant Overdraft Fees for each Settlement Class Member. Because Plaintiff's expert will not have access to Settlement Class member names or account numbers, Plaintiff's expert will provide results to FHB, which will then create a list of Settlement Class members and their electronic mail or postal addresses, which will be provided to the Settlement Administrator to provide Notice. Plaintiff's counsel and their expert shall be solely responsible for determining Settlement Class membership and the amount of payment to any Settlement Class Members, pursuant to Section XI, below.

VII. Settlement Administrator

50. The Settlement Administrator shall administer various aspects of the Settlement as described in the next paragraphs hereafter and perform such other functions as are specified for the Settlement Administrator elsewhere in this Agreement, including, but not limited to, providing Postcard and Email Notice to Settlement Class members and distributing the Settlement Fund as provided herein.

51. FHB will take reasonable steps to cooperate with Plaintiff in keeping settlement administration expenses to a minimum, including by providing the following assistance and data without cost to Plaintiff: providing class member data sufficient to allow for email or mailed postcard notice; providing data

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sufficient to allow Plaintiff's expert to determine the number of Relevant Overdraft Fees for each class member, and issuing account credits to current account holders.

52. The duties of the Settlement Administrator, in addition to other responsibilities that are described in the preceding paragraphs and elsewhere in this Agreement, are as follows:

- a. Use the name and address information for Settlement Class members provided by FHB in connection with the Notice process approved by the Court, for the purpose of mailing the Postcard Notice and sending the Email Notice, and later mailing distribution checks to Past Account Holder Settlement Class Members, and to Current Account Holder Settlement Class Members where it is not feasible or reasonable for FHB to make the payment by a credit to the Settlement Class Members' Accounts;
- b. Establish and maintain a Post Office box for requests for exclusion from the Settlement Class;
- c. Establish and maintain the Settlement Website;
- d. Establish and maintain an automated toll-free telephone line for Settlement Class Members to call with Settlement-related inquiries, and answer the questions of Settlement Class Members who call with or otherwise communicate such inquiries;
- e. Respond to any mailed Settlement Class member inquiries;

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- f. Process all requests for exclusion from the Settlement Class;
- g. Provide weekly reports to Class Counsel and FHB that summarizes the number of requests for exclusion received that week, the total number of exclusion requests received to date, and other pertinent information;
- h. In advance of the Final Approval Hearing, prepare an affidavit to submit to the Court confirming that the Notice Program was completed, describing how the Notice Program was completed, providing the names of each Settlement Class member who timely and properly requested exclusion from the Settlement Class, and other information as may be necessary to allow the Parties to seek and obtain Final Approval.
- i. Pay invoices, expenses and costs upon approval by Class Counsel and FHB, as provided in this Agreement; and
- j. Any other Settlement-administration-related function at the instruction of Class Counsel and FHB, including, but not limited to, verifying that settlement funds have been distributed.

VIII. Notice to Settlement Class members

53. As soon as practicable after Preliminary Approval of the Settlement, at the direction of Class Counsel and FHB's Counsel, the Settlement Administrator shall implement the Notice Program provided herein, using the forms of Notice approved by the Court in the Preliminary Approval Order. The Notice shall

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include, among other information: a description of the material terms of the Settlement; a date by which Settlement Class members may exclude themselves from or "opt-out" of the Settlement Class; a date by which Settlement Class Members may object to the Settlement; the date upon which the Final Approval Hearing is scheduled to occur; and the address of the Settlement Website at which Settlement Class members may access this Agreement and other related documents and information. Class Counsel and FHB shall insert the correct dates and deadlines in the Notice before the Notice Program commences, based upon those dates and deadlines set by the Court in the Preliminary Approval Order. Notices and publications provided under or as part of the Notice Program shall not bear or include the FHB logo or trademarks or the return address of FHB, or otherwise be styled to appear to originate from FHB.

54. The Notice also shall include a procedure for Settlement Class Members to opt-out of the Settlement Class. A Settlement Class member may opt-out of the Settlement Class at any time during the Opt-Out Period, provided the opt-out notice is postmarked no later than the last day of the Opt-Out Period. Any Settlement Class Member who does not timely and validly request to opt-out shall be bound by the terms of this Agreement.

55. The Notice also shall include a procedure for Settlement Class Members to object to the Settlement and/or to Class Counsel's application for

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attorneys' fees, costs and expenses and/or a Service Award to the Class Representative. Objections to the Settlement, to the application for fees, costs, expenses, and/or to the Service Award must be mailed to the Clerk of the Court, Class Counsel, and FHB's counsel. For an objection to be considered by the Court, the objection must be submitted no later than the last day of the Opt-Out Period, as specified in the Notice. If submitted by mail, an objection shall be deemed to have been submitted when posted if received with a postmark date indicated on the envelope if mailed first-class postage prepaid and addressed in accordance with the instructions. If submitted by private courier (e.g., Hawai'i Express), an objection shall be deemed to have been submitted on the shipping date reflected on the shipping label.

56. For an objection to be considered by the Court, the objection must

also set forth:

- a. the name of the Action;
- b. the objector's full name, address and telephone number;
- c. an explanation of the basis upon which the objector claims to be a Settlement Class Member;
- d. all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel;

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e. the number of times in which the objector has objected to a class action settlement within the five years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector's prior objections that were issued by the trial and appellate courts in each listed case;

f. the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement or fee application;

g. a copy of any orders related to or ruling upon counsel's or the counsel's law firm's prior objections that were issued by the trial and appellate courts in each listed case in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the preceding 5 years;

h. any and all agreements that relate to the objection or the process of objecting—whether written or oral—between objector or objector's counsel and any other person or entity;

i. the identity of all counsel (if any) representing the objector who will appear at the Final Approval Hearing;

j. a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection;

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k. a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and

l. the objector's signature (an attorney's signature is not sufficient).

Class Counsel and/or FHB may conduct limited discovery on any objector consistent with the Hawai'i Rules of Civil Procedure.

57. Notice shall be provided to Settlement Class members in three different ways: Email notice to Current Account Holders for whom FHB has email addresses ("Email Notice") and who have agreed to accept their monthly account statements by email; postcard Notice ("Postcard Notice") to those Current Account Holders who have not agreed to accept their monthly account statements by email and to Past Account Holders; and Long-Form Notice with details regarding the Settlement ("Long Form Notice") on the Settlement Website. Email Notice and Postcard Notice shall collectively be referred to as "Mailed Notice." Not all Settlement Class members will receive all forms of Notice, as detailed herein.

58. FHB will take all reasonable steps to cooperate with Class Counsel and its expert to make available the necessary data to Class Counsel's expert to determine Settlement Class membership, consistent with Paragraph 49, above. The availability of the data necessary for Class Counsel's expert to compile the Settlement Class membership list shall be provided as soon as practicable. FHB will bear the expense of extracting the necessary data to make available to Class

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Counsel's expert for analysis, while Class Counsel shall be responsible for paying Class Counsel's expert, who will analyze the data provided to determine Settlement Class membership as well as the amount of each Settlement Class member's damages. The Settlement Administrator shall run the physical addresses through the National Change of Address Database and shall mail to all such Settlement Class members Postcard Notice. The Settlement Administrator shall also send out Email Notice to all Settlement Class members receiving Notice by that method. The initial Mailed Postcard and Email Notice shall be referred to as "Initial Mailed Notice."

59. The Settlement Administrator shall perform reasonable address traces for all Initial Mailed Notice postcards that are returned as undeliverable. By way of example, a "reasonable" tracing procedure would be to run addresses of returned postcards through the Lexis/Nexis database that can be utilized for such purpose. No later than 60 days before the Final Approval Hearing, the Settlement Administrator shall complete the re-mailing of Postcard Notice to those Settlement Class members whose new addresses were identified as of that time through address traces ("Notice Re-mailing Process"). The Settlement Administrator shall send Postcard Notice to all Settlement Class members' whose emails were returned as undeliverable and complete such Notice pursuant to the deadlines described herein as they relate to the Notice Re-mailing Process.

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60. The Notice Program (which is composed of both the Initial Mailed Notice and the Notice Re-mailing Process) shall be completed no later than 60 days before the Final Approval Hearing.

61. Within the provisions set forth in this Section VIII, further specific details of the Notice Program shall be subject to the agreement of Class Counsel and FHB.

IX. Final Approval Order and Judgment

62. Plaintiff's Stipulation for Preliminary Approval of the Settlement will include a request to the Court for a scheduled date on which the Final Approval Hearing will occur. Plaintiff shall file the Motion for Final Approval of the Settlement, and application for attorneys' fees, costs and expenses and for Service Award for the Class Representative, no later than 45 days before the Final Approval Hearing. At the Final Approval Hearing, the Court will hear argument on Plaintiff's Motion for Final Approval of the Settlement, and on Class Counsel's application for attorneys' fees, costs, and expenses and for the Service Award for the Class Representative. In the Court's discretion, the Court also will hear argument at the Final Approval Hearing from any Settlement Class Member (or their counsel) who objects to the Settlement or to Class Counsel's application for attorneys' fees, costs, expenses or the Service Award application, provided the

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objectors submitted timely objections that meet all of the requirements listed in the Agreement.

63. At or following the Final Approval Hearing, the Court will determine whether to enter the Final Approval Order granting Final Approval of the Settlement and entering final judgment thereon, and whether to approve Class Counsel's request for attorneys' fees, costs, expenses and Service Awards. The proposed Final Approval Order shall be in a form agreed upon by Class Counsel and FHB. Such proposed Final Approval Order shall, among other things:

- a. Determine that the Settlement is fair, adequate and reasonable;
- b. Finally certify the Settlement Class for settlement purposes only;
- c. Determine that the Notice Program satisfied Due Process requirements;
- d. Enter judgment dismissing the Action with prejudice;
- e. Bar and enjoin all Releasing Parties from pursuing any Released Claims against FHB or its affiliates at any time, including during any appeal from the Final Approval Order, and retain jurisdiction over the enforcement of the Court's injunctions;
- f. Release FHB and the Released Parties from the Released Claims; and
- g. Reserve the Court's continuing and exclusive jurisdiction over the Parties to this Agreement, including FHB, all Settlement Class Members, and all

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objectors, to administer, supervise, construe and enforce this Agreement in accordance with its terms.

X. Distribution of Settlement Fund

64. Within 10 days after the Effective Date, the Settlement Administrator shall send the aggregate amount of the Settlement Class Member Payments that are to be credited to Current Account Holders' Accounts to FHB.

65. Within 30 days of the Effective Date, FHB shall credit the Accounts of all Current Account Holders based on the calculations provided by Class Counsel's expert, or by mailing a standard size check if it is not feasible or reasonable to make the payment by a credit. Such payments to Current Account Holders will be accompanied by a description to be determined by FHB. FHB will bear any costs associated with implementing the Account credits discussed in this paragraph.

66. Within 30 days of the Effective Date, the Settlement Administrator shall send Settlement Class Member Payments to Past Account Holders.

XI. Calculation of Automatic Distributions from Settlement Fund

67. The calculation and implementation of allocations of the Settlement Fund contemplated by this Section shall be done by Class Counsel and its expert for the purpose of compensating Settlement Class Members. Neither FHB nor its counsel shall have any responsibility for the calculation, and Settlement Class

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Members shall have no recourse against FHB or its counsel with respect to the calculation. The methodology provided for herein will be applied to the data as consistently, sensibly, and conscientiously as reasonably possible, recognizing and taking into consideration the nature and completeness of the data and the purpose of the computations. Consistent with its contractual, statutory, and regulatory obligations to maintain security and protect FHB customers' private financial information, FHB shall make available such additional data and information as may reasonably be needed by Class Counsel and its expert to confirm and/or effectuate the calculations and allocations contemplated by this Agreement. Class Counsel shall confer with FHB's counsel concerning any such additional data and information. All such data and information produced by FHB for the purpose of confirming and/or effectuating the calculations and allocations contemplated by this Agreement shall be returned to FHB's counsel or destroyed;

68. The amount of the Settlement Class Member Payment from the Settlement Fund to which each Settlement Class Member is entitled for the Class Period (subject to the availability of data) is to be determined using the following methodology or such other methodology as would have an equivalent result:

a. All accounts held by Settlement Class Members will be identified at which, on one or more calendar days during the Class Period, FHB assessed Relevant Overdraft Fees.

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- b. Relevant Overdraft Fees will be totaled for each Account.
- c. The Net Settlement Fund will be allocated *pro rata* to the Settlement Class Members based on their number of Relevant Overdraft Fees.

69. The Parties agree the foregoing allocation formula is exclusively for purposes of computing, in a reasonable and efficient fashion, the amount of any Settlement Class Member Payment each Settlement Class Member should receive from the Net Settlement Fund. The fact that this allocation formula will be used is not intended and shall not be used for any other purpose or objective whatsoever.

70. The Settlement Administrator shall divide the total amount of the Net Settlement Fund by the total amount of all Settlement Class Members' Relevant Overdraft Fees. This calculation shall yield the "*Pro Rata Percentage*."

71. Each Settlement Class Member's *Pro Rata Percentage* will be multiplied by the amount of the Net Settlement Fund, which yields a Pre-Adjustment Payment Amount for each Settlement Class Member.

72. If any Settlement Class Member's Pre-Adjustment Amount is less than \$5.00, the Settlement Class Member's Payment amount shall be adjusted to \$5.00. The remainder of the Net Settlement Fund shall then be apportioned *pro rata* to all other Settlement Class Members by multiplying those Settlement Class Members' *Pro Rata Percentage* by the remaining amount of the Net Settlement Fund.

XII. Disposition of Residual Funds

73. Within 1 year after the date the Settlement Administrator mails the first Settlement Class Member Payment, any remaining amounts resulting from uncashed checks ("Residual Funds") shall be distributed as follows:

a. First, the amount of the Net Settlement Fund attributable to uncashed or returned checks sent by the Settlement Administrator shall be held by the Settlement Administrator one year from the date that the first distribution check is mailed by the Settlement Administrator. During this time the Settlement Administrator shall make a reasonable effort to locate intended recipients of settlement funds whose checks were returned (such as by running addresses of returned checks through the Lexis/Nexis database that can be utilized for such purpose) to effectuate delivery of such checks. The Settlement Administrator shall make only one such additional attempt to identify updated addresses and re-mail or re-issue a distribution check to those for whom an updated address was obtained.

b. Second, any Residual Funds remaining after distribution shall be distributed on a *pro rata* basis to participating Settlement Class Members who received Settlement Class Member Payments, to the extent feasible and practical in light of the costs of administering such subsequent payments unless the amounts involved are too small to make individual distributions economically viable or

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other specific reasons exist that would make such further distributions impossible or unfair.

c. Third, in the event the costs of preparing, transmitting and administering such subsequent payments pursuant to this Section are not feasible and practical to make individual distributions economically viable or other specific reasons exist that would make such further distributions impossible or unfair, Class Counsel and FHB shall seek the Court's approval to distribute the Residual Funds, if any, to agreed-upon *cy pres* recipients in Hawai'i. In this event, the Residual Funds will be paid to the following 26 U.S.C. § 501(c)(3) non-profit organizations: Hawaii Foodbank and Aloha Harvest.

d. All costs of any second distribution, including FHB's internal costs of crediting Settlement Class Member Accounts, will come from the Residual Funds, and FHB is not required to pay these costs.

XIII. Release

74. As of the Effective Date, Plaintiff and each Settlement Class Member, each on behalf of himself or herself and on behalf of his or her respective heirs, assigns, beneficiaries and successors ("Releasing Parties"), shall automatically be deemed to have fully and irrevocably released and forever discharged FHB and each of its present and former parents, subsidiaries, divisions, affiliates, predecessors, successors and assigns, and the present and former directors,

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officers, employees, agents, insurers, members, attorneys, advisors, consultants, representatives, partners, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, predecessors, successors and assigns of each of them ("Released Parties"), of and from any and all liabilities, rights, claims, actions, causes of action, demands, damages, costs, attorneys' fees, losses and remedies, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, based on contract, tort or any other theory, concerning or relating to any claims or conduct alleged in the complaint, including claims that were or could have been brought in the Action ("Released Claims").

75. Except for Settlement Class members who have validly and timely elected to exclude themselves from or opt-out of the Settlement Class, each Settlement Class Member is barred and permanently enjoined from bringing on behalf of themselves, or through any person purporting to act on their behalf or purporting to assert a claim under or through them, any of the Released Claims against FHB in any forum, action, or proceeding of any kind.

76. Plaintiff or any Settlement Class Member may hereafter discover facts other than or different from those that he/she knows or believes to be true with respect to the subject matter of the claims released herein, or the law applicable to such claims may change. Nonetheless, each of those individuals expressly agrees

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that, as of the Effective Date, he/she shall have automatically and irrevocably waived and fully, finally, and forever settled and released any known or unknown, suspected or unsuspected, asserted or unasserted, liquidated or unliquidated, contingent or non-contingent claims with respect to all of the matters described in or subsumed by herein. Further, each of those individuals agrees and acknowledges that he/she shall be bound by this Agreement, including by the release herein and that all of their claims in the Action shall be dismissed with prejudice and released, whether or not such claims are concealed or hidden; without regard to subsequent discovery of different or additional facts and subsequent changes in the law; and even if he/she never receives actual notice of the Settlement and/or never receives a distribution of funds or credits from the Settlement.

77. In addition to the releases given by Plaintiff and the members of the Settlement Class above, Plaintiff Linda Robinson, and each and every one of her respective agents, representatives, attorneys, heirs, assigns, or any other person acting on her behalf or for her benefit, and any person claiming through her, provides the additional following general release of all claims, in exchange and consideration of the Settlement set forth in this Agreement. This named Plaintiff releases the Released Parties from all claims, demands, rights, liabilities, grievances, demands for arbitration, and causes of action of every nature and

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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.

78. Nothing in this Agreement shall operate or be construed to release any claims or rights that FHB has to recover any past, present or future amounts that may be owed by Plaintiff or by any Settlement Class Member on his/her accounts, loans or any other debts with FHB, pursuant to the terms and conditions of such accounts, loans, or any other debts. Likewise, nothing in this Agreement shall operate or be construed to release any defenses or rights of set-off that Plaintiff or any Settlement Class Member has, other than with respect to the claims expressly Released by this Agreement, in the event FHB and/or its assigns seeks to recover any past, present or future amounts that may be owed by Plaintiff or by any Settlement Class Member on his/her accounts, loans or any other debts with FHB, pursuant to the terms and conditions of such accounts, loans, or any other debts.

XIV. Payment of Attorneys' Fees, Costs, and Service Awards

79. Class Counsel may request attorneys' fees of up to 33% of the Settlement Fund and reimbursement of reasonable costs and expenses. Any award of attorneys' fees, costs, and expenses to Class Counsel shall be payable solely out of the Settlement Fund. The Parties agree that the Court's failure to approve, in

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whole or in part, any award for attorneys' fees shall not prevent the Settlement Agreement from becoming Effective, nor shall it be grounds for termination.

80. Within seven (7) days of the Court's entry of the Final Approval Order, all Court-approved attorneys' fees, costs, and expenses shall be paid from the escrow account. In the event the award of attorneys' fees is reduced on appeal, or if the Effective Date does not occur (either because approval of the Settlement is overturned or the Agreement is terminated for any reason), Class Counsel shall reimburse the escrow account, within five business days of the entry of the order reducing the fees, overturning the approval of the Settlement on appeal, or the termination of the Agreement, the difference between the amount distributed and the reduced amount (in the event of a reduction) or the entirety of the amount (in the event approval is overturned or the Agreement is terminated).

81. The payment of attorneys' fees, costs and expenses of Class Counsel shall be made as designated by Class Counsel. After the fees, costs and expenses have been paid, Class Counsel shall be solely responsible for distributing each Class Counsel firm's allocated share of such fees, costs and expenses to that firm. FHB shall have no responsibility for any allocation, and no liability whatsoever to any person or entity claiming any share of the funds to be distributed for payment of attorneys' fees, costs, or expenses or any other payments from the Settlement Fund not specifically described herein.

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82. In the event the Effective Date does not occur, or the attorneys' fees or the cost award is reduced following an appeal, each counsel and their law firms who have received any payment of such fees or costs shall be jointly and severally liable for the entirety. Further, each counsel and their law firms consents to the jurisdiction of the Court for the enforcement of this provision.

83. Class Counsel will ask the Court to approve a Service Award to the Plaintiff in the amount of \$10,000.00. The Service Award is to be paid within 10 days of the Effective Date. The Service Award shall be paid to the Class Representative in addition to the Class Representative's Settlement Class Member Payment. The Parties agree that the Court's failure to approve the Service Award, in whole or in part, shall not prevent the Settlement Agreement from becoming Effective, nor shall it be grounds for termination.

84. The Parties negotiated and reached agreement regarding attorneys' fees and costs, and the Service Award, only after reaching agreement on all other material terms of this Settlement.

XV. Termination of Settlement

85. This Settlement may be terminated by either Class Counsel or FHB by serving on counsel for the opposing Party and filing with the Court a written notice of termination within 15 days (or such longer time as may be agreed in writing between Class Counsel and FHB) after any of the following occurrences:

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- a. Class Counsel and FHB agree to termination;
- b. the Court rejects, materially modifies, materially amends or changes, or declines to preliminarily or finally approve the Settlement;
- c. an appellate court vacates or reverses the Final Approval Order, and the Settlement is not reinstated and finally approved without material change by the Court on remand within 360 days after such reversal;
- d. any court incorporates into, or deletes or strikes from, or modifies, amends, or changes, the Preliminary Approval Order, Final Approval Order, or the Settlement in a way that Class Counsel or FHB seeking to terminate the Settlement reasonably considers material;
- e. the Effective Date does not occur; or
- f. any other ground for termination provided for elsewhere in this Agreement.

86. FHB also shall have the right to terminate the Settlement by serving on Class Counsel and filing with the Court a notice of termination within 14 days after its receipt from the Settlement Administrator of any report indicating that the number of Settlement Class Members who timely request exclusion from the Settlement Class equals or exceeds the number or percentage specified in the separate letter executed concurrently with this Settlement by Class Counsel and

FHB. The number or percentage shall be confidential except to the Court, which shall upon request be provided with a copy of the letter for *in camera* review.

XVI. Effect of a Termination

87. The grounds upon which this Agreement may be terminated are set forth herein above. In the event of a termination, this Agreement shall be considered null and void; all of Plaintiff's, Class Counsel's, and FHB's obligations under the Settlement shall cease to be of any force and effect; and the Parties shall return to the status *quo ante* in the Action as if the Parties had not entered into this Agreement. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement rights, claims and defenses will be retained and preserved.

88. In the event of termination, FHB shall have no right to seek reimbursement from Plaintiff, Class Counsel, or the Settlement Administrator for Settlement Administration Costs paid by FHB.

89. The Settlement shall become effective on the Effective Date unless earlier terminated in accordance with the provisions hereof.

90. In the event the Settlement is terminated in accordance with the provisions of this Agreement, any discussions, offers, or negotiations associated with this Settlement shall not be discoverable or offered into evidence or used in the Action or any other action or proceeding for any purpose. In such event, all

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Parties to the Action shall stand in the same position as if this Agreement had not been negotiated, made or filed with the Court.

XVII. No Admission of Liability

91. FHB continues to dispute its liability for the claims alleged in the Action, and maintains that its transaction processing practices and disclosures concerning those practices complied, at all times, with applicable laws and regulations and the terms of the account agreements with its members. FHB does not admit any liability or wrongdoing of any kind, by this Agreement or otherwise. FHB has agreed to enter into this Agreement to avoid the further expense, inconvenience, and distraction of burdensome and protracted litigation, and to be completely free of any further claims that were asserted or could possibly have been asserted in the Action.

92. Class Counsel believes that the claims asserted in the Action have merit, and they have examined and considered the benefits to be obtained under the proposed Settlement set forth in this Agreement, the risks associated with the continued prosecution of this complex, costly and time-consuming litigation, and the likelihood of success on the merits of the Action. Class Counsel fully investigated the facts and law relevant to the merits of the claims, conducted significant informal discovery, and conducted independent investigation of the challenged practices. Class Counsel concluded that the proposed Settlement set

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forth in this Agreement is fair, adequate, reasonable, and in the best interests of the Settlement Class members.

93. The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgment or admission by any party of any fault, liability or wrongdoing of any kind whatsoever.

94. Neither the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (a) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by the Plaintiff or Settlement Class members, or of any wrongdoing or liability of the Released Parties; or (b) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission of any of the Released Parties, in the Action or in any proceeding in any court, administrative agency or other tribunal.

95. In addition to any other defenses FHB may have at law, in equity, or otherwise, to the extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against,

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any action, suit or other proceeding that may be instituted, prosecuted or attempted in breach of this Agreement or the Releases contained herein.

XIX. Miscellaneous Provisions

96. Gender and Plurals. As used in this Agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

97. Binding Effect. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Releasing Parties and the Released Parties.

98. Cooperation of Parties. The Parties to this Agreement agree to cooperate in good faith to prepare and execute all documents, to seek Court approval, uphold Court approval, and do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

99. Obligation To Meet And Confer. Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other and certify to the Court that they have consulted.

100. Integration. This Agreement constitutes a single, integrated written contract expressing the entire agreement of the Parties relative to the subject matter hereof. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party hereto, except as provided for herein.

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101. No Conflict Intended. Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

102. Governing Law. Except as otherwise provided herein, the Agreement shall be construed in accordance with, and be governed by, the laws of the State of Hawai'i, without regard to the principles thereof regarding choice of law.

103. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all Parties do not sign the same counterparts. Original signatures are not required. Any signature submitted by facsimile or through email of an Adobe PDF shall be deemed an original.

104. Jurisdiction. The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation and enforcement of the Agreement and shall retain jurisdiction for the purpose of enforcing all terms of the Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice

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program and the Settlement Administrator. As part of their agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose. The Court shall retain jurisdiction over the enforcement of the Court's injunction barring and enjoining all Releasing Parties from asserting any of the Released Claims and from pursuing any Released Claims against FHB or its affiliates at any time, including during any appeal from the Final Approval Order.

105. Notices. All notices to Class Counsel or counsel for FHB provided for herein, shall be sent by email with a hard copy sent by overnight mail to:

KALIEL PLLC

Jeffrey D. Kalief, Esq.

jkaliel@kalielpllc.com

1875 Connecticut Avenue NW, 10th Floor

Washington, DC 20009

Telephone: 202-350-4783

PERKIN & FARIA

Brandee Faria, Esq.

841 Bishop Street Suite 1000

Washington, DC 20009

Honolulu, Hawai'i 96813

Telephone: 808-523-2300

MORRISON & FOERSTER LLP

Jessica Kaufman

250 W. 55th St.

New York, New York 10019

Telephone: 212.336.4257

James R. McGuire

FOR EXECUTION

425 Market Street
San Francisco, CA 94105
Telephone: 415.268.7000

KOBAYASHI, SUGITA & GODA LLP

Craig Shikuma
999 Bishop Street, Suite 2600
Honolulu, Hawai'i 96813
Telephone: 808-535-5706

The notice recipients and addresses designated above may be changed by written notice. Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filings received as a result of the Notice program.

106. Modification and Amendment. This Agreement may not be amended or modified, except by a written instrument signed by Class Counsel and counsel for FHB and, if the Settlement has been approved preliminarily by the Court, approved by the Court.

107. No Waiver. The waiver by any Party of any breach of this Agreement by another Party shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Agreement.

108. Authority. Class Counsel (for the Plaintiff and the Settlement Class Members), and counsel for FHB (for FHB), represent and warrant that the persons signing this Agreement on their behalf have full power and authority to bind every person, partnership, corporation or entity included within the definitions of

FOR EXECUTION

Plaintiff and FHB to all terms of this Agreement. Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.

109. Agreement Mutually Prepared. Neither FHB nor Plaintiff, nor any of them, shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

110. Independent Investigation and Decision to Settle. The Parties understand and acknowledge that they: (a) have performed an independent investigation of the allegations of fact and law made in connection with this Action; and (b) that even if they may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Action as reflected in this Agreement, that will not affect or in any respect limit the binding nature of this Agreement. FHB has provided and is providing information that Plaintiff reasonably request to identify Settlement Class members and the alleged damages they incurred. Both Parties recognize and acknowledge that they and their experts reviewed and analyzed data for a subset of the time at issue and that they and their experts used extrapolation to make certain

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determinations, arguments and settlement positions. The Parties agree that this Settlement is reasonable and will not attempt to renegotiate or otherwise void or invalidate or terminate the Settlement irrespective of what any unexamined data later shows. It is the Parties' intention to resolve their disputes in connection with this Action pursuant to the terms of this Agreement now and thus, in furtherance of their intentions, the Agreement shall remain in full force and effect notwithstanding the discovery of any additional facts or law, or changes in law, and this Agreement shall not be subject to rescission or modification by reason of any changes or differences in facts or law, subsequently occurring or otherwise.

111. Receipt of Advice of Counsel. Each Party acknowledges, agrees, and specifically warrants that he, she or it has fully read this Agreement and the Release contained herein, received independent legal advice with respect to the advisability of entering into this Agreement and the Release and the legal effects of this Agreement and the Release, and fully understands the effect of this Agreement and the Release.

Dated: 2/26/2019 Linda Robinson
LINDA ROBINSON
Plaintiff

Dated: _____

Jeff Kalliel, Esq.
KALIEL PLLC
Class Counsel

Dated: _____ BKF

Brandee Faria, Esq.
PERKIN & FARIA
Class Counsel

Dated: _____ FIRST HAWAIIAN BANK

By: _____
ITS _____

Dated: _____

Jessica Kaufman, Esq.
MORRISON & FOERESTER
Counsel for FHB

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Dated: _____
LINDA ROBINSON
Plaintiff

Dated: 3/7/2019

DocuSigned by:
Jeff Kalie
E612E400C0B1427
Jeff Kalie, Esq.
KALIEL PLLC
Class Counsel

Dated: _____
Brandee Farla, Esq.
PERKIN & FARIA
Class Counsel

Dated: 03-07-2019 FIRST HAWAIIAN BANK

By: Joel Rappaport
ITS EVP, General Counsel and Secretary

Dated: 03-07-2019 _____
Jessica Kaufman, Esq.
MORRISON & FOERESTER
Counsel for FHB

Perkin & Faria, LLC - Robinson v. First Hawaiian Bank		
Expense Type	Description	Amount
Copy/Printing	Copy/Print Costs	\$420.50
Filing Fee	Complaint Filing Fee	\$515.00
Mediation	Mediation Fee - Jerry Hlatt	\$1,073.30
Expert	Arthur Olsen	\$119,648.87
PHV Counsel	Kallel, PLLC	\$7,854.17
Total		\$129,511.84

EXHIBIT

Kaliel PLLC -- Robinson v. First Hawaiian Bank

Expense Type	Description	Amount
	4/18/17 Fort Lauderdale to Honolulu and Honolulu to New York (5/23-5/25) -- \$11.20 (taxes only on FF mile ticket)	\$11.20
Travel-Airline		
Travel-Hotel	5/23/17-5/25/17 Kahala Hotel	\$854.25
Travel-Taxis	5/23-5/25 in Honolulu	\$111.46
Travel-Airline	8/27/17 Los Angeles to Honolulu	\$1,130.09
Travel-Hotel	8/27/17 Trump Hotel	\$501.00
	8/28/17 Honolulu to Denver and Denver to Fort Lauderdale	\$1,130.09
Travel-Airline		
Travel-Hotel	KPLLC 9/30/18 Surfjack Hotel J Kaliel	\$206.67
Travel-Airline	KPLLC 9/30/18 WAS to HNL J Kaliel	\$667.30
Travel-Airline	KPLLC 8/5/19 WAS to HNL J Kaliel	
Travel-Airlines	TZ 8/29/17 WAS to HNL	\$1,130.09
Travel--Hotel	TZ Trump Hotel 8/29/17	\$500
Travel--meals	TZ Various	\$112.02
Mediation	TZ Mediator's Fee	\$1,500
Total		\$7,854.17

EXHIBIT

"3B"

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

LINDA ROBINSON,
individually and on behalf of all
others similarly situated,

Plaintiff,

v.

FIRST HAWAIIAN BANK and
DOE DEFENDANTS 1-50,

Defendant.

) Civil No. 17-1-0167-01 (GWBC)
) (CLASS ACTION)
)
)

) **[PROPOSED] ORDER GRANTING PLAINTIFF'S**
) **MOTION FOR FINAL APPROVAL OF CLASS**
) **ACTION SETTLEMENT AND ENTRY OF FINAL**
) **JUDGMENT**

) Hearing Date: August 6, 2019 at 3:00 p.m.,
) Judge: Honorable Gary W.B. Chang
)
)
)

**[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR FINAL APPROVAL
OF CLASS ACTION SETTLEMENT AND ENTRY OF FINAL JUDGMENT**

Plaintiff LINDA ROBINSON, individually and on behalf of all others similarly situated, filed *Plaintiff's Motion for Final Approval of Class Action Settlement and Entry of Final Judgment* on June 24, 2019, and *Plaintiff's Motion* came on for hearing on August 6, 2019, before Honorable Gary W.B. Chang, with Brandee J.K. Faria, Esq. and Jeffrey Kaliel, Esq. appearing on behalf of the Plaintiff Class and Craig K. Shikuma, Esq. appearing on behalf of the Defendant FIRST HAWAIIAN BANK.

The court having carefully read and considered all of the relevant evidence and memoranda presented, having heard and considered the oral arguments of counsel, and being otherwise fully advised in the premises, and good cause appearing therefore, hereby orders, adjudges and decrees, pursuant to Hawai'i Rules of Civil Procedure, Rule 23, that:

1. This Court has jurisdiction over the claims at issue and parties involved in this action.

2. The Settlement Agreement and Release ("Settlement Agreement") between Plaintiff LINDA ROBINSON (the "Class Representative" or "Plaintiff"), individually and on behalf of a class of similarly situated persons ("Class"), and Defendant FIRST HAWAIIAN BANK, is incorporated fully herein by reference and is attached to the *Motion For Final Approval Of Class Action Settlement And Entry Of Final Judgment* and to the *Stipulation Regarding Entry of Order: (1) Preliminarily Approving Class Action Settlement and Release Agreement, (2) Approving Form of Notice, (3) Establishing Opt-Out and Objecting Deadline, (4) Directing Dissemination of Notice, and (5) Scheduling "Final Fairness Hearing" of Settlement Between Plaintiff and Defendant* filed March 13, 2019.

3. The definitions used in the Settlement Agreement are adopted for use herein.

4. This Court has been advised by counsel for the Parties that the Settlement Agreement has been reached between and among the Class Representative, individually and on behalf of the Class, Class Counsel for and on behalf of the Class, and Defendant, independently.

5. Having received full notice of the settlement, no Class Members have opted out of the instant settlement, and no Class Members filed a written objection by the Court imposed deadline. Furthermore, no Class Members appeared at the Final Fairness Hearing to object to the settlement.

6. The Court has reviewed the Settlement Agreement executed by the Parties and finds that the Settlement Agreement is hereby finally approved as fair, adequate, and reasonable, certifying the Settlement Class for settlement purposes, and further approves the Release contained therein and as set forth in the Class Notice.

7. Following Plaintiff's submittal of the Stipulation, on March 13, 2019 this Court entered an Order (1) *Preliminarily Approving Class Action Settlement and Release Agreement*, (2) *Approving Form of Notice*, (3) *Establishing Opt-Out and Objection Deadline*, (4) *Directing Dissemination of Notice*, and (5) *Scheduling Final "Fairness Hearing."* The findings contained therein are incorporated herein by reference. This Court determines that the Notice Program satisfies all of the due process requirements for a class action settlement.

8. As of the effective date of the Settlement Agreement, the released claims of each Class Member who has not opted out, pursuant to the terms of the Settlement Agreement, and as set forth in the Class Notice, are and shall be deemed to be fully, finally, and conclusively resolved as against Defendant. This Court's approval of the instant Settlement bars and enjoins all Releasing Parties from pursuing any Released Claims and releases FHB and the Released Parties from the Released Claims.

9. Plaintiff's request for attorneys' fees in the amount of \$1,361,250, and litigation costs in the amount of \$129,511.84 is reasonable, given the factors set forth in *Plaintiff's Memorandum in Support of Motion* and is approved. This is in addition to the costs for administration of the settlement, which is being administered by Epiq and is estimated to cost approximately \$120,000.

10. The Court hereby approves the incentive payment for the Class Representative in this case, LINDA ROBINSON, in the amount of \$10,000 as fair and reasonable, given the factors set forth in *Plaintiff's Memorandum in Support of Motion*.

11. Final Judgment will be entered concurrently herewith as set forth in the Settlement Agreement, and the instant Action will be dismissed with prejudice.

12. The Circuit Court for First Circuit, State of Hawai'i shall retain continuing and exclusive jurisdiction over the Parties to this Agreement to enforce the Settlement Agreement and for all other related matters thereto.

IT IS SO ORDERED AND ADJUDGED.

DATED: Honolulu, Hawai'i, June 25, 2019.

HONORABLE GARY W.B. CHANG
JUDGE OF THE ABOVE-ENTITLED COURT

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

LINDA ROBINSON, individually and on)	Civil No. 17-1-0167-01 (GWBC)
behalf of all others similarly situated,)	(CLASS ACTION)
)	
Plaintiff,)	
)	
v.)	DECLARATION OF JEFFREY
)	KALIEL
FIRST HAWAIIAN BANK and DOE)	
DEFENDANTS 1-50,)	
)	
Defendant.)	
)	

DECLARATION OF JEFFREY KALIEL

1. I am above the age of 18 and legally competent to testify to the facts below and so testify based upon personal knowledge.
2. I am an attorney with the law firm of Kaliei PLLC, counsel for Plaintiff LINDA ROBINSON, individually and on behalf of all others similarly situated.
3. I have substantial experience with consumer class actions in general, and specifically with cases in the consumer financial services sector—cases in which I have recovered hundreds of millions of dollars for my clients. For example, I played an active role in filing, litigating and resolving *Farrell v. Bank of America*, 3:16-cv-00492-L-WVG (S.D. Cal.), a case in which Bank of America agreed to fundamentally change a central aspect of its “extended” overdraft fee policies and agreed to provide \$66 million in settlement benefits to the class.
4. I am a graduate of Yale Law School, an Army veteran of the second Iraq war, and founded Kaliei PLLC in 2017.
5. I have been appointed lead Class Counsel in numerous nationwide and state-

specific class actions. In those cases, I have won contested class certification motions, defended dispositive motions, engaged in data-intensive discovery and worked extensively with economics and information technology experts to build damage models. I have also successfully resolved numerous class actions by settlement, resulting in hundreds of millions of dollars in relief for millions of class members.

6. I am currently class counsel in numerous ongoing putative class action lawsuits, including, *Woolley et al., v. Ygrene Energy Fund, Inc. et al.*, No. 3:17-cv-01258 (N.D. Cal.); *Dornaus v. Best Buy Co., Inc.*, No. 4:18-cv-04085 (N.D. Cal.); *Figueroa v. Capital One, N.A. et al.*, No. 3:18-cv-00692 (S.D. Cal.); *Barbanell v. One Medical Group, Inc. et al.*, No. CGC-18-566232 (Super. Ct. of Cal. Cty. of San Francisco); *Chandler et al. v. Arvest Bank*, No. 3:18-cv-00043 (E.D. Ark.); *Roberts v. Capital One*, No. 1:16-cv-04841 (S.D.N.Y.); *Dress v. Capital One*, No. 4:18-cv-40064 (D. Mass.); *Boone v. MB Financial Bank, N.A.*, No. 1:18-cv-01771 (N.D. Ill.); *Hurst v. Educational Employees' Credit Union*, No. 18CECG02541 (Super. Ct. of Cal. Cty. of Fresno); *Jones v. United Community Bank, Inc.*, No. 3:18-cv-00190 (E.D. Tenn.); and *DeMoss v. BOKF, N.A.*, No. CJ-2018-01511 (Dist. Ct. for Tulsa Cty., Okla.).

7. Additionally, I have been named Class Counsel or Settlement Class Counsel in numerous class actions including *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.); *Bodnar v. Bank of America, N.A.*, 5:14-cv-03224 (E.D. Pa.); *In re Higher One Account Marketing and Sales Practice Litigation.*, No. 12-md-02407-VLB (D. Conn.).

8. In sum, over the last dozen years, I have built substantial class action experience, especially in the banking sector. I have received "Washington D.C. Rising Stars Super Lawyers 2015" recognition.

9. Attached hereto as Exhibit "3-B" is a true and correct copy of the Expense Statement regarding costs attributed to the case under Kaliel PLLC.

I, JEFFREY KALIEL, do declare under penalty of law that the foregoing is true and correct to the best of my knowledge.

DATED: Washington, D.C., June 24, 2019.

DocuSigned by:

F817E488E081427...
JEFFREY KALIEL

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

LINDA ROBINSON, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

FIRST HAWAIIAN BANK and DOE
DEFENDANTS 1-50,

Defendants.

Civil No. 17-1-0167-01 GWBC
(Class Action)

**AFFIDAVIT OF CAMERON R.
AZARI, ESQ., ON
IMPLEMENTATION AND
ADEQUACY OF SETTLEMENT
NOTICE PROGRAM**

**AFFIDAVIT OF CAMERON R. AZARI, ESQ., ON IMPLEMENTATION
AND ADEQUACY OF SETTLEMENT NOTICE PROGRAM**

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

1. My name is Cameron R. Azari, Esq. 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 is a business unit of Epiq 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:

- a. *In re: Checking Account Overdraft Litigation (Comerica Bank)*, MDL No. 2036, S.D. Fla. (overdraft litigation settlement; individual notification reached¹ approximately 93% of class members; granted final approval);
- b. *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);
- c. *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);
- d. *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);
- e. *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);
- f. *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);
- g. *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);
- h. *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);
- i. *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);

¹ 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.

- j. *Costello v. NBT Bank, N.A.*, No. 2011 1037, Sup. Ct., Ny. (overdraft litigation settlement; individual notification reached approximately 94% of class members; granted final approval);
- k. *In re: Checking Account Overdraft Litigation (RBS Citizens Bank, N.A.)*, MDL No. 2036, S.D. Fla. (overdraft litigation settlement; individual notification reached approximately 86% of class members; granted final approval);
- l. *In re: Checking Account Overdraft Litigation (Bank of Oklahoma, N.A.)*, MDL No. 2036, S.D. Fla. (overdraft litigation settlement; individual notification reached approximately 89% of class members; granted final approval);
- m. *In re: Checking Account Overdraft Litigation (IBERIABANK)*, MDL No. 2036, S.D. Fla. (overdraft litigation settlement; individual notification reached approximately 97% of class members; granted final approval);
- n. *Schulte v. Fifth Third Bank*, No. 09-CV-06655, N.D. Ill. (overdraft litigation settlement; individual notification reached approximately 89.7% of class members; granted final approval);
- o. *Trombley v. National City Bank*, No. 1:10-CV-00232, D.D.C. (overdraft litigation settlement; individual notification reached approximately 93.3% of class members; granted final approval);
- p. *Mathena v. Webster Bank, N.A.*, No. 3:10-cv-01448, D. Conn. (overdraft litigation settlement; individual notification reached approximately 97.6% of class members; granted final approval);
- q. *Simpson v. Citizens Bank*, No. 2:12-cv-10267, E.D. Mich. and *Liddell v. Citizens Bank, et al.*; No. 2:12-cv-11604, E.D. Mich. (overdraft litigation settlement; individual notification reached approximately 87% of class members; granted final approval);
- r. *Swift v. BancorpSouth Bank*, No. 1:10-cv-00090, N.D. Fla. (overdraft litigation settlement; individual notification reached approximately 93% of class members; granted final approval);
- s. *Forgione v. Webster Bank N.A.*, No. X10-UWY-CV-12-6015956-S, Sup. Ct. Conn. (overdraft litigation settlement; individual notification reached approximately 99.5% of class members; granted final approval);

- t. *In re: HSBC Bank USA, N.A., Checking Account Overdraft Litigation*, No. 650562/2011, Sup. Ct. N.Y. (overdraft litigation settlement; individual notification reached approximately 88.7% of class members; granted final approval);
- u. *Hawkins v. First Tennessee Bank, N.A., et al.*, No. CT-004085-11, 13th Jud. Cir. Tenn. (overdraft litigation settlement; individual notification reached approximately 96% of class members; granted final approval);
- v. *Ratzlaff v. BOKF, NA d/b/a Bank of Oklahoma, et al.*, No. CJ-2015-00859, Dist. Ct. Okla., (overdraft litigation settlement; individual notification reached approximately 98.6% of class members; granted final approval);
- w. *Jacobs, et al. v. Huntington Bancshares Inc. et al. (FirstMerit)*, No. 11CV000090, Ohio C.P., (overdraft litigation settlement; individual notification reached approximately 99.7% of class members; granted final approval);
- x. *Gluske v. Independent Bank Corporation*, No. No. 13-009983-CZ, Cir. Ct. Mich., (overdraft litigation settlement, individual notification reached approximately 97% of identified settlement class members; granted final approval);
- y. *Morton v. Greenbank*, No. 11-135-IV, 20th Jud. Dist. Tenn. (overdraft litigation settlement; individual notification reached approximately 94.7% of class members; granted final approval);
- z. *Stahl v. Bank of the West*, No. BC673397, Sup. Ct., Cal., (over draft litigation; individual notification reached approximately 96% of the class members; granted final approval);
- aa. *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);
- bb. *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 publications, as well as a case website in eight languages and banner notices, which generated more than 770 million adult impressions; granted final approval); and

cc. *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 the case resolved by this settlement, *Robinson v. First Hawaiian Bank, et al.*, Circuit Court of the First Circuit, State of Hawaii, Case No. 17-1-0167-01 GWBC, my colleagues and I were asked to design the Notices (or "Notice") and a Notice Program (or "Notice Plan") to inform Settlement Class Members about their rights under the proposed class action settlement.

5. On March 13, 2019, in the Order: (1) Preliminarily Approving Class Action Settlement and Release Agreement, (2) Approving Form of Notice, (3) Establishing Opt-Out and Objection Deadline, (4) Directing Dissemination of Notice, and (5) Scheduling Final "Fairness Hearing" (the "Order"), the Court appointed Epiq as the Settlement Administrator and approved the Notice Program and the proposed forms of Notice.² With the Court's approval, Hilsoft began to implement the Notice Plan.

6. This affidavit will detail the successful implementation of the Notice Program and document the completion of all of the notice activities. The affidavit will also discuss the administration activity to date, with updated administration statistics to be provided by the parties

² Epiq provided a proposed administrative action plan to Class Counsel that included mailed and emailed notice to identified Class Members from data provided by FHB, creation and maintenance of an informational toll free number, creation and maintenance of a settlement website, and a distribution plan. This plan provided estimated administrative fees and expenses to be approximately \$119,521.00. This value is contingent on a specific range of numbers and percentages to be met, and does not constitute a final value.

in advance of the August 6, 2019, Final Approval Hearing. The facts in this report are based on information provided to me by colleagues from Hilsoft and Epiq.

SUMMARY OF CONCLUSIONS

7. The Notice Program we designed and implemented achieved each of the planned objectives:

- a. Names and direct contact information for members of the Settlement Class were identified for First Hawaiian Bank's ("FHB") accounts. Individual Notice was sent to virtually all³ members of the Settlement Class identified in the data provided by FHB.
- b. The initial individual Notice reached approximately % of the Settlement Class.
- c. Each person reached had an opportunity to view a Notice, with an adequate amount of time prior to the Final Approval Hearing to make appropriate decisions such as whether to object or opt-out.
- d. The Notices were designed to be noticeable, clear, simple, substantive, and informative. No significant or required information was missing.
- e. The program was consistent with other notice programs we have designed and implemented for similar settlements that have received final approval.
- f. The Notice Plan was developed with the active participation of counsel.

³ Name and direct contact information was identified for more than 98% of all Accounts included in the Settlement Class data provided to Epiq.

8. In my view, the Notice Plan provided reasonable notice of the settlement of the class action in this case in such a manner as the Court directed, and satisfied due process, including the "desire to actually inform" requirement.⁴

9. This affidavit will detail the notice activities undertaken and explain how and why the settlement Notice Plan was comprehensive, well suited to the Settlement Class and was the best notice practicable under the circumstances of this case, and satisfied due process obligations.

NOTICE PLAN IMPLEMENTATION

10. The Order defines the "Settlement Class" as consisting of:

"All current and former FHB members who were charged a Relevant Overdraft Fee during the Class Period. Excluded from the Settlement Class is FHB, its parents, subsidiaries, affiliates, officers and directors, all Settlement Class members who make a timely election to be excluded, and all judges assigned to this litigation and their immediate family members."

11. I have reviewed the Order and Settlement Agreement and I fully understand the defined terms used in the definition of the Settlement Class and subsequent defined terms. "Relevant Overdraft Fee" means "an Overdraft Fee on a transaction that was authorized and approved when sufficient funds were available to cover the amount of authorization." "Class Period" means, "the period from January 27, 2011, through the date of preliminary approval." "Overdraft Fee" means "any fee or fees assessed to a holder of an Account for items paid when the Account has insufficient funds at the time of settlement." "Account" means "any consumer checking account maintained by FHB in the United States and its territories."

⁴ "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. The reasonableness and hence the constitutional validity of any chosen method may be defended on the ground that it is in itself reasonably certain to inform those affected ..." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 315 (1950).

Individual Notice

12. FHB was able to identify names and direct contact information for virtually all of the Settlement Class. On May 10, 2019, Epiq received data for 82,939 records for FHB's accounts relating to Settlement Class Members' Accounts. Epiq identified and updated all accounts with name and address changes in order to compile the final Class Member notice mailing list. To compile the final Class Member notice mailing list, Epiq identified and checked all postal mailing addresses against the National Change of Address ("NCOA") database maintained by the United States Postal Service ("USPS"), which contains records of all reported permanent moves for the past four years. Any addresses that were returned by the NCOA database as invalid were updated through a third-party address search service prior to mailing. Additionally, Epiq reviewed all records where at least one email address was provided to determine validity.

13. Of the 82,939 Class Member records received, 53,395 Class Member records included at least one potentially valid email address (many records included at least two potentially valid email addresses, totaling 60,371 potentially valid email addresses) and 28,186 Class Member records included a potentially valid mailing address and did not include an email address.

Individual Notice -- Emailed Notice

14. On May 31, 2019, Epiq sent 60,371 Summary Email Notices to potential Settlement Class Members a valid email address (some Settlement Class Members had more than one email address, which were used to provide Notice). The Summary Email Notice was created using 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 Summary Email Notice was transmitted with a unique message identifier. If the receiving e-mail server could not deliver the

message, a "bounce code" was returned along with the unique message identifier. For any Summary 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 Notice by email.

15. The Summary E-mail 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. The Summary Email Notice is included as **Attachment 2**.

16. After completion of the initial Email Notice effort, Epiq received back 6,940 undeliverable emails, representing 6,791 unique records. Epiq is currently preparing to send a Summary Postcard Notice for each Settlement Class Member with an email address that "bounced" back as undeliverable in the initial effort, for those Settlement Class Members with a valid physical mailing address.

Individual Notice – Mailed Notice

17. Prior to the initial mailing of the Summary Postcard Notice, the addresses were certified via the Coding Accuracy Support System ("CASS") to ensure the quality of the zip code, and verified through Delivery Point Validation ("DPV") to verify the accuracy of the addresses. This address updating process is standard for the industry and for the majority of promotional mailings that occur today.

18. On May 31, 2019, Epiq sent 28,186 Summary Postcard Notices by USPS First Class Mail to potential Settlement Class Members with a physical mailing address and without a valid email address. Each notice was a two image 4.25" x 5.5" Summary Postcard Notice. A copy of the Summary Postcard Notice is included as **Attachment 3**.

19. The return address on the Summary Postcard Notice is a post office box maintained by Epiq. Epiq will be remailing Summary Postcard Notices for addresses that were corrected through the USPS and via an extra search for different addresses using a third-party lookup service ("ALLFIND", maintained by LexisNexis). Address updating and re-mailing for undeliverable Summary Postcard Notices is ongoing and will continue through the Final Approval Hearing. As of June 20, 2019, 5,282 mailings remain un-delivered.

20. The initial Summary Email Notice and the Summary Postcard Notices are estimated to have reached approximately 84% of the Settlement Class identified in the data provided to Epiq. This percentage is likely to increase once the remailing is complete.

Case Website

21. On May 30, 2019, Epiq established an informational case website, with an easy to remember domain name, www.FHBOverdraftLitigation.com. The website address was displayed prominently in all notice documents. By visiting this website, members of the Settlement Class can view additional information about the settlement, including: the Preliminary Approval Order, Settlement Agreement, Long Form Notice and Frequently Asked Questions and Answers.

22. Settlement Class Members may download a copy of the Long Form Notice at the case website. A copy of the Long Form Notice is included as Attachment 4.

23. As of June 20, 2019, there have been 898 website visitor sessions, with 1,724 page views.

Toll Free Number

24. On April 23, 2019, the toll free number (1-877-239-1243), set up and hosted by Epiq, became operational. By calling this number, members of the Settlement Class can listen to answers to frequently asked questions. This automated system is available 24 hours per day, 7

days per week. As of June 20, 2019, the toll free number has handled 465 calls representing 1,434 minutes of use

Exclusions and Objections

25. As of June 20, 2019, Epiq has not received any requests for exclusion from the Settlement Class. As of June 20, 2019, I am aware of no objections to the Settlement. After the July 5, 2019, exclusion request and objection deadline passes, Epiq will prepare a complete report of all timely exclusion requests and objections for the August 6, 2019, Final Approval Hearing.

Estimated Payments

26. In accordance with Hawaii Rules of Civil Procedure, Rule 23(f) and per a request from Class Counsel, Epiq has prepared an estimated *pro rata* award for each Class Member record identified in data provided by FHB. The values determined for each identified Class Member record assume that all records in the data provided will be paid, that there are no exclusions submitted, and funds available are fixed at the time of this affidavit. Epiq has estimated that approximately \$2,430,087.00 will be available to identified Class Members following deductions for the proposed Service Award, requested attorneys' fees and expenses, and estimated administrative fees and expenses. A complete list of estimated payments is included as Attachment 5.

PERFORMANCE AND DESIGN OF NOTICE PROGRAM

27. *Objectives were met.* The primary objective of this settlement notice effort was to effectively reach the greatest practicable number of Settlement Class members with a "noticeable" Notice of the settlement, and provide them with every reasonable opportunity to understand that their legal rights were affected, including the right to be heard, to object or to exclude themselves, if they so choose. These efforts were successful.

28. *The Notice reached Settlement Class Members effectively.* Our calculations indicate that to date, the Summary Email and Summary Postcard Notice reached approximately 84% of the Settlement Class. In my experience, this reach percentage is consistent with that achieved in many other court-approved settlement notice programs.

29. *Plenty of time and opportunity to react to Notices.* The initial mailing of notices was completed on May 31, 2019, which allowed an adequate amount of time for members of the Settlement Class to see the Notice and respond accordingly before the July 5, 2019 exclusion and objection deadlines and the August 6, 2019 Final Approval Hearing. With approximately 35 days from the completion of the initial Notice mailing until the exclusion and objection deadlines, and 67 days until the Final Approval Hearing members of the Settlement Class were allotted adequate time to act on their rights.

30. *Notices were designed to increase noticeability and comprehension.* Because mailing recipients are accustomed to receiving junk mail, which they may be inclined to discard unread, the program called for steps to bring the Notice to the attention of the Settlement Class. Once people "noticed" the Notices, it was critical that they could understand them. As such, the Notices, as produced, were clearly worded with simple, plain language text to encourage readership and comprehension. The design of the Notices followed the principles embodied in the Federal Judicial Center's illustrative "model" notices posted at www.fjc.gov.

31. The Summary Email Notice and Summary Postcard Notice featured a prominent headline ("**If You Paid Overdraft Fees to First Hawaiian Bank You May Be Eligible for a Payment from a Class Action Settlement.**") in bold text. The headline alerts recipients that the Notice is an important document authorized by a court and that the content may affect them, thereby supplying reasons to read the Notice.

32. We drafted a Long Form Notice that provided more information to the Settlement Class. The Long Form Notice began with a summary page providing a concise overview of the important information and Settlement Class Members' key options. It contained a prominent focus on the options that Settlement Class Members have, using a straightforward table design, and included details about the Settlement, such as who is affected, and their rights. A table of contents, categorized into logical sections, helped to organize the information, while a question and answer format made it easy to find answers to common questions by breaking the information into simple headings and brief paragraphs.

CONCLUSIONS

33. The notice effort reached approximately 84% of the Settlement Class through the individual Summary Email Notice and Summary Postcard Notice efforts alone. Many courts have accepted and understood, based on evidence we provided, that a 75 or 80 percent reach is more than adequate under the circumstances of analogous cases. Here we were able to exceed that. This "reach" indicates that the mailed notice effort was highly successful in providing direct notice to the Settlement Class.

34. In preparing the Notices, we employed communication methods that are well established in our field, and eschewed the idea of producing old-fashioned, case-captioned, lengthy, legalistic notice documents.

35. We have provided evidence that the notice effort sufficiently reached a high percentage of the Settlement Class, and we have prepared notice documents that adequately informed them of the class action, properly described their rights, and clearly conformed to the high standards for modern notice programs. In designing our notice programs, we truly desire to

adequately inform the class, and my colleagues and I designed and implemented a program that effectively accomplished this.

36. In my expert opinion, the Notice Program comported with the Hawaii Rules of Civil Procedure, Rule 23, and also the guidance for effective notice articulated in the FJC's *Manual for Complex Litigation*, Fourth.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

C.A.

Cameron R. Azari, Esq.

SUBSCRIBED AND SWORN TO BEFORE ME this 21st day of June 2019.



Kathleen C. Komraus
NOTARY PUBLIC

MY COMMISSION EXPIRES:

March 12, 2021

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 96% 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.

Lauran Schultz, Esq. Managing Director

Lauran Schultz consults with Hillsoft 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 Esq. 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@hillsoft.com.

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." 30th 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." 5th 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 8th 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.
- Luran Schultz Speaker, "Legal Notice Best Practices: Building a Workable Settlement Structure." CLE International's 7th 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 5th Annual Class Action Conference: Prosecuting and Defending Complex Litigation, San Francisco, CA, 2009.
- Luran 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" – Steel 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" – Well Gotshal litigation group, New York, NY, 2003.

JUDICIAL COMMENTS

Judge Allison 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 1,760,564 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 Sellgman, *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 (20th Jud. Dist. Tenn.):

The Notice Program as provided 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 Murel 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, *Soblech 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)(1)) 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, *Blas 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 Murguía, *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 Elleen 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, *Chlmeno-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." Shultz, 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 Gleason, *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 Hillsoft Notifications ("Hillsoft"), 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(a)(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 (27th 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, 4th.

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... Hillsfort 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 30th 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. 5:07-cv-2580 (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 Phillip 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 92.6% 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, *Giabattari 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 Preliminary 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 (14th 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 (14th 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., *Manzouris 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:

<i>Andrews v. MCI (900 Number Litigation)</i>	S.D. Ga., No. CV 191-175
<i>Harper v. MCI (900 Number Litigation)</i>	S.D. Ga., No. CV 192-134
<i>In re Bausch & Lomb Contact Lens Litigation</i>	N.D. Ala., No. 94-C-1144-WW
<i>In re Ford Motor Co. Vehicle Paint Litigation</i>	E.D. La., MDL No. 1063
<i>Castano v. Am. Tobacco</i>	E.D. La., No. CV 94-1044
<i>Cox v. Shell Oil (Polybutylene Pipe Litigation)</i>	Tenn. Ch., No. 18,844
<i>In re Amino Acid Lysine Antitrust Litigation</i>	N.D. Ill., MDL No. 1083
<i>In re Dow Corning Corp. (Breast Implant Bankruptcy)</i>	E.D. Mich., No. 95-20512-11-AJS
<i>Kunhel v. CNA Ins. Companies</i>	N.J. Super. Ct., No. ATL-C-0184-94
<i>In re Factor Concentrate Blood Prods. Litigation (Hemophillic HIV)</i>	N.D. Ill., MDL No. 986
<i>In re Ford Ignition Switch Prods. Liability Litigation</i>	D. N.J., No. 96-CV-3125
<i>Jordan v. A.A. Friedman (Non-Filing Ins. Litigation)</i>	M.D. Ga., No. 95-52-COL
<i>Kelhammer v. First USA (Credit Card Litigation)</i>	Cal. Cir. Ct., No. C96-45632010-CAL
<i>Navarro-Rice v. First USA (Credit Card Litigation)</i>	Ore. Cir. Ct., No. 9709-06901
<i>Spitzfaden v. Dow Corning (Breast Implant Litigation)</i>	La. D. Ct., No. 92-2589
<i>Robinson v. Marine Midland (Finance Charge Litigation)</i>	N.D. Ill., No. 95 C 5635
<i>McCurdy v. Norwest Fin. Alabama</i>	Ala. Cir. Ct., No. CV-95-2601
<i>Johnson v. Norwest Fin. Alabama</i>	Ala. Cir. Ct., No. CV-93-PT-962-S
<i>In re Residential Doors Antitrust Litigation</i>	E.D. Pa., MDL No. 1039
<i>Barnes v. Am. Tobacco Co. Inc.</i>	E.D. Pa., No. 96-5903
<i>Small v. Lorillard Tobacco Co. Inc.</i>	N.Y. Super. Ct., No. 110949/96

<i>Naef v. Masonite Corp (Hardboard Siding Litigation)</i>	Ala. Cir. Ct., No. CV-94-4033
<i>In re Synthroid Mktg. Litigation</i>	N.D. Ill., MDL No. 1182
<i>Raysick v. Quaker State Slick 50 Inc.</i>	D. Tex., No. 96-12610
<i>Castillo v. Mike Tyson (Tyson v. Holyfield Bout)</i>	N.Y. Super. Ct., No. 114044/97
<i>Avery v. State Farm Auto. Ins. (Non-OEM Auto Parts)</i>	Ill. Cir. Ct., No. 97-L-114
<i>Walls v. The Am. Tobacco Co. Inc.</i>	N.D. Okla., No. 97-CV-218-H
<i>Tempest v. Rainforest Café (Securities Litigation)</i>	D. Minn., No. 98-CV-608
<i>Stewart v. Avon Prods. (Securities Litigation)</i>	E.D. Pa., No. 98-CV-4135
<i>Goldenberg v. Marriott PLC Corp (Securities Litigation)</i>	D. Md., No. PJM 95-3461
<i>Delay v. Hurd Millwork (Building Products Litigation)</i>	Wash. Super. Ct., No. 97-2-07371-0
<i>Guterman v. Am. Airlines (Frequent Flyer Litigation)</i>	Ill. Cir. Ct., No. 95CH982
<i>Hoeffner v. The Estate of Alan Kenneth Vieira (Un-scattered Cremated Remains Litigation)</i>	Cal. Super. Ct., No. 97-AS 02993
<i>In re Graphite Electrodes Antitrust Litigation</i>	E.D. Pa., MDL No. 1244
<i>In re Silicone Gel Breast Implant Prods. Liability Litigation, Altrichter v. INAMED</i>	N.D. Ala., MDL No. 926
<i>St. John v. Am. Home Prods. Corp. (Fen/Phen Litigation)</i>	Wash. Super. Ct., No. 97-2-06368
<i>Crane v. Hackett Assocs. (Securities Litigation)</i>	E.D. Pa., No. 98-5504
<i>In re Holocaust Victims Assets Litigation (Swiss Banks)</i>	E.D.N.Y., No. CV-96-4849
<i>McCall v. John Hancock (Settlement Death Benefits)</i>	N.M. Cir. Ct., No. CV-2000-2818
<i>Williams v. Weyerhaeuser Co. (Hardboard Siding Litigation)</i>	Cal. Super. Ct., No. CV-995787
<i>Kapustin v. YBM Magnex Int'l Inc. (Securities Litigation)</i>	E.D. Pa., No. 98-CV-6599
<i>Leff v. YBM Magnex Int'l Inc. (Securities Litigation)</i>	E.D. Pa., No. 95-CV-89
<i>In re PRK/LASIK Consumer Litigation</i>	Cal. Super. Ct., No. CV-772894
<i>Hill v. Galaxy Cablevision</i>	N.D. Miss., No. 1:98CV51-D-D
<i>Scott v. Am. Tobacco Co. Inc.</i>	La. D. Ct., No. 96-8461
<i>Jacobs v. Winthrop Financial Associates (Securities Litigation)</i>	D. Mass., No. 99-CV-11363
<i>Int'l Comm'n on Holocaust Era Ins. Claims - Worldwide Outreach Program</i>	Former Secretary of State Lawrence Eagleburger Commission
<i>Bownes v. First USA Bank (Credit Card Litigation)</i>	Ala. Cir. Ct., No. CV-99-2479-PR

<i>Whetman v. IKON (ERISA Litigation)</i>	E.D. Pa., No. 00-87
<i>Mangone v. First USA Bank (Credit Card Litigation)</i>	Ill. Cir. Ct., No. 99AR672a
<i>In re Babcock and Wilcox Co. (Asbestos Related Bankruptcy)</i>	E.D. La., No. 00-10992
<i>Barbanti v. W.R. Grace and Co. (Zonolite / Asbestos Litigation)</i>	Wash. Super. Ct., No. 00201756-6
<i>Brown v. Am. Tobacco</i>	Cal. Super. Ct., No. J.C.C.P. 4042, 711400
<i>Wilson v. Servier Canada Inc. (Canadian Fen/Phen Litigation)</i>	Ont. Super. Ct., No. 98-CV-158832
<i>In re Texaco Inc. (Bankruptcy)</i>	S.D.N.Y. No. 87 B 20142, No. 87 B 20143, No. 87 B 20144
<i>Olinde v. Texaco (Bankruptcy, Oil Lease Litigation)</i>	M.D. La., No. 96-390
<i>Gustafson v. Bridgestone/Firestone, Inc. (Recall Related Litigation)</i>	S.D. Ill., No. 00-612-DRH
<i>In re Bridgestone/Firestone Tires Prods. Liability Litigation</i>	S.D. Ind., MDL No. 1373
<i>Gaynor v. First Union Corp. (Credit Card Litigation)</i>	N.C. Super. Ct., No. 97-CVS-16536
<i>Carson v. Daimler Chrysler Corp. (Fuel O-Rings Litigation)</i>	W.D. Tenn., No. 99-2896 TU A
<i>Providian Credit Card Cases</i>	Cal. Super. Ct., No. J.C.C.P. 4085
<i>Fields v. Great Spring Waters of Am., Inc. (Bottled Water Litigation)</i>	Cal. Super. Ct., No. 302774
<i>Sanders v. Great Spring Waters of Am., Inc. (Bottled Water Litigation)</i>	Cal. Super. Ct., No. 303549
<i>Sims v. Allstate Ins. Co. (Diminished Auto Value Litigation)</i>	Ill. Cir. Ct., No. 99-L-393A
<i>Peterson v. State Farm Mutual Auto. Ins. Co. (Diminished Auto Value Litigation)</i>	Ill. Cir. Ct., No. 99-L-394A
<i>Microsoft I-V Cases (Antitrust Litigation Mirroring Justice Dept.)</i>	Cal. Super. Ct., No. J.C.C.P. 4106
<i>Westman v. Rogers Family Funeral Home, Inc. (Remains Handling Litigation)</i>	Cal. Super. Ct., No. C-98-03165
<i>Rogers v. Clark Equipment Co.</i>	Ill. Cir. Ct., No. 97-L-20
<i>Garrett v. Hurley State Bank (Credit Card Litigation)</i>	Miss. Cir. Ct., No. 99-0337
<i>Ragoonanan v. Imperial Tobacco Ltd. (Firesafe Cigarette Litigation)</i>	Ont. Super. Ct., No. 00-CV-183165 CP
<i>Dietschl v. Am. Home Prods. Corp. (PPA Litigation)</i>	W.D. Wash., No. C01-0306L
<i>Dimitrios v. CVS, Inc. (PA Act 6 Litigation)</i>	Pa. C.P., No. 99-6209
<i>Jones v. Hewlett-Packard Co. (Inkjet Cartridge Litigation)</i>	Cal. Super. Ct., No. 302887

<i>In re Tobacco Cases II (California Tobacco Litigation)</i>	Cal. Super. Ct., No. J.C.C.P. 4042
<i>Scott v. Blockbuster, Inc. (Extended Viewing Fees Litigation)</i>	136 th Tex. Jud. Dist., No. D 162-535
<i>Anesthesia Care Assocs. v. Blue Cross of Cal.</i>	Cal. Super. Ct., No. 986677
<i>Ting v. AT&T (Mandatory Arbitration Litigation)</i>	N.D. Cal., No. C-01-2969-BZ
<i>In re W.R. Grace & Co. (Asbestos Related Bankruptcy)</i>	Bankr. D. Del., No. 01-01139-JJF
<i>Talal v. Cooper Tire & Rubber Co. (Tire Layer Adhesion Litigation)</i>	N.J. Super. Ct., No. MID-L-8839-00 MT
<i>Kent v. Daimler Chrysler Corp. (Jeep Grand Cherokee Park-to-Reverse Litigation)</i>	N.D. Cal., No. C01-3293-JCS
<i>Int'l Org. of Migration -- German Forced Labour Compensation Programme</i>	Geneva, Switzerland
<i>Madsen v. Prudential Federal Savings & Loan (Homeowner's Loan Account Litigation)</i>	3 rd Jud. Dist. Ct. Utah, No. C79-8404
<i>Bryant v. Wyndham Int'l., Inc. (Energy Surcharge Litigation)</i>	Cal. Super. Ct., No. GIC 765441, No. GIC 777647
<i>In re USG Corp. (Asbestos Related Bankruptcy)</i>	Bankr. D. Del., No. 01-02094-RJN
<i>Thompson v. Metropolitan Life Ins. Co. (Race Related Sales Practices Litigation)</i>	S.D.N.Y., No. 00-CIV-5071 HB
<i>Ervln v. Movie Gallery Inc. (Extended Viewing Fees)</i>	Tenn. Ch., No. CV-13007
<i>Peters v. First Union Direct Bank (Credit Card Litigation)</i>	M.D. Fla., No. 8:01-CV-958-T-26 TBM
<i>National Socialist Era Compensation Fund</i>	Republic of Austria
<i>In re Baycol Litigation</i>	D. Minn., MDL No. 1431
<i>Claims Conference--Jewish Slave Labour Outreach Program</i>	German Government Initiative
<i>Wells v. Chevy Chase Bank (Credit Card Litigation)</i>	Md. Cir. Ct., No. C-99-000202
<i>Walker v. Rite Aid of PA, Inc. (PA Act 6 Litigation)</i>	C.P. Pa., No. 99-6210
<i>Myers v. Rite Aid of PA, Inc. (PA Act 6 Litigation)</i>	C.P. Pa., No. 01-2771
<i>In re PA Diet Drugs Litigation</i>	C.P. Pa., No. 9709-3162
<i>Harp v. Qwest Communications (Mandatory Arbitration Lit.)</i>	Ore. Cir. Ct., No. 0110-10986
<i>Tuck v. Whirlpool Corp. & Sears, Roebuck & Co. (Microwave Recall Litigation)</i>	Ind. Cir. Ct., No. 49C01-0111-CP-002701
<i>Allison v. AT&T Corp. (Mandatory Arbitration Litigation)</i>	1 st Jud. D.C. N.M., No. D-0101-CV-20020041
<i>Kline v. The Progressive Corp.</i>	Ill. Cir. Ct., No. 01-L-6
<i>Baker v. Jewel Food Stores, Inc. & Dominick's Finer Foods, Inc. (Milk Price Fixing)</i>	Ill. Cir. Ct., No. 00-L-9664

<i>In re Columbia/HCA Healthcare Corp. (Billing Practices Litigation)</i>	M.D. Tenn., MDL No. 1227
<i>Foultz v. Erie Ins. Exchange (Auto Parts Litigation)</i>	C.P. Pa., No. 000203053
<i>Soders v. General Motors Corp. (Marketing Initiative Litigation)</i>	C.P. Pa., No. CI-00-04255
<i>Nature Guard Cement Roofing Shingles Cases</i>	Cal. Super. Ct., No. J.C.C.P. 4215
<i>Curtis v. Hollywood Entm't Corp. (Additional Rental Charges)</i>	Wash. Super. Ct., No. 01-2-36007-8 SEA
<i>Defrates v. Hollywood Entm't Corp.</i>	Ill. Cir. Ct., No. 02L707
<i>Pease v. Jasper Wyman & Son, Merrill Blueberry Farms Inc., Allen's Blueberry Freezer Inc. & Cherryfield Foods Inc.</i>	Me. Super. Ct., No. CV-00-015
<i>West v. G&H Seed Co. (Crawfish Farmers Litigation)</i>	27 th Jud. D. Ct. La., No. 99-C-4984-A
<i>Linn v. Roto-Rooter Inc. (Miscellaneous Supplies Charge)</i>	C.P. Ohio, No. CV-467403
<i>McManus v. Fleetwood Enter., Inc. (RV Brake Litigation)</i>	D. Ct. Tex., No. SA-99-CA-464-FB
<i>Baiz v. Mountain View Cemetery (Burial Practices)</i>	Cal. Super. Ct., No. 809869-2
<i>Stetser v. TAP Pharm. Prods, Inc. & Abbott Laboratories (Lupron Price Litigation)</i>	N.C. Super. Ct., No. 01-CVS-5268
<i>Richison v. Am. Cemwood Corp. (Roofing Durability Settlement)</i>	Cal. Super. Ct., No. 005532
<i>Cotten v. Ferman Mgmt. Servs. Corp.</i>	13 th Jud. Cir. Fla., No. 02-08115
<i>In re Pittsburgh Corning Corp. (Asbestos Related Bankruptcy)</i>	Bankr. W.D. Pa., No. 00-22876-JKF
<i>Mostajo v. Coast Nat'l Ins. Co.</i>	Cal. Super. Ct., No. 00 CC 15165
<i>Friedman v. Microsoft Corp. (Antitrust Litigation)</i>	Ariz. Super. Ct., No. CV 2000-000722
<i>Multinational Outreach - East Germany Property Claims</i>	Claims Conference
<i>Davis v. Am. Home Prods. Corp. (Norplant Contraceptive Litigation)</i>	D. La., No. 94-11684
<i>Walker v. Tap Pharmaceutical Prods., Inc. (Lupron Price Litigation)</i>	N.J. Super. Ct., No. CV CPM-L-682-01
<i>Munsey v. Cox Communications (Late Fee Litigation)</i>	Civ. D. La., No. Sec. 9, 97 19571
<i>Gordon v. Microsoft Corp. (Antitrust Litigation)</i>	4 th Jud. D. Ct. Minn., No. 00-5994
<i>Clark v. Tap Pharmaceutical Prods., Inc.</i>	5 th Dist. App. Ct. Ill., No. 5-02-0316
<i>Fisher v. Virginia Electric & Power Co.</i>	E.D. Va., No. 3:02-CV-431
<i>Mantzouris v. Scarriff Motor Group, Inc.</i>	M.D. Fla., No. 8:03-CV-0015-T-30-MSS
<i>Johnson v. Ethicon, Inc. (Product Liability Litigation)</i>	W. Va. Cir. Ct., No. 01-C-1530, 1531, 1533, No. 01-C-2491 to 2500

<i>Schlink v. Edina Realty Title</i>	4 th Jud. D. Ct. Minn., No. 02-018380
<i>Tawney v. Columbia Natural Res. (Oil & Gas Lease Litigation)</i>	W. Va. Cir. Ct., No. 03-C-10E
<i>White v. Washington Mutual, Inc. (Pre-Payment Penalty Litigation)</i>	4 th Jud. D. Ct. Minn., No. CT 03-1282
<i>Acacia Media Techs. Corp. v. Cybernet Ventures Inc., (Patent Infringement Litigation)</i>	C.D. Cal., No. SACV03-1803 GLT (Anx)
<i>Bardessono v. Ford Motor Co. (15 Passenger Vans)</i>	Wash. Super. Ct., No. 32494
<i>Gardner v. Stinson Lumber Co. (Forestex Siding Litigation)</i>	Wash. Super. Ct., No. 00-2-17633-3SEA
<i>Poor v. Sprint Corp. (Fiber Optic Cable Litigation)</i>	Ill. Cir. Ct., No. 99-L-421
<i>Thibodeau v. Comcast Corp.</i>	E.D. Pa., No. 04-CV-1777
<i>Cazenave v. Sheriff Charles C. Fofi (Strip Search Litigation)</i>	E.D. La., No. 00-CV-1246
<i>National Assoc. of Police Orgs., Inc. v. Second Chance Body Armor, Inc. (Bullet Proof Vest Litigation)</i>	Mich. Cir. Ct., No. 04-8018-NP
<i>Nichols v. SmithKline Beecham Corp. (Paxil)</i>	E.D. Pa., No. 00-6222
<i>Yacout v. Federal Pacific Electric Co. (Circuit Breaker)</i>	N.J. Super. Ct., No. MID-L-2904-97
<i>Lewis v. Bayer AG (Baycol)</i>	1 st Jud. Dist. Ct. Pa., No. 002363
<i>In re Educ. Testing Serv. PLT 7-12 Test Scoring Litigation</i>	E.D. La., MDL No. 1643
<i>Stefanyshyn v. Consol. Indus. Corp. (Heat Exchanger)</i>	Ind. Super. Ct., No. 79 D 01-9712-CT-59
<i>Barnett v. Wal-Mart Stores, Inc.</i>	Wash. Super. Ct., No. 01-2-24553-8 SEA
<i>In re Serzone Prods. Liability Litigation</i>	S.D. W. Va., MDL No. 1477
<i>Ford Explorer Cases</i>	Cal. Super. Ct., No. J.C.C.P. 4226 & 4270
<i>In re Solutia Inc. (Bankruptcy)</i>	S.D.N.Y., No. 03-17949-PCB
<i>In re Lupron Marketing & Sales Practices Litigation</i>	D. Mass., MDL No. 1430
<i>Morris v. Liberty Mutual Fire Ins. Co.</i>	D. Okla., No. CJ-03-714
<i>Bowling, et al. v. Pfizer Inc. (Bjork-Shiley Convexo-Concave Heart Valve)</i>	S.D. Ohio, No. C-1-91-256
<i>Thibodeaux v. Conoco Phillips Co.</i>	D. La., No. 2003-481
<i>Morrow v. Conoco Inc.</i>	D. La., No. 2002-3860
<i>Tobacco Farmer Transition Program</i>	U.S. Dept. of Agric.
<i>Perry v. Mastercard Int'l Inc.</i>	Ariz. Super. Ct., No. CV2003-007154
<i>Brown v. Credit Suisse First Boston Corp.</i>	C.D. La., No. 02-13738

<i>In re Unum Provident Corp.</i>	D. Tenn., No. 1:03-CV-1000
<i>In re Ephedra Prods. Liability Litigation</i>	D.N.Y., MDL No. 1598
<i>Chasnuf v. Progressive Casualty Ins. Co.</i>	Ohio C.P., No. 460971
<i>Froeber v. Liberty Mutual Fire Ins. Co.</i>	Ore. Cir. Ct., No. 00C15234
<i>Luikart v. Wyeth Am. Home Prods. (Hormone Replacement)</i>	W. Va. Cir. Ct., No. 04-C-127
<i>Salkin v. MasterCard Int'l Inc. (Pennsylvania)</i>	Pa. C.P., No. 2648
<i>Rolnik v. AT&T Wireless Servs., Inc.</i>	N.J. Super. Ct., No. L-180-04
<i>Singleton v. Hornell Brewing Co. Inc. (Arizona Ice Tea)</i>	Cal. Super. Ct., BC No. 288 754
<i>Becherer v. Qwest Commc'ns Int'l, Inc.</i>	Ill. Cir. Ct., No. 02-L140
<i>Clearview Imaging v. Progressive Consumers Ins. Co.</i>	Fla. Cir. Ct., No. 03-4174
<i>Mehl v. Canadian Pacific Railway, Ltd</i>	D.N.D., No. A4-02-009
<i>Murray v. IndyMac Bank. F.S.B</i>	N.D. Ill., No. 04 C 7669
<i>Gray v. New Hampshire Indemnity Co., Inc.</i>	Ark. Cir. Ct., No. CV-2002-952-2-3
<i>George v. Ford Motor Co.</i>	M.D. Tenn., No. 3:04-0783
<i>Allen v. Monsanto Co.</i>	W. Va. Cir. Ct., No. 041465
<i>Carter v. Monsanto Co.</i>	W. Va. Cir. Ct., No. 00-C-300
<i>Carnegie v. Household Int'l, Inc.</i>	N. D. Ill., No. 98-C-2178
<i>Daniel v. AON Corp.</i>	Ill. Cir. Ct., No. 99 CH 11893
<i>In re Royal Ahold Securities and "ERISA" Litigation</i>	D. Md., MDL No. 1539
<i>In re Pharmaceutical Industry Average Wholesale Price Litigation</i>	D. Mass., MDL No. 1456
<i>Meckstroth v. Toyota Motor Sales, U.S.A., Inc.</i>	24 th Jud. D. Ct. La., No. 583-318
<i>Walton v. Ford Motor Co.</i>	Cal. Super. Ct., No. SCVSS 126737
<i>Hill v. State Farm Mutual Auto Ins. Co.</i>	Cal. Super. Ct., BC No. 194491
<i>First State Orthopaedics et al. v. Concentra, Inc., et al.</i>	E.D. Pa. No. 2:05-CV-04951-AB
<i>Sauro v. Murphy Oil USA, Inc.</i>	E.D. La., No. 05-4427
<i>In re High Sulfur Content Gasoline Prods. Liability Litigation</i>	E.D. La., MDL No. 1632
<i>Homeless Shelter Compensation Program</i>	City of New York
<i>Rosenberg v. Academy Collection Service, Inc.</i>	E.D. Pa., No. 04-CV-5585

<i>Chapman v. Butler & Hosch, P.A.</i>	2 nd Jud. Cir. Fla., No. 2000-2879
<i>In re Vivendi Universal, S.A. Securities Litigation</i>	S.D.N.Y., No. 02-CIV-5571 RJH
<i>Desportes v. American General Assurance Co.</i>	Ga. Super. Ct., No. SU-04-CV-3637
<i>In re: Propulsid Products Liability Litigation</i>	E.D. La., MDL No. 1355
<i>Baxter v. The Attorney General of Canada (In re Residential Schools Class Action Litigation)</i>	Ont. Super. Ct., No. 00-CV-192059 CP
<i>McNall v. Mastercard Int'l, Inc. (Currency Conversion Fees)</i>	13 th Tenn. Jud. Dist. Ct., No. CT-002506-03
<i>Lee v. Allstate</i>	Ill. Cir. Ct., No. 03 LK 127
<i>Turner v. Murphy Oil USA, Inc.</i>	E.D. La., No. 2:05-CV-04206-EEF-JCW
<i>Carter v. North Central Life Ins. Co.</i>	Ga. Super. Ct., No. SU-2006-CV-3764-6
<i>Harperv. Equifax</i>	E.D. Pa., No. 2:04-CV-03684-TON
<i>Beasley v. Hartford Insurance Co. of the Midwest</i>	Ark. Cir. Ct., No. CV-2005-58-1
<i>Springer v. Biomedical Tissue Services, LTD (Human Tissue Litigation)</i>	Ind. Cir. Ct., No. 1:06-CV-00332-SEB-VSS
<i>Spence v. Microsoft Corp. (Antitrust Litigation)</i>	Wis. Cir. Ct., No. 00-CV-003042
<i>Pennington v. The Coca Cola Co. (Diet Coke)</i>	Mo. Cir. Ct., No. 04-CV-208580
<i>Sunderman v. Regeneration Technologies, Inc. (Human Tissue Litigation)</i>	S.D. Ohio, No. 1:06-CV-075-MHW
<i>Splater v. Thermal Ease Hydronic Systems, Inc.</i>	Wash. Super. Ct., No. 03-2-33553-3-SEA
<i>Peyroux v. The United States of America (New Orleans Levee Breach)</i>	E.D. La., No. 06-2317
<i>Chambers v. DaimlerChrysler Corp. (Neon Head Gaskets)</i>	N.C. Super. Ct., No. 01:CVS-1555
<i>Ciabattari v. Toyota Motor Sales, U.S.A., Inc. (Sienna Run Flat Tires)</i>	N.D. Cal., No. C-05-04289-BZ
<i>In re Bridgestone Securities Litigation</i>	M.D. Tenn., No. 3:01-CV-0017
<i>In re Mutual Funds Investment Litigation (Market Timing)</i>	D. Md., MDL No. 1586
<i>Accounting Outsourcing v. Verizon Wireless</i>	M.D. La., No. 03-CV-161
<i>Hensley v. Computer Sciences Corp.</i>	Ark. Cir. Ct., No. CV-2005-59-3
<i>Peek v. Microsoft Corporation</i>	Ark. Cir. Ct., No. CV-2006-2612
<i>Reynolds v. The Hartford Financial Services Group, Inc.</i>	D.Or., No. CV-01-1529 BR
<i>Schwab v. Phillip Morris USA, Inc.</i>	E.D.N.Y., No. CV-04-1945
<i>Zarebski v. Hartford Insurance Co. of the Midwest</i>	Ark. Cir. Ct., No. CV-2006-409-3

<i>In re Parmalat Securities Litigation</i>	S.D.N.Y., MDL No. 1653 (LAK)
<i>Beasley v. The Reliable Life Insurance Co.</i>	Ark. Cir. Ct., No. CV-2005-58-1
<i>Sweeten v. American Empire Insurance Company</i>	Ark. Cir. Ct., No. 2007-154-3
<i>Govt. Employees Hospital Assoc. v. Serono Int., S.A.</i>	D. Mass., No. 06-CA-10613-PBS
<i>Gunderson v. Focus Healthcare Management, Inc.</i>	14 th Jud. D. Ct. La., No. 2004-2417-D
<i>Gunderson v. F.A. Richard & Associates, Inc., et al.</i>	14 th Jud. D. Ct. La., No. 2004-2417-D
<i>Perez v. Manor Care of Carrollwood</i>	13 th Jud. Cir. Fla., No. 06-00574-E
<i>Pope v. Manor Care of Carrollwood</i>	13 th Jud. Cir. Fla., No. 06-01451-B
<i>West v. Carfax, Inc.</i>	Ohio C.P., No. 04-CV-1898 (ADL)
<i>Hunsucker v. American Standard Ins. Co. of Wisconsin</i>	Ark. Cir. Ct., No. CV-2007-155-3
<i>In re Conagra Peanut Butter Products Liability Litigation</i>	N.D. Ga., MDL No. 1845 (TWT)
<i>The People of the State of CA v. Universal Life Resources (Cal DOI v. CIGNA)</i>	Cal. Super. Ct., No. GIC838913
<i>Burgess v. Farmers Insurance Co., Inc.</i>	D. Okla., No. CJ-2001-292
<i>Grays Harbor v. Carrier Corporation</i>	W.D. Wash., No. 05-05437-RBL
<i>Perrine v. E.I. Du Pont De Nemours & Co.</i>	W. Va. Cir. Ct., No. 04-C-296-2
<i>In re Alstom SA Securities Litigation</i>	S.D.N.Y., No. 03-CV-6595 VM
<i>Brookshire Bros. v. Chiquita (Antitrust)</i>	S.D. Fla., No. 05-CIV-21962
<i>Hoorman v. SmithKline Beecham</i>	Ill. Cir. Ct., No. 04-L-715
<i>Santos v. Government of Guam (Earned Income Tax Credit)</i>	D. Guam, No. 04-00049
<i>Johnson v. Progressive</i>	Ark. Cir. Ct., No. CV-2003-513
<i>Bond v. American Family Insurance Co.</i>	D. Ariz., No. CV06-01249-PXH-DGC
<i>In re SCOR Holding (Switzerland) AG Litigation (Securities)</i>	S.D.N.Y., No. 04-cv-7897
<i>Shoukry v. Fisher-Price, Inc. (Toy Safety)</i>	S.D.N.Y., No. 07-cv-7182
<i>In re: Guidant Corp. Plantable Defibrillators Prod's Liab. Litigation</i>	D. Minn., MDL No. 1708
<i>Clark v. Pfizer, Inc. (Neurontin)</i>	C.P. Pa., No. 9709-3162
<i>Angel v. U.S. Tire Recovery (Tire Fire)</i>	W. Va. Cir. Ct., No. 06-C-855
<i>In re TJX Companies Retail Security Breach Litigation</i>	D. Mass., MDL No. 1838
<i>Webb v. Liberty Mutual Insurance Co.</i>	Ark. Cir. Ct., No. CV-2007-418-3

<i>Shaffer v. Continental Casualty Co. (Long Term Care Ins.)</i>	C.D. Cal., No. SACV06-2235-PSG
<i>Palace v. DaimlerChrysler (Defective Neon Head Gaskets)</i>	Ill. Cir. Ct., No. 01-CH-13168
<i>Lockwood v. Certegy Check Services, Inc. (Stolen Financial Data)</i>	M.D. Fla., No. 8:07-cv-1434-T-23TGW
<i>Sherrill v. Progressive Northwestern Ins. Co.</i>	18 th D. Ct. Mont., No. DV-03-220
<i>Gunderson v. F.A. Richard & Assocs., Inc. (AIG)</i>	14 th Jud. D. Ct. La., No. 2004-2417-D
<i>Jones v. Dominion Resources Services, Inc.</i>	S.D. W. Va., No. 2:06-cv-00671
<i>Gunderson v. F.A. Richard & Assocs., Inc. (Wal-Mart)</i>	14 th Jud. D. Ct. La., No. 2004-2417-D
<i>In re Trans Union Corp. Privacy Litigation</i>	N.D. Ill., MDL No. 1350
<i>Gudo v. The Administrator of the Tulane Ed. Fund</i>	La. D. Ct., No. 2007-C-1959
<i>Guldry v. American Public Life Insurance Co.</i>	14 th Jud. D. Ct. La., No. 2008-3465
<i>McGee v. Continental Tire North America</i>	D.N.J., No. 2:06-CV-06234 (GEB)
<i>Sims v. Rosedale Cemetery Co.</i>	W. Va. Cir. Ct., No. 03-C-506
<i>Gunderson v. F.A. Richard & Assocs., Inc. (Amerisafe)</i>	14 th Jud. D. Ct. La., No. 2004-002417
<i>In re Katrina Canal Breaches Consolidated Litigation</i>	E.D. La., No. 05-4182
<i>In re Department of Veterans Affairs (VA) Data Theft Litigation</i>	D.D.C., MDL No. 1796
<i>Dolen v. ABN AMRO Bank N.V. (Callable CD's)</i>	Ill. Cir. Ct., No. 01-L-454 and No. 01-L-493
<i>Pavlov v. CNA (Long Term Care Insurance)</i>	N.D. Ohio, No. 5:07cv2580
<i>Steele v. Pergo (Flooring Products)</i>	D. Or., No. 07-CV-01493-BR
<i>Opelousas Trust Authority v. Summit Consulting</i>	27 th Jud. D. Ct. La., No. 07-C-3737-B
<i>Little v. Kia Motors America, Inc. (Braking Systems)</i>	N.J. Super. Ct., No. UNN-L-0800-01
<i>Boone v. City of Philadelphia (Prisoner Strip Search)</i>	E.D. Pa., No. 05-CV-1851
<i>In re Countrywide Customer Data Breach Litigation</i>	W.D. Ky., MDL No. 1998
<i>Miller v. Basic Research (Weight-loss Supplement)</i>	D. Utah, No. 2:07-cv-00871-TS
<i>Gunderson v. F.A. Richard & Assocs., Inc. (Cambridge)</i>	14 th Jud. D. Ct. La., No. 2004-002417
<i>Weiner v. Snapple Beverage Corporation</i>	S.D.N.Y., No. 07-CV-08742
<i>Holk v. Snapple Beverage Corporation</i>	D.N.J., No. 3:07-CV-03018-MJC-JJH
<i>Coyle v. Hornell Brewing Co. (Arizona Iced Tea)</i>	D.N.J., No. 08-CV-2797-JBS-JS
<i>In re Heartland Data Security Breach Litigation</i>	S.D. Tex., MDL No. 2046

<i>Satterfield v. Simon & Schuster, Inc. (Text Messaging)</i>	N.D. Cal., No. 06-CV-2893 CW
<i>Schulte v. Fifth Third Bank (Overdraft Fees)</i>	N.D. Ill., No. 1:09-CV-06655
<i>Trombley v. National City Bank (Overdraft Fees)</i>	D.D.C., No. 1:10-CV-00232 as part of MDL 2036 (S.D. Fla.)
<i>Vereen v. Lowe's Home Centers (Defective Drywall)</i>	Ga. Super. Ct., No. SU10-CV-2267B
<i>Mathena v. Webster Bank, N.A. (Overdraft Fees)</i>	D. Conn, No. 3:10-cv-01448 as part MDL 2036 (S.D. Fla.)
<i>Delandro v. County of Allegheny (Prisoner Strip Search)</i>	W.D. Pa., No. 2:06-cv-00927
<i>Gunderson v. F.A. Richard & Assocs., Inc. (First Health)</i>	14 th Jud. D. Ct. La., No. 2004-002417
<i>Williams v. Hammerman & Galner, Inc. (Hammerman)</i>	27 th Jud. D. Ct. La., No. 11-C-3187-B
<i>Williams v. Hammerman & Galner, Inc. (Risk Management)</i>	27 th Jud. D. Ct. La., No. 11-C-3187-B
<i>Williams v. Hammerman & Galner, Inc. (SIF Consultants)</i>	27 th Jud. D. Ct. La., No. 11-C-3187-B
<i>Gwiazdowski v. County of Chester (Prisoner Strip Search)</i>	E.D. Pa., No. 2:08cv4463
<i>Williams v. S.I.F. Consultants (CorVel Corporation)</i>	27 th Jud. D. Ct. La., No. 09-C-5244-C
<i>Sachar v. Iberiabank Corporation (Overdraft Fees)</i>	S.D. Fla., MDL No. 2036
<i>LaCour v. Whitney Bank (Overdraft Fees)</i>	M.D. Fla., No. 8:11cv1896
<i>Lawson v. BancorpSouth (Overdraft Fees)</i>	W.D. Ark., No. 1:12cv1016
<i>McKinley v. Great Western Bank (Overdraft Fees)</i>	S.D. Fla., MDL No. 2036
<i>Wolfegeher v. Commerce Bank (Overdraft Fees)</i>	S.D. Fla., MDL No. 2036
<i>Harris v. Associated Bank (Overdraft Fees)</i>	S.D. Fla., MDL No. 2036
<i>Case v. Bank of Oklahoma (Overdraft Fees)</i>	S.D. Fla., MDL No. 2036
<i>Nelson v. Rabobank, N.A. (Overdraft Fees)</i>	Cal. Super. Ct., No. RIC 1101391
<i>Fontaine v. Attorney General of Canada (Stirland Lake and Cristal Lake Residential Schools)</i>	Ont. Super. Ct., No. 00-CV-192059 CP
<i>Opelousas General Hospital Authority v. FairPay Solutions</i>	27 th Jud. D. Ct. La., No. 12-C-1599-C
<i>Marolda v. Symantec Corporation (Software Upgrades)</i>	N.D. Cal., No. 3:08-cv-05701
<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>	E.D. La., MDL No. 2179
<i>In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010—Medical Benefits Settlement</i>	E.D. La., MDL No. 2179
<i>Vodanovich v. Boh Brothers Construction (Hurricane Katrina Levee Breaches)</i>	E.D. La., No. 05-cv-4181
<i>Gessele et al. v. Jack in the Box, Inc.</i>	D. Or., No. 3:10-cv-960

<i>RBS v. Citizens Financial Group, Inc. (Overdraft Fees)</i>	S.D. Fla., MDL No. 2036
<i>Mosser v. TD Bank, N.A. (Overdraft Fees)</i>	S.D. Fla., MDL No. 2036
<i>In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation (Mastercard & Visa) – 2013 & 2019 Notice Programs</i>	E.D.N.Y., MDL No. 1720
<i>Saltzman v. Pella Corporation (Building Products)</i>	N.D. Ill., No. 06-cv-4481
<i>In re Zurn Pex Plumbing, Products Liability Litigation</i>	D. Minn., MDL No. 1958
<i>Blahut v. Harris, N.A. (Overdraft Fees)</i>	S.D. Fla., MDL No. 2036
<i>Eno v. M & I Marshall & Ilsley Bank (Overdraft Fees)</i>	S.D. Fla., MDL No. 2036
<i>Casayuran v. PNC Bank (Overdraft Fees)</i>	S.D. Fla., MDL No. 2036
<i>Anderson v. Compass Bank (Overdraft Fees)</i>	S.D. Fla., MDL No. 2036
<i>Evans, et al. v. TIN, Inc. (Environmental)</i>	E.D. La. No. 2:11-cv-02087
<i>Opelousas General Hospital Authority v. Qmedtrix Systems, Inc.</i>	27 th Jud. D. Ct. La., No. 12-C-1599-C
<i>Williams v. SIF Consultants of Louisiana, Inc. et al.</i>	27 th Jud. D. Ct. La., No. 09-C-5244-C
<i>Miner v. Philip Morris Companies, Inc. et al.</i>	Ark. Cir. Ct., No. 60CV03-4661
<i>Fontaine v. Attorney General of Canada (Mistassini Hostels Residential Schools)</i>	Qué. Super. Ct., No. 500-06-000293-056 & No. 650-06-000021-056 (Hull)
<i>Glube et al. v. Pella Corporation et al. (Building Products)</i>	Ont. Super. Ct., No. CV-11-4322294-00CP
<i>Yarger v. ING Bank</i>	D. Del., No. 11-154-LPS
<i>Price v. BP Products North America</i>	N.D. Ill., No. 12-cv-06799
<i>National Trucking Financial Reclamation Services, LLC et al. v. Pilot Corporation et al.</i>	E.D. Ark., No. 4:13-cv-00250-JMM
<i>Johnson v. Community Bank, N.A. et al. (Overdraft Fees)</i>	M.D. Pa., No. 3:12-cv-01405-RDM
<i>Rose v. Bank of America Corporation, et al. (TCFA)</i>	N.D. Cal., No. 11-cv-02380-EJD
<i>McGann, et al., v. Schnuck Markets, Inc. (Data Breach)</i>	Mo. Cir. Ct., No. 1322-CC00800
<i>Simmons v. Comerica Bank, N.A. (Overdraft Fees)</i>	S.D. Fla., MDL No. 2036
<i>George Raymond Williams, M.D., Orthopedic Surgery, a Professional Medical, LLC, et al. v. Bestcomp, Inc., et al.</i>	27 th Jud. D. Ct. La., No. 09-C-5242-B
<i>Simpson v. Citizens Bank (Overdraft Fees)</i>	E.D. Mich., No. 2:12-cv-10267
<i>In re Plasma-Derivative Protein Therapies Antitrust Litigation</i>	N.D. Ill., No. 09-CV-7666
<i>In re Dow Corning Corporation (Breast Implants)</i>	E.D. Mich., No. 00-X-0005

<i>Mello et al v. Susquehanna Bank (Overdraft Fees)</i>	S.D. Fla., MDL No. 2036
<i>Wong et al. v. Alacer Corp. (Emergen-C)</i>	Cal. Super. Ct., No. CGC-12-519221
<i>In re American Express Anti-Steering Rules Antitrust Litigation (II) (Italian Colors Restaurant)</i>	E.D.N.Y., 11-MD-2221, MDL No. 2221
<i>Costello v. NBT Bank (Overdraft Fees)</i>	Sup. Ct. Del Cnty., N.Y., No. 2011-1037.
<i>Gulbankian et al. v. MW Manufacturers, Inc.</i>	D. Mass., No. 10-CV-10392
<i>Hawthorne v. Umpqua Bank (Overdraft Fees)</i>	N.D. Cal., No. 11-cv-06700-JST
<i>Smith v. City of New Orleans</i>	Civil D. Ct., Parish of Orleans, La., No. 2005-05453
<i>Adkins et al. v. Nestlé Purina PetCare Company et al.</i>	N.D. Ill., No. 1:12-cv-02871
<i>Scharfstein v. BP West Coast Products, LLC</i>	Ore. Cir., County of Multnomah, No. 1112-17046
<i>Given v. Manufacturers and Traders Trust Company a/k/a M&T Bank (Overdraft Fees)</i>	S.D. Fla., MDL No. 2036
<i>In re MI Windows and Doors Products Liability Litigation (Building Products)</i>	D. S.C., MDL No. 2333
<i>Childs et al. v. Synovus Bank, et al. (Overdraft Fees)</i>	S.D. Fla., MDL No. 2036
<i>Steen v. Capital One, N.A. (Overdraft Fees)</i>	E.D. La., No. 2:10-cv-01505-JCZ-KWR as part of S.D. Fla., MDL No. 2036
<i>Kota of Sarasota, Inc. v. Waste Management Inc. of Florida</i>	12 th Jud. Cir. Ct., Sarasota Cnty, Fla., No. 2011-CA-008020NC
<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>	E.D. La., MDL No. 2179
<i>Dorothy Williams d/b/a Dot's Restaurant v. Waste Away Group, Inc.</i>	Cir. Ct., Lawrence Cnty, Ala., No. 42-cv-2012-900001.00
<i>In re; Energy Future Holdings Corp., et al. (Asbestos Claims Bar Notice)</i>	Bankr. D. Del., No. 14-10979(CSS)
<i>Gattinella v. Michael Kors (USA), Inc., et al.</i>	S.D.N.Y., No. 14-civ-5731 (WHP)
<i>Kerry T. Thibodeaux, M.D. (A Professional Medical Corporation) v. American Lifecare, Inc.</i>	27 th Jud. D. Ct. La., No. 13-C-3212
<i>Russell Minoru Ono v. Head Racquet Sports USA</i>	C.D.Cal., No. 2:13-cv-04222-FMO(AGRx)
<i>Opelousas General Hospital Authority v. PPO Plus, L.L.C., et al.</i>	27 th Jud. D. Ct. La., No. 13-C-5380
<i>In re: Shop-Vac Marketing and Sales Practices Litigation</i>	M.D. Pa., MDL No. 2380
<i>In re: Caterpillar, Inc. C13 and C15 Engine Products Liability Litigation</i>	D. N.J., MDL No. 2540
<i>In Re: Citrus Canker Litigation</i>	11 th Jud. Cir., Fla., No. 03-8255 CA 13

<i>Whitton v. Deffenbaugh Industries, Inc., et al.</i> <i>Gary, LLC v. Deffenbaugh Industries, Inc., et al.</i>	D. Kan., No. 2:12-cv-02247 D. Kan., No. 2:13-cv-2634
<i>Swift v. BancorpSouth Bank (Overdraft Fees)</i>	N.D. Fla., No. 1:10-cv-00090 as part of MDL 2036 (S.D. Fla.)
<i>Forgione v. Webster Bank N.A. (Overdraft Fees)</i>	Sup. Ct. Conn., No. X10-UWY-CV-12- 6015956-S
<i>Small v. BOKF, N.A.</i>	D. Col., No. 13-cv-01125
<i>Anamarla Chimeno-Buzzi & Lakedrick Reed v. Hollister Co.</i> <i>& Abercrombie & Fitch Co.</i>	S.D. Fla., No. 14-cv-23120-MGC
<i>In Re: Lithium Ion Batteries Antitrust Litigation</i>	N.D. Cal., MDL No. 2420, 4:13-MD-02420- YGR
<i>MSPA Claims 1, LLC v. IDS Property Casualty Insurance</i> <i>Company</i>	11 th Jud. Cir. Fla, No. 15-27940-CA-21
<i>Glaske v. Independent Bank Corporation (Overdraft Fees)</i>	Cir. Ct. Mich., No. 13-009983-CZ
<i>In re: HSBC Bank USA, N.A., Checking Account Overdraft</i> <i>Litigation</i>	Sup. Ct. N.Y., No. 650562/11
<i>In re: Volkswagen "Clean Diesel" Marketing, Sales Practices</i> <i>and Product Liability Litigation (Bosch)</i>	N.D. Cal., MDL No. 2672
<i>Hawkins v. First Tennessee Bank, N.A., et al. (Overdraft</i> <i>Fees)</i>	13 th Jud. Cir. Tenn., No. CT-004085-11
<i>Greater Chautauqua Federal Credit Union v. Kmart Corp., et</i> <i>al. (Data Breach)</i>	N.D. Ill., No. 1:15-cv-02228
<i>Bias v. Wells Fargo & Company, et al. (Broker's Price</i> <i>Opinions)</i>	N.D. Cal., No 4:12-cv-00664-YGR
<i>Klug v. Watts Regulator Company (Product Liability)</i>	D. Neb., No. 8:15-cv-00061-JFB-FG3
<i>Ratzlaff et al. v. BOKF, NA d/b/a Bank of Oklahoma, et al.</i> <i>(Overdraft Fees)</i>	Dist. Ct. Okla., No. CJ-2015-00859
<i>Morton v. Greenbank (Overdraft Fees)</i>	20 th Jud. Dist. Tenn., No. 11-135-IV
<i>Jacobs, et al. v. Huntington Bancshares Inc., et al. (FirstMerit</i> <i>Overdraft Fees)</i>	Ohio C.P., No. 11CV000090
<i>Farnham v. Caribou Coffee Company, Inc. (TCPA)</i>	W.D. Wis., No. 16-cv-00295-WMC
<i>Gottlieb v. Citgo Petroleum Corporation (TCPA)</i>	S.D. Fla., No. 9:16-cv-81911
<i>McKnight et al. v. Uber Technologies, Inc. et al.</i>	N.D. Cal., No 3:14-cv-05615-JST
<i>Lewis v. Flue-Cured Tobacco Cooperative Stabilization</i> <i>Corporation (n/k/a United States Tobacco Cooperative, Inc.)</i>	N.C. Gen. Ct of Justice, Sup. Ct. Div., No. 05 CVS 188, No. 05 CVS 193B
<i>T.A.N. v. PNI Digital Media, Inc.</i>	S.D. GA., No. 2:16-cv-132-LGW-RSB.
<i>In re: Syngenta Litigation</i>	4 th Jud. Dist. Minn., No. 27-CV-15-3785

<i>The Financial Oversight and Management Board for Puerto Rico as representative of Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy)</i>	D. Puerto Rico, No. 17-04780(LTS)
<i>Reilly v. Chipotle Mexican Grill, Inc.</i>	S.D. Fla., No. 1:15-cv-23425-MGC
<i>Ma et al. v. Harmless Harvest Inc. (Coconut Water)</i>	E.D.N.Y., No. 2:16-cv-07102-JMA-SIL
<i>Mahoney v TT of Pine Ridge, Inc.</i>	S.D. Fla., No. 9:17-cv-80028-DMM
<i>Sobiech v. U.S. Gas & Electric, Inc., i/d/b/a Pennsylvania Gas & Electric, et al.</i>	E.D. Penn., No. 2:14-cv-04464-GAM
<i>Alexander M. Rattner v. Tribe App., Inc., and Kenneth Horsley v. Tribe App., Inc.,</i>	S.D. Fla., No. 1:17-cv-21344-UU and No. 1:17-cv-23111-JLK
<i>Gordon, et al. v. Amadeus IT Group, S.A., et al.</i>	S.D.N.Y. No. 1:15-cv-05457-KPF
<i>Masson v. Tallahassee Dodge Chrysler Jeep, LLC (TCPA)</i>	S.D. Fla., No. 1:17-cv-22967-FAM
<i>Orlander v. Staples, Inc.</i>	S.D. NY, No. 13-CV-0703
<i>Larey v. Allstate Property and Casualty Insurance Company</i>	W.D. Kan., No. 4:14-cv-04008-SOF
<i>Larson v. John Hancock Life Insurance Company (U.S.A.)</i>	Cal. Sup. Court, County of Alameda, No. RG16 813803
<i>Alaska Electrical Pension Fund, et al. v. Bank of America N.A et al. (ISDAfix Instruments)</i>	S.D.N.Y., No. 14-cv-7126 (JMF)
<i>Falco et al. v. Nissan North America, Inc. et al. (Engine – CA & WA)</i>	C.D. Cal., No. 2:13-cv-00686 DDP (MANx)
<i>Pantelyat, et al v. Bank of America, N.A. et al. (Overdraft/Uber)</i>	S.D.N.Y., No. 16-cv-08964-AJN
<i>In re: Parking Heaters Antitrust Litigation</i>	E.D.N.Y., No. 15-MC-0940-DLI-JO
<i>Wallace, et al, v. Monier Lifetime LLC, et al.</i>	Sup. Ct. Cal., No. SCV-16410
<i>In re: Windsor Wood Clad Window Products Liability Litigation</i>	E.D. Wis., MDL No. 16-MD-02688
<i>Farrell v. Bank of America, N.A. (Overdraft)</i>	S.D. Cal., No. 3:16-cv-00492-L-WVG
<i>Hale v. State Farm Mutual Automobile Insurance Company, et al.</i>	S.D. Ill., No. 12-cv-0660-DRH
<i>Callaway v. Mercedes-Benz USA, LLC (Seat Heaters)</i>	C.D. Cal., No. 8:14-cv-02011-JVS-DFM
<i>Poseidon Concepts Corp. et al. (Canadian Securities Litigation)</i>	Ct. of QB of Alberta, No. 1301-04364
<i>In re: Takata Airbag Products Liability Litigation (OEMs – BMW, Mazda, Subaru, Toyota, Honda, and Nissan)</i>	S.D. Fla, MDL No. 2599
<i>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</i>	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;

<i>Salon v. BofA Canada Bank et al.; Hello Baby Equipment Inc. v. BofA Canada Bank and others (Visa and Mastercard Canadian Interchange Fees)</i>	Ct. of QB of Saskatchewan, No. 133 of 2013
<i>Vergara, et al., v. Uber Technologies, Inc. (TCPA)</i>	N.D. Ill., No. 1:15-cv-06972
<i>Surrett et al. v. Western Culinary Institute, et al.</i>	Ore. Cir., County of Multnomah, No. 0803-03530
<i>Kohl's - Underwood v. Kohl's Department Stores, Inc., et al. (Cert. Notice)</i>	E.D. Penn., No. 2:15-cv-00730
<i>Ajose et al. v. Interline Brands Inc. (Plumbing Fixtures)</i>	M.D. Tenn., No. 3:14-cv-01707
<i>Gergetz v. Telenav (TCPA)</i>	N.D. Cal., No. 5:16-cv-4261
<i>Raffin v. Medlicredit, Inc., et al.</i>	C.D. Cal., No 15-cv-4912
<i>First Impressions Salon, Inc. v. National Milk Producers Federation, et al.</i>	S.D. Ill., No. 3:13-cv-00454
<i>Abante Rooter and Plumbing v. Pivotal Payments Inc., d/b/a/ Capital Processing Network and CPN) (TCPA)</i>	N.D. Cal., No. 3:16-cv-05486
<i>Dipuglia v. US Coachways, Inc. (TCPA)</i>	S.D. Fla., No. 1:17-cv-23006-MGC
<i>Knapper v. Cox Communications</i>	D. Ariz., No. 2:17-cv-00913
<i>Martin v. Trott (MI - Foreclosure)</i>	E.D. Mich., No. 2:15-cv-12838
<i>Cowen v. Lenny & Larry's Inc.</i>	N.D. Ill., No. 1:17-cv-01530
<i>AI's Pals Pet Card, LLC, et al v. Woodforest National Bank, N.A., et al.</i>	S.D. Tex., No. 4:17-cv-3852
<i>In Re: Community Health Systems, Inc. Customer Data Security Breach Litigation</i>	N.D. Ala., MDL No. 2595, 2:15-CV-222
<i>Tashica Fulton-Green et al. v. Accolade, Inc.</i>	E.D. Penn., No. 2:18-cv-00274
<i>37 Besen Parkway, LLC v. John Hancock Life Insurance Company (U.S.A.)</i>	S.D.N.Y., No. 15-cv-9924
<i>Stahl v. Bank of the West</i>	Sup. Ct. Cal., No. BC673397
<i>Parsons v. Kimpton Hotel & Restaurant Group, LLC (Data Breach)</i>	N.D. Cal., No. 3:16-cv-05387
<i>Waldrup v. Countrywide</i>	C.D. Cal., No. 2:13-cv-08833
<i>In re: Valley Anesthesiology Consultants, Inc. Data Breach Litigation</i>	Sup. Ct. Cal., No. CV2016-013446
<i>Nalman v. Total Merchant Services, Inc., et al. (TCPA)</i>	N.D. Cal., No. 4:17-cv-03806
<i>In re Dealer Management Systems Antitrust Litigation</i>	N.D. Ill., MDL No. 2817, No. 18-cv-00864
<i>In re HP Printer Firmware Update Litigation</i>	N.D. Cal., No. 5:16-cv-05820
<i>Zaklit, et al. v. Nationstar Mortgage LLC, et al. (TCPA)</i>	C.D. Cal., No. 5:15-CV-02190
<i>Luib v. Henkel Consumer Goods Inc.</i>	E.D.N.Y., No. 1:17-cv-03021
<i>Lloyd, et al. v. Navy Federal Credit Union</i>	S.D. Cal., No. 17-cv-1280-BAS-RBB

<i>Waldrup v. Countrywide Financial Corporation, et al.</i>	C.D. Cal., No. 2:13-cv-08833
<i>Adlouni v. UCLA Health Systems Auxiliary, et al.</i>	Sup. Ct. Cal., No. BC589243
<i>Di Filippo v. The Bank of Nova Scotia, et al. (Gold Market Instrument)</i>	Ontario Sup. Ct., No. CV-15-543005-00CP & No. CV-16-551067-00CP
<i>McIntosh v. Takata Corporation, et al.; Vitoratos, et al. v. Takata Corporation, et al.; and Hall v. Takata Corporation, et al.</i>	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
<i>Rabin v. HP Canada Co., et al.</i>	Quebec Ct., Dist. of Montreal, No. 500-06-000813-168
<i>Lightsey, et al. v. South Carolina Electric & Gas Company, a Wholly Owned Subsidiary of SCANA, et al.</i>	Ct. of Com. Pleas., S.C., No. 2017-CP-25-335
<i>In re: Comcast Corp. Set-Top Cable Television Box Antitrust Litigation</i>	E.D. Penn., No. 2:09-md-02034
<i>Henrikson v. Samsung Electronics Canada Inc.</i>	Ontario Sup. Ct., No. 2762-16cp
<i>Burrow, et al. v. Forjas Taurus S.A., et al.</i>	S.D. Fla., No. 1:16-cv-21606-EGT

Hilsoft-cv-142

Attachment 2

From: mail@msgbsvc.com on behalf of Robinson v. FHB Settlement Administrator
<info@FHBOverdraftLitigation.com>
Sent: Thursday, May 30, 2019 10:11 AM
To: [REDACTED]
Subject: HTML Sample --- Robinson v. First Hawaiian Bank Overdraft Settlement

CAUTION: This email originated from outside of Epiq. Do not click links or open attachments unless you recognize the sender and know the content is safe.

If You Paid Overdraft Fees to First Hawaiian Bank, You May Be Eligible for a Payment from a Class Action Settlement.

A \$4,125,000.00 Settlement has been reached in a class action about overdraft fees charged by First Hawaiian Bank ("FHB") on debit card transactions that were authorized and approved when sufficient funds were available to cover the amount of authorization in consumer Accounts ("Relevant Overdraft Fees"). Relevant Overdraft Fees were assessed when customers' account balances were insufficient when the transaction(s) posted to the account. FHB maintains that there was nothing wrong with the transaction processing practices it used and that it complied, at all times, with applicable laws and regulations and the terms of the account agreements with its customers.

Who's Included? You received this email because First Hawaiian Bank's records indicate you may be a Class Member. The Settlement Class includes all current and former FHB members who were charged a Relevant Overdraft Fee during the Class Period (January 27, 2011, through March 13, 2019). Excluded from the Settlement Class is FHB, its parents, subsidiaries, affiliates, officers and directors, all Settlement Class Members who make a timely election to be excluded, and all judges assigned to this litigation and their immediate family members.

What Are the Settlement Terms? FHB has agreed to establish a Settlement Fund of \$4,125,000.00, from which Settlement Class Members will receive payments or Account credits. Once the Court approves the Settlement, each Settlement Class Member will automatically receive a payment by check or Account credit for his or her pro rata portion of the Settlement Fund based on the number of eligible Relevant Overdraft Fees they paid during the period covered by the Settlement.

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 **July 5, 2019**. If you do not timely exclude yourself, you will release your Relevant Overdraft Fee related claims against FHB, and you will not be able to sue FHB for any claim relating to the lawsuit. If you stay in the Settlement Class, you may object to the Settlement in writing by **July 5, 2019**. The Detailed Notice available [here](#) explains how to exclude yourself from or object to the Settlement. The Court will hold a hearing on **August 6, 2019, at 3:00 p.m.**, to consider whether to approve the Settlement and Class Counsel's request for attorneys' fees of up to 33% of the Settlement Fund, plus expenses and Class Representative's Service Award. You may appear at the hearing, but you are not required to attend. To speak at the hearing, you must first 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. For more information, call 1-877-239-1243 or visit www.FHBOverdraftLitigation.com.

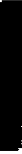
Please note: This e-mail message was sent from a notification-only address that cannot accept incoming e-mail. Please do not reply to this message.

If you would prefer not to receive further messages from this sender, please [Click Here](#) and confirm your request.

Attachment 3

FHB Overdraft Settlement
P.O. Box 2750
Portland, OR 97208-2750

Legal Notice about a Class Action Settlement



If You Paid Overdraft Fees to First Hawaiian Bank You May Be Eligible for a Payment from a Class Action Settlement.

A \$4,125,000 Settlement has been reached in a class action about overdraft fees charged by First Hawaiian Bank ("FHB") on debit card transactions that were authorized and approved when sufficient funds were available to cover the amount of authorization in consumer Accounts ("Relevant Overdraft Fees"). Relevant Overdraft Fees were assessed when customers' account balances were insufficient when the transaction(s) posted to the account. FHB maintains that there was nothing wrong with the transaction processing practices it used and that it complied, at all times, with applicable laws and regulations and the terms of the account agreements with its customers.

Who's Included? The Settlement Class includes all current and former FHB members who were charged a Relevant Overdraft Fee during the Class Period (January 27, 2011, through March 13, 2019). Excluded from the Settlement Class is FHB, its parents, subsidiaries, affiliates, officers and directors, all Settlement Class members who make a timely election to be excluded, and all judges assigned to this litigation and their immediate family members.

What Are the Settlement Terms? FHB has agreed to establish a Settlement Fund of \$4,125,000 from which Settlement Class Members will receive payments or Account credits. Once the Court approves the Settlement, each Settlement Class Member will automatically receive a payment by check or Account credit for his or her pro rata portion of the Settlement Fund based on the number of eligible Relevant Overdraft Fees they paid during the period covered by the Settlement.

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 July 5, 2019. If you do not timely exclude yourself, you will release your Relevant Overdraft Fee related claims against FHB, and you will not be able to sue FHB for any claim relating to the lawsuit. If you stay in the Settlement Class, you may object to the Settlement in writing by July 5, 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 August 6, 2019 at 3:00 p.m., to consider whether to approve the Settlement and Class Counsel's request for attorneys' fees of up to 33% of the Settlement Fund, plus expenses and Class Representative's Service Award. You may appear at the hearing, but you are not required to attend. To speak at the hearing, you must first 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.

www.FHBOverdraftLitigation.com

1-877-239-1243

X3802 002

Attachment 4

If You Paid Overdraft Fees to First Hawaiian Bank, You May Be Eligible for a Payment from a Class Action Settlement.

A Hawai'i state court authorized this notice. This is not a solicitation from a lawyer.

- A \$4,125,000 Settlement has been reached in a class action about overdraft fees charged to consumer Accounts by First Hawaiian Bank ("FHB") on debit card transactions that were authorized and approved when sufficient funds were available to cover the amount of authorization ("Relevant Overdraft Fees"). Relevant Overdraft Fees were assessed when customers' account balances were insufficient when the transaction(s) posted to the account. FHB maintains that there was nothing wrong with the transaction processing practices it used and that it complied, at all times, with applicable laws and regulations and the terms of the account agreements with its customers.
- Current and former holders of FHB consumer checking Accounts are eligible for a payment or Account credit from the Settlement Fund.
- The Settlement Class includes all current and former FHB members who were charged a Relevant Overdraft Fee from January 27, 2011, through March 13, 2019. Excluded from the Settlement Class is FHB, its parents, subsidiaries, affiliates, officers and directors, all Settlement Class members who make a timely election to be excluded, and all judges assigned to this litigation and their immediate family members.
- 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	
Receive a Payment or Account Credit	If you are entitled under the Settlement to a payment or Account credit, 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 payment by check or Account credit.
Exclude Yourself from the Settlement	Receive no benefit from the Settlement. This is the only option that allows you to retain your right to bring any other lawsuit against FHB about the claims in this case.
Object	Write to the Court if you do not like the terms of the Settlement.
Go to a Hearing	Ask to speak in Court about the fairness of the Settlement.
Do Nothing	You will receive any payment or Account credit to which you are entitled, and will give up your right to bring your own lawsuit against FHB 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. Payments and Account credits will be provided if the Court approves the Settlement and after any appeals are resolved. Please be patient.

Questions? Call 1-877-239-1243 or visit www.FHBOverdraftLitigation.com

WHAT THIS NOTICE CONTAINS

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2. What is this lawsuit about?
3. What do "Account," "Overdraft Fee," "Relevant Overdraft Fee" and "Debit Card" mean?
4. Why is this a class action?
5. Why is there a Settlement?

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6. Who is included in the Settlement?

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8. How do I receive a payment or Account credit?
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?
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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.

The Circuit Court of the First Circuit, State of Hawai'i is overseeing this case. The case is known as *Robinson v. First Hawaiian Bank*, Civil No. 17-1-0167-01, (the "Action"). The person who sued is called the "Plaintiff." The Defendant is First Hawaiian Bank ("FHB").

2. What is this lawsuit about?

The lawsuit claims that FHB improperly charged overdraft fees on debit card transactions that were authorized and approved when sufficient funds were available to cover the amount of authorization in consumer Accounts ("Relevant Overdraft Fees"). Relevant Overdraft Fees were assessed when customers' account balances were insufficient when the transaction(s) posted to the account. The complaint is posted on the Settlement Website and contains all of the allegations and claims asserted against FHB. FHB maintains that there was nothing wrong with the transaction processing practices it used and that it complied, at all times, with applicable laws and regulations and the terms of the account agreements with its customers.

3. What do "Account," "Overdraft Fee," "Relevant Overdraft Fee" and "Debit Card" mean?

"Account" means any consumer checking account maintained by FHB in the United States and its territories.

"Overdraft Fee" means any fee or fees assessed to a holder of an Account for items paid when the Account has insufficient funds at the time of settlement.

"Relevant Overdraft Fee" means an Overdraft Fee on a transaction that was authorized and approved when sufficient funds were available to cover the amount of authorization.

"Debit Card" means a card or similar device issued or provided by FHB, including a debit card, check card, or automated teller machine ("ATM") card that can or could be used to debit funds from an Account by Point of Sale and/or ATM transactions.

4. Why is this a class action?

In a class action, one or more people called class representatives (in this case, Plaintiff Linda Robinson) 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 Plaintiff or FHB. 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 Representative 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 Account credit from it, you first have to determine if you are a Settlement Class member.

Questions? Call 1-877-239-1243 or visit www.FHBOverdraftLitigation.com

6. Who is included in the Settlement?

The Settlement Class includes all current and former FHB members who were charged a Relevant Overdraft Fee during the Class Period (January 27, 2011, through March 13, 2019). Excluded from the Settlement Class is FHB, its parents, subsidiaries, affiliates, officers and directors, all Settlement Class members who make a timely election to be excluded, and all judges assigned to this litigation and their immediate family members.

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?

FHB has agreed to establish a Settlement Fund of \$4,125,000 from which Settlement Class Members will receive payments or Account credits. The Settlement Fund will also pay all attorneys' fees, costs and expenses awarded to Class Counsel, any Service Award to the Class Representative, and all Settlement Administration Costs. The exact amount of Settlement Class Members' payments or Account credits cannot be determined at this time. The exact amount cannot be determined until the notice process is complete and the Court makes a final decision on the amount of attorneys' fees, costs and expenses awarded to Class Counsel and any Service Award to the Class Representative.

Additionally, on February 1, 2019 FHB issued revised disclosures for consumer checking Account holders to remind consumers of FHB's policy with respect to (1) the authorization/settlement procedures relating to debit transactions, and that policy's potential impact on overdraft transactions; (2) the timing of FHB's deduction of Overdraft Fees; and (3) the overdraft balances that are subject to continuous overdraft notification fees. FHB drafted these disclosures in consultation with Class Counsel and Plaintiff.

8. How do I receive a payment or Account credit?

If you are in the Settlement Class and entitled to receive a cash benefit, you do not need to do anything to receive a payment or Account credit. If the Court approves the Settlement and it becomes final and effective, you will automatically receive a payment by check or Account credit for your *pro rata* portion of the Settlement Fund based on the number of eligible Relevant Overdraft Fees you paid to FHB during the period covered by the Settlement.

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 FHB 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.FHBOverdraftLitigation.com.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want benefits from the Settlement, and you want to keep the right to sue FHB 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 printed or typed name, address and telephone number;
- A short statement that you want to be excluded from the FHB Overdraft Settlement; and
- Your signature.

You must mail your exclusion request, postmarked no later than **July 5, 2019**, to:

FHB Overdraft Settlement
P.O. Box 2730
Portland, OR 97208-2730

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

No. Unless you exclude yourself, you give up the right to sue FHB 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 Account credit 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:

Jeff Kaniel, Esq. KALIEL PLLC 1875 Connecticut Ave. NW, 10th Floor Washington, DC 20009	Brandee Faria, Esq. PERKIN & FARIA Davies Pacific Center 841 Bishop St. 1000 Honolulu, Hawaii 96813
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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 33% of the money in the Settlement Fund for attorneys' fees, plus reimbursement of their expenses incurred in connection with prosecuting this 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. Class Counsel will also request that \$10,000.00 for the Class Representative be paid from the Settlement Fund for her service to the entire 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:

Questions? Call 1-877-239-1243 or visit www.FHBOverdraftLitigation.com

- The name of this Action, which is *Robinson v. First Hawaiian Bank*, Civil No. 17-1-0167-01;
- Your printed or typed full name, address and telephone number;
- An explanation of why you claim to be a Settlement Class Member;
- All grounds for your objection, accompanied by any legal support for the objection known to you or your counsel;
- The number of times you have objected to a class action settlement within the last 5 years, the caption of each case in which you have made such objection and a copy of any orders or opinions related to or ruling upon the prior objections that were issued by the trial and appellate courts in each listed case;
- The identity of all counsel and law firm(s) who represent you, including any former or current counsel or law firm(s) who may be entitled to compensation for any reason related to the objection to the Settlement or fee application;
- A copy of any orders related to or ruling upon prior objections of your counsel or law firm(s) that were issued by the trial and appellate courts in each listed case in which your counsel and/or counsel's law firm have objected to a class action settlement within the preceding 5 years;
- Any and all agreements that relate to the objection or the process of objecting—whether written or oral—between you or your counsel and any other person or entity;
- The identity of all counsel (if any) representing you who will appear at the Final Approval Hearing;
- A list of all persons who will be called to testify at the Final Approval Hearing in support of the objection;
- A statement confirming whether you intend to personally appear and/or testify at the Final Approval Hearing; and
- Your signature (an attorney's signature is not sufficient).

You must submit your objection to all the people listed below, postmarked no later than **July 5, 2019**.

Clerk of the Court The Honorable Gary W.B. Chang 777 Punchbowl Ave Honolulu, HI 96813	FHB Overdraft Settlement P.O. Box 2730 Portland, OR 97208-2730
Jeff Kaliel, Esq. KALIEL PLLC 1875 Connecticut Ave. NW, 10th Floor Washington, DC 20009	Jessica Kaufman, Esq. MORRISON & FOERESTER 250 W. 55 th St. New York, New York 10019

Note that, if you object, you may be subject to discovery requests and Class Counsel and/or FHB may conduct limited discovery on you consistent with the Hawai'i Rules of Civil Procedure.

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 Award for the Class Representative. You may attend and you may ask to speak, but you don't have to do so.

Questions? Call 1-877-239-1243 or visit www.FHBOverdraftLitigation.com.

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

The Court will hold a Final Approval Hearing at 3:00 p.m. HST on August 6, 2019, at the chambers of the Honorable Gary W.B. Chang, 777 Punchbowl Ave., Honolulu, Hawai'i 96813, Courtroom 16 on the 4th Floor. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check www.FHBOverdraftLitigation.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 Award for the Class Representative. 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.FHBOverdraftLitigation.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 address 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 ask the Court for permission to speak at the Final Approval Hearing. To do so, you must submit a timely objection to the Settlement and send a letter saying that you intend to appear and wish to speak. Your Notice of Intention to Appear must include the following:

- Your name, address and telephone number;
- A statement that this is your "Notice of Intention to Appear" at the Final Approval Hearing for the FHB Settlement in *Robinson v. First Hawaiian Bank*, Civil No. 17-1-0167-01;
- The reasons you want to be heard;
- Copies of any papers, exhibits, or other evidence or information that is to be presented to the Court at the Final Approval Hearing; and
- Your signature.

You must submit your Notice of Intention to Appear so that it is postmarked no later than July 5, 2019, to all of the addresses in Question 15.

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 FHB 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.FHBOverdraftLitigation.com. You may also write with questions to FHB Overdraft Settlement, P.O. Box 2730, Portland, OR 97208-2730, or call the toll-free number, 1-877-239-1243. Do not contact FHB or the Court for information.

Questions? Call 1-877-239-1243 or visit www.FHBOverdraftLitigation.com

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAII

LINDA ROBINSON, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

FIRST HAWAIIAN BANK and DOE
DEFENDANTS 1-50,

Defendants.

Civil No. 17-1-0167-01 GWBC
(Class Action)

SUPPLEMENTAL AFFIDAVIT OF CAMERON R. AZARI, ESQ.

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

1. My name is Cameron R. Azari, Esq. 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 is a business unit of Epiq Class Action & Claims Solutions, Inc. ("Epiq").

3. On June 21, 2019, I executed my *Affidavit of Cameron R. Azari, ESQ. on Implementation and Adequacy of Settlement Notice Program* ("Implementation Affidavit") in which I detailed the successful implementation of the Notice Plan to Settlement Class Members in *Robinson v. First Hawaiian Bank*, Civil No. 17-1-0167-01 and provided current statistics on administration activity. I also detailed Hilsoft's class action notice experience and attached Hilsoft's *curriculum vitae*, and provided my educational and professional experience relating to class actions and my ability to render opinions on overall adequacy of notice programs.

AFFIDAVIT OF CAMERON R. AZARI, ESQ., ON IMPLEMENTATION
AND ADEQUACY OF SETTLEMENT NOTICE PROGRAM

4. This affidavit provides updated information on the notice and administration activity to date, including the Email and Postcard Notice efforts, case website user sessions, toll-free number volumes, and any received exclusions/objections. The facts in this declaration are based on what I personally know, as well as information provided to me in the ordinary course of my business by my colleagues from Hilsoft and Epiq, who worked with us to implement the notification effort.

Individual Notice - Email

5. As reported in my *Implementation Affidavit*, on May 31, 2019 Epiq sent 60,371 Summary Email Notices to potential Settlement Class Members. After completion of the initial Email Notice effort, Epiq received back 6,940 undeliverable emails, representing 6,791 unique records.

Individual Notice – Mailed Notice

6. In addition to the 28,186 Summary Postcard Notices sent to potential Settlement Class Members on May 31, 2019, Epiq sent a Postcard Notice to 5,528 unique records for whom an Email Notice was undeliverable and a valid mailing address was provided with the record. Address updating and re-mailing for undeliverable Summary Postcard Notices is ongoing and will continue through the Final Approval Hearing. As of July 19, 2019, notice (either an Email Notice or a Postcard Notice) remains undeliverable to 3,627 unique Settlement Class members, meaning notice was delivered to approximately 95% of the identified Settlement Class.

7. Additionally, Long Form Notices could be mailed via USPS first class mail if a person requested one via the toll-free telephone number. As of July 19, 2019, Epiq has not received a request to mail a Long Form Notice.

Case Website, Toll-free Telephone Number and Postal Mailing Address

8. On May 30, 2019, Epiq established an informational case website, with an easy to remember domain name, www.FHBOverdraftLitigation.com. The website continues to be live and is actively visited by potential Class Members. As of July 19, 2019, there have been 1,379 user sessions on the case website and 2,543 website pages presented.

9. On April 23, 2019, the toll free number (1-877-239-1243), set up and hosted by Epiq, became operational and the toll-free number continues to receive activity. This automated system is available 24 hours per day, 7 days per week. As of July 19, 2019, the toll free number has handled 779 calls representing 2,446 minutes of use.


Exclusions and Objections

10. The deadline to request exclusion from or object to the Settlement was July 5, 2019. As of July 19, 2019, Epiq has received three requests for exclusion from the Settlement Class. I am aware of no objections to the Settlement. The final list of Settlement Class Members who requested to be excluded from the Settlement is included as **Attachment 1**.

Estimated Payments

11. As reported in my *Implementation Affidavit*, Epiq prepared an estimated *pro rata* award for each Class Member record identified in data provided by FHB. An updated estimated *pro rata* is included as **Attachment 2** that reduces the number of pages for ease of filing. This includes estimated Payment Amounts for each Settlement Class Member. Estimated Payment Amounts were determined using the method outlined in section XI of the Settlement Agreement and adjusted accordingly to establish a minimum \$5.00 payment.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

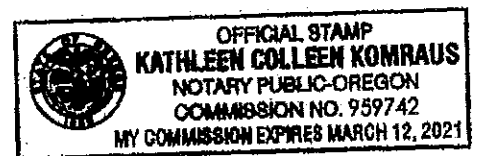

Cameron R. Azari, Esq.

SUBSCRIBED AND SWORN TO BEFORE ME this 22nd day of July 2019.


NOTARY PUBLIC

MY COMMISSION EXPIRES:

March 12, 2021



Attachment 1

Robinson v First Hawaiian Bank
Exclusions Report



Tracking Number	Opt Out Number	Name	Status	Postmark Date
57169	1	MARY C DAU	Complete	7.1.2019
82941	2	ROSEMARY FAILAUTUS	Complete	7.3.2019
35630	3	EDEN A BALMEDINA	Complete	7.1.2019

Attachment 2

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

LINDA ROBINSON, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

FIRST HAWAIIAN BANK and DOE
Defendants 1-50,

Defendant.

Civil No.17-1-0167-01 KKH
(Class Action)

**NOTICE OF HEARING AND
CERTIFICATE OF SERVICE**

NOTICE OF HEARING

TO:

CRAIG SHIKUMA, ESQ.
JESSE W. SCHIEL, ESQ.
YUKO FUNAKI, ESQ.
Kobayashi Sugita & Goda, LLP
999 Bishop St., Ste. 2600
Honolulu, Hawai'i 96813

hand delivered to local counsel

JESSICA KAUFMAN, ESQ.
Morrison & Foerster, LLO
250 West 55th St.
New York, New York 10019

JAMES R. MCGUIRE, ESQ.
Morrison & Foerster, LLP
425 Market St.
San Francisco, California 94105

Attorneys for Defendants
FIRST HAWAIIAN BANK

NOTICE IS HEREBY GIVEN that the foregoing ^{First Amended} Motion for Final Approval of

Settlement Agreement shall come on for hearing before the Honorable Gary W.B. Chang, Judge
of the above entitled court, in his/her courtroom located in Kaahumanu Hale, 777 Punchbowl

Street, Honolulu, Hawai'i, 96813, on August 6, 2019, at 3:00 o'clock p.m. or as soon thereafter as counsel can be heard.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served on the above-named parties at their respective address by hand delivery as follows:

CRAIG SHIKUMA, ESQ.
JESSE W. SCHIEL, ESQ.
YUKO FUNAKI, ESQ.
Kobayashi Sugita & Goda, LLP
999 Bishop St., Ste. 2600
Honolulu, Hawai'i 96813

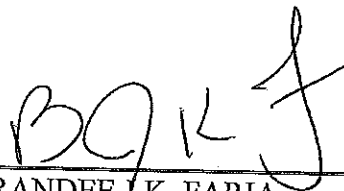
hand delivered to local counsel

JESSICA KAUFMAN, ESQ.
Morrison & Foerster, LLO
250 West 55th St.
New York, New York 10019

JAMES R. MCGUIRE, ESQ.
Morrison & Foerster, LLP
425 Market St.
San Francisco, California 94105

Attorneys for Defendants
FIRST HAWAIIAN BANK

DATED: Honolulu, Hawai'i, July 19, 2019.



BRANDEE J.K. FARIA
JOHN FRANCIS PERKIN
JEFFREY D. KALIEL
Attorneys for Plaintiff
Linda Robinson, individually and on
behalf of all others similarly situated.