

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

MARGARET MURR and DAVID REIGN, on  
behalf of themselves and all others similarly  
situated,

Plaintiffs,

v.

CAPITAL ONE BANK (USA), N.A.,

Defendant.

Civil Action No.: 1:13-cv-1091 LMB/TCB

CLASS ACTION

JURY TRIAL DEMANDED

Judge: Hon. Leonie M. Brinkema

Courtroom:

Filed: August 30, 2013

**FINAL JUDGMENT AND ORDER APPROVING SETTLEMENT**

This matter came on for hearing on June 26, 2015, at 10:00 am. The Court has considered the Settlement Agreement and Release filed on December 19, 2014 ("Settlement Agreement"), Dkt. No. 127, oral and/or written objections and comments received regarding the proposed Settlement, the record in the above-entitled lawsuit ("Litigation") and the arguments and authorities of counsel. Good cause appearing,

IT IS HEREBY ADJUDGED AND DECREED THAT:

1. This Judgment incorporates by reference the definitions in the Settlement Agreement, including its exhibits, and all terms used herein shall have the same meanings as set forth in the Settlement Agreement unless set forth differently herein.

2. The Court has jurisdiction over the subject matter of this Litigation and all Parties to the Litigation, including all Settlement Class Members.

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court hereby certifies the following Settlement Class for settlement purposes:

All persons within the United States who from August 1, 2008, to the Preliminary Approval Date accepted a 0% Offer using an Access Check or No-Hassle Check. Excluded from the Class are the following persons or entities: those who submit a

valid opt out request, Defendant and its officers, directors and employees, and any Court personnel assigned to the action.

4. Pursuant to Rule 23(c)(3) of the Federal Rules of Civil Procedure, all such persons who satisfy the Settlement Class definition above, except those Settlement Class Members who timely and validly excluded themselves from the Settlement Class, are Settlement Class Members bound by this Judgment.

5. Pursuant to Rule 23(a) of the Federal Rules of Civil Procedure, the Court finds that the Plaintiffs in the Litigation, Margaret Murr and David Reign, are members of the Settlement Class, their claims are typical of the Settlement Class, and they fairly and adequately protected the interests of the Settlement Class throughout the proceedings in the Litigation. Accordingly, the Court hereby appoints Margaret Murr and David Reign as Class Representatives.

6. The Court finds that the Settlement Class meets all requirements of Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure for certification of the class claims alleged in the complaint, including: (a) numerosity; (b) commonality; (c) typicality; (d) adequacy of the class representative and Class Counsel; (e) predominance of common questions of fact and law among the Class; and (f) superiority.

7. Having considered the factors set forth in Rule 23(g)(1) of the Federal Rules of Civil Procedure, the Court finds that Timothy G. Blood, of Blood Hurst & O'Reardon, LLP, and Joseph P. Guglielmo, of Scott+Scott, Attorneys at Law, LLP have fairly and adequately represented the Class for purposes of entering into and implementing the Settlement, and thus, hereby appoints Timothy G. Blood, of Blood Hurst & O'Reardon, LLP, and Joseph P. Guglielmo, of Scott+Scott, Attorneys at Law, LLP as Class Counsel for the Settlement Class.

8. The list of persons excluded from the Class because they submitted valid requests for exclusion ("Opt-Outs") is attached hereto as Exhibit A. Persons who submitted timely, completed Opt-Outs are not bound by this Judgment or the terms of the Settlement and may

pursue their own individual remedies against Defendant. However, such persons are not entitled to any rights or benefits provided to Settlement Class Members by the terms of the Settlement.

9. The Court directed that Class Notice be given to Settlement Class Members pursuant to the notice program proposed by the Parties and approved by the Court. In accordance with the Court's Preliminary Approval Order and the Court-approved notice program, the Claims Administrator caused the Class Notice to be disseminated as ordered. The Class Notice advised Settlement Class Members of the terms of the Settlement; of the Final Approval Hearing, and their right to appear at such hearing; of their rights to remain in, or opt out of, the Settlement Class and to object to the Settlement; procedures for exercising such rights; and the binding effect of this Judgment, whether favorable or unfavorable, to the Settlement Class.

10. The distribution of the Class Notice constituted the best notice practicable under the circumstances, and fully satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the requirements of due process, 28 U.S.C. §1715, and any other applicable law.

11. Pursuant to Rule 23(e)(2) of the Federal Rules of Civil Procedure, the Court finds after a hearing and based upon all submissions of the Parties and interested persons, the Settlement proposed by the Parties is fair, reasonable, and adequate. The terms and provisions of the Settlement Agreement are the product of lengthy, arm's-length negotiations conducted in good faith and with the assistance of the Hon. Theresa C. Buchanan. Approval of the Settlement will result in substantial savings of time, money and effort to the Court and the Parties, and will further the interests of justice.

12. All Settlement Class Members who have not timely and validly submitted Opt-Outs are thus Settlement Class Members who are bound by this Judgment and by the terms of the Settlement Agreement.

13. The Settlement, this Judgment, or the fact of the Settlement do not constitute any admission by any of the Parties of any liability, wrongdoing or violation of law, damages or lack thereof, or of the validity or invalidity of any claim or defense asserted in the Litigation.

14. The Court has considered the submissions by the Parties and all other relevant factors, including the result achieved and the efforts of Class Counsel in prosecuting the claims on behalf of the Settlement Class. Plaintiffs Murr and Reign participated in the Litigation, acted to protect the Settlement Class, and assisted their counsel. The efforts of Class Counsel have produced the Settlement, which was entered into in good faith, and which provides a fair, reasonable, adequate and certain result for the Settlement Class. Class Counsel have made application for an award of attorneys' fees and expenses in connection with the prosecution of the Litigation on behalf of themselves and the other Plaintiffs' Counsel. The fee and expense award requested is \$1,500,000. The Court hereby awards \$1,500,000<sup>00</sup> *JMB* as attorneys' fees and expenses to be paid by Defendant. The Court finds these amounts to be fair, reasonable, and justified under the circumstances. Class Counsel shall be responsible for distributing and allocating the attorneys' fees and expenses award to Plaintiffs' Counsel in their sole discretion. Further, Plaintiffs Murr and Reign are entitled to service awards of \$750,000<sup>00</sup> and \$150,000<sup>00</sup> *JMB* respectively, to be paid by Defendant.

15. The Court hereby dismisses with prejudice the Litigation, and all Released Claims against each and all Released Persons and without costs to any of the Parties as against the others.

16. The Court finds that during the course of the Action, the Parties and their respective counsel at all times complied with the requirements of Federal Rule of Civil Procedure 11.

17. Without affecting the finality of this Judgment, the Court reserves jurisdiction over the implementation, administration and enforcement of this Judgment and the Settlement, and all matters ancillary thereto.

18. In the event that the Settlement does not become effective in accordance with the terms of the Settlement Agreement or the Effective Date does not occur, then this Judgment shall be rendered null and void to the extent provided by and in accordance with the Settlement Agreement and shall be vacated and, in such event, all orders entered and releases delivered in

connection herewith shall be null and void to the extent provided by and in accordance with the Settlement Agreement.

19. The Parties are hereby authorized without needing further approval from the Court, to agree to and adopt such modifications and expansions of the Settlement Agreement, including without limitation, the forms to be used in the claims process, which are consistent with this Judgment and do not limit the rights of Settlement Class Members under the Settlement Agreement. Without further order of the Court, the Parties may agree to reasonable extensions of time to carry out any of the provisions of the Settlement Agreement.

20. There is no just reason for delay in the entry of this Final Judgment and Order Approving Settlement and immediate entry by the Clerk of the Court is expressly directed pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

**IT IS SO ORDERED.**

DATED: June 26, 2015

/s/ [Signature]  
Leonie M. Brinkema  
United States District Judge

## **Exhibit A**



## OPT-OUT SUMMARY

JUNE 12, 2015

OPT OUT NUMBER	NAME	STATUS
1	WANDA J CEBULLA	VALID
2	LINDA DOYEL	VALID
3	JOSHUA BEGERT	VALID
4	KARRIE L PRESTON	VALID
5	R D TIEFFENBACHER	VALID
6	CLAIRE QUINLAN	VALID
7	MARIA ROSADO	VALID
8	SUSAN R HENRY	VALID
9	JAMES C BOLTON	VALID
10	WALTER H HEDRICK JR	VALID
11	LESLEY C NAILL	VALID
12	LARRY W PINER	VALID
13	PHILIP PELLA	VALID
14	BONNIE L MINER	VALID
15	KENNETH W DOSE	VALID
16	PHILIP P PELLA	VALID
17	WILFORD A WAGNER	VALID
18	DANIEL F MACHON	VALID
19	KRISTIE A PARISH WRIGHT	VALID
20	BECKY L SWICER	VALID
21	ARTHUR VERGARA	VALID
22	NANCY J JOHNSTON	VALID
23	WILLIAM R PETRICONE JR	VALID
24	SUZANNE WYNN	VALID
25	LINDA R BERNWANGER	VALID
26	EDGAR R WEBER	VALID
27	ROY MILLER JR	VALID
28	JASON LUDWIG	VALID
29	GAIL HICKER	VALID



## OPT-OUT SUMMARY

JUNE 12, 2015

OPT OUT NUMBER	NAME	STATUS
30	VONNIE E POSTELWAITE	VALID
31	KEVIN J DETTWYLER	VALID
32	JEAN C BRESKI	VALID
33	LORRAINE B LEVINE	VALID
34	ADEL HADDAD	VALID
35	S CONNOLLY	VALID
36	ELDRIDGE J ROWELL	VALID
37	GEORGE C ANDERSON	VALID
38	TREVA L BUSH	VALID
39	VERA R BOYD	VALID
40	CHRYSTAL HALL	VALID
41	TED TUSCHKA	VALID
42	JANE L VERMILLION	VALID
43	MAXINE STEBELTON	VALID
44	DOLLY VALENTE	VALID
45	TYLER J TELFORD	VALID
46	SALLY BRUNEAU	VALID
47	JEFFREY D MAPES	VALID
48	PHILOMENA CAPPETTA	VALID
49	SHARON J WATKINS	VALID
50	DELORES J CONNOLLY	VALID
51	ARAMIS A ARJONA	VALID
52	EVELYN E COX	VALID
53	MARIE CAMEAU	VALID
54	VIOLA BOND	VALID
55	CRAIG A BROOKSHIRE	VALID
56	EDWARD B VOGT	VALID
57	SPIRO SVORONOS	VALID
58	SANDY A SLICKER	VALID





**OPT-OUT SUMMARY**

**JUNE 12, 2015**

OPT OUT NUMBER	NAME	STATUS
59	PEGGY T HAYTON	VALID
60	WILLIAM T MCCARTER	VALID
61	JANICE K HALL	VALID
62	RUTH A LUNDY	VALID
63	MELVIN D TERWILLIGER	VALID
64	MARY E MALLINGER	VALID
65	BONNIE ROSS	VALID
66	ALLEN G BOOBAR	VALID
67	SHERRY A AMES	VALID
68	MICHAEL S SHIPWASH	VALID
69	BETTY J PUTCHLAWSKI	VALID
70	BRAD OLTROGGE	VALID
71	CINDY R WINCH	VALID
72	DONNA NICKOLAS	VALID
73	RONALD R SCHLEMER	VALID
74	GEORGE R LODI	VALID
75	GEORGE STANICH	VALID
76	LISA S WEISSBROD	VALID
77	GLADYS M NICHOLS	VALID
78	LAURA GIRALDO	VALID
79	LEESA A MEREDITH	VALID
80	BETTY J WOODARD	VALID
81	BETTY J PROSCH	VALID
82	ARLOVE WINSKI	VALID
83	MARY L BURTZ	VALID
84	GEORGE H PEARCE	VALID
85	MICHAEL BANDLER	VALID
86	MARCO A GONZALES	VALID
87	ALEXANDER W KOGAN JR	VALID



**OPT-OUT SUMMARY**

**JUNE 12, 2015**

OPT OUT NUMBER	NAME	STATUS
88	KATHRYN RHODES	VALID
89	DANIEL L GUIDINGER	VALID
90	BRIAN J MORAVEC	VALID
91	MARILYN J SOLDWISCH	VALID
92	JOYCE I KEARNEY	VALID
93	WESLEY M VERDI	VALID
94	RANDY S REIMER	VALID
95	SHARON SCARPINO	VALID
96	DONELDA A CLAERHOUT	VALID
97	JANICE S MOONEY	VALID
98	PATRICIA J PATTERSON	VALID
99	LINDA S HILL	VALID
100	LINDA A BONKOWSKI	VALID
101	SUSAN WILLIAMS	VALID
102	MARY ANN FORTUNE	VALID
103	STEVEN V BUTLER	VALID
104	DANIEL MORRIS	VALID
105	JUDITH A PETERSON	VALID
106	MIECZYSLA S ZIETALA	VALID
107	JUDY HOSFORD	VALID
108	ANN L RILING	VALID
109	ROBERT D HARPER	VALID
110	ELIZABETH A PATTESON	VALID
111	PATSY G PATTON	VALID
112	LINDA L ROBERTS	VALID
113	VICTOR CAPURSO	VALID
114	VALERIE A BROGAN	VALID
115	LUCY F LUTTRELL	VALID
116	JOE A MILLER	VALID



**OPT-OUT SUMMARY**

**JUNE 12, 2015**

OPT OUT NUMBER	NAME	STATUS
117	NEIL PRITCHARD	VALID
118	BRENDA J SCHOPF	VALID
119	ANGELA F YOUNG	VALID
120	KENNETH R SKURDA	VALID
121	WILLIAM J RICHARDSON	VALID
122	FAYE B ROBINSON	VALID
123	RONALD R HENG	VALID
124	ELVIA VELEZ	VALID
125	ANTHONY A IMPERATO JR	VALID
126	FLORA NICHOLSON	VALID
127	BERNICE MINGE	VALID
128	GEORGE T LEE	VALID
129	FRANK J SOCZEK	VALID
130	PAUL H FISCHBACH	VALID
131	DAVID DALE	VALID
132	HYE J LEE	VALID
133	SAMANTHA TAYLOR	VALID
134	DEB J SHADE	VALID
135	RYAN T FRAME	VALID
136	JEFFREY SEMEL	VALID
137	PHYLLIS HINEY	VALID
138	RHONDA E ROSS	VALID
139	RUSSELL OLSEN	VALID
140	RUSSELL H OLSEN	VALID
141	JANET M MOSIER	VALID
142	THOMAS V BENSMAN	VALID
143	PETER J RUDINSKAS	VALID
144	DONALD L BOCKELMAN	VALID
145	FRED J PIENIAZEK	VALID



**OPT-OUT SUMMARY**

**JUNE 12, 2015**

OPT OUT NUMBER	NAME	STATUS
146	LISA WEISSBROD	VALID
147	NAOMI R BERRY	VALID
148	FRANK GUZZETTI	VALID
149	SANDRA E BONKOSKY	VALID
150	CAROL ZOLLARS	INVALID-UNTIMELY
151	JO PALMER	INVALID-UNTIMELY
152	RONALD A SHINE	INVALID-UNTIMELY