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January 15, 2019

The Honorable Margo K. Brodie
The Honorable James Orenstein
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

VIA ECF

Re: *In re Payment Card Interchange Fee and Merchant
Discount Antitrust Litigation, 05-md-01720 (MKB) (JO)*

Dear Judges Brodie and Orenstein:

We write on behalf of the Rule 23(b)(3) class plaintiffs and defendants in response to the Court's order (ECF No. 7327) and the Court's comments at the hearing on the motion for preliminary approval of the Superseding and Amended Definitive Class Settlement Agreement ("Class Settlement Agreement").

Attached is a proposed revised Rule 23(b)(3) Class Settlement Preliminary Approval Order and exhibits thereto, which consist of proposed revisions to the publication and long form notice to class members and a proposed notice to be sent to merchants with any claims excluded from the settlement. The proposed changes to the preliminary approval order, publication notice, and long form notice are shown in redline.

Also submitted concurrently with this letter is a clean copy of the proposed preliminary approval order and exhibits, with the redline changes accepted.

We describe these materials below.

Notice of Exclusion

As requested by the Court, Exhibit 2 to the proposed preliminary approval order is a "Notice of Exclusion from Class Action Settlement" to be sent to the branded operators and other "Dismissed Plaintiffs" who have any claims excluded from the class settlement. The notice explains the exclusion of those claims, explains how the recipient may still make a claim to class settlement funds if the recipient also accepted Visa and Mastercard cards in a capacity other than as a "Dismissed Plaintiff," and directs recipients with any questions to contact Rule 23(b)(3) class counsel.

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Revisions to the Notices to Class Members

Exhibit 1 to the proposed preliminary approval order contains revisions to the class notices. To guard against the possibility that a “Dismissed Plaintiff” may not receive the Notice of Exclusion from the settlement, due to a change of address or otherwise, the notices direct recipients with any uncertainty about whether they are a “Dismissed Plaintiff” to contact the class administrator or visit the class website for further information (*see* pages G1-2, G2-1, and G2-7).

The long-form and publication class notice also address the clarifications of the release language that the Court requested at the preliminary approval hearing. The notices contain a concise summary of what is and is not released in the Class Settlement Agreement (*see* pages G1-3-4 and G2-10). In addition, the notices clarify the meaning of “substantially similar” and how the release is intended to be consistent with federal law on the identical factual predicate doctrine (*see id.*).

To address the concerns that Rule 23(b)(2) counsel raised at the preliminary approval hearing, the revised class notices also clarify paragraphs 31(a) and 34(a) of the Class Settlement Agreement. The notices now would state expressly that the release does not bar the injunctive relief claims “or the declaratory relief claims that are a predicate for the injunctive release claims” asserted in the *Barry’s* action brought by Rule 23(b)(2) counsel (*see* pages G1-4, G2-11, G2-13, and G2-19). The revised class notices make clear that claims for injunctive relief are claims “to prohibit or require certain conduct” (*see* pages G1-4-5 and G2-11). The notices further make clear that claims for injunctive relief do “not include claims for payment of money, such as damages, restitution, or disgorgement” (*see id.*).

These revisions are incorporated into the proposed revised Rule 23(b)(3) Class Settlement Preliminary Approval Order.

Issues Raised by Rule 23(b)(2) Counsel

We believe that the proposed revisions to the class notices fully resolve the objections raised by Rule 23(b)(2) counsel. However, when these proposed revisions were discussed with Rule 23(b)(2) counsel, Rule 23(b)(2) counsel maintained that the revisions were insufficient.

First, Rule 23(b)(2) counsel maintained that any changes to the class notices require a change to the Class Settlement Agreement itself. They do not. The revisions to the notices clarify the intent of the settling parties but do not change the terms of the Class Settlement Agreement. They further the purposes of Rule 23(c)(2)(B), because they “fairly apprise the prospective members of the class of the terms of the proposed settlement and of the options that are open to them in connection with the proceedings.” *Masters v. Wilhelmina Model Agency, Inc.*, 473 F.3d 423, 438 (2d Cir. 2007) (quotation omitted). The revisions are consistent with paragraph 45 of the Class Settlement Agreement, which contemplates that the Court may order changes to the settlement notices. *See* DE 7257-2 ¶ 45. Moreover, these revisions are

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incorporated into the proposed preliminary approval order *with the consent of the settling parties themselves*, so there is no question that these parties are bound by the clarifying language.

Second, Rule 23(b)(2) class counsel have asserted that the Class Settlement Agreement must be amended so that the claims for “other equitable relief” released by Rule 23(b)(3) class members in paragraph 31(a) are preserved in paragraph 34(a) for Rule 23(b)(2) counsel’s *Barry’s* action. That position, too, is incorrect.

Members of the Rule 23(b)(3) settlement class who do not opt out from that class will receive money from the class settlement. In exchange, they will release claims as stated in paragraph 31. Nothing restricts those class members from releasing claims for monetary relief – i.e., claims that would entail the payment of money to them. Likewise, nothing restricts them from releasing any putative “equitable” claims, including claims that would result in a monetary payment, such as claims for disgorgement and restitution. To the contrary, releases of those types of claims in opt-out Rule 23(b)(3) settlements are commonplace. *See, e.g.*, Order Granting Final Approval of Class Action Settlement and Final Judgment, *Ortega v. Uber Technologies, Inc.*, 15-cv-07387-NGG-JO (E.D.N.Y. Sept. 18, 2018), ECF No. 102 (releasing claims for injunctive relief, declaratory relief, and restitution); Final Judgment Granting Final Approval to Class Action Settlement, *Frohberg v. Cumberland Packing Corp.*, 14-cv-00748-RLM (E.D.N.Y. Apr. 6, 2016), ECF No. 61 (releasing claims for disgorgement and restitution); *McLaughlin v. Phelan Hallinan & Schmieg, LLP*, 2016 WL 6909421, at *2 (W.D. Pa. Mar. 3, 2016) (releasing claims for restitution and disgorgement); *DuFour v. Be., LLC*, 2015 WL 12916991, at *3 (N.D. Cal. Feb. 23, 2015) (releasing claims for “restitution, disgorgement, injunctive relief, any other type of equitable, legal or statutory relief”).

By contrast, the members of the Rule 23(b)(3) settlement class will not release claims for injunctive relief asserted in *Barry’s*, as stated in the “carve out” from the release in paragraph 34(a). In this respect, the “carve out” tracks the relief sought in the *Barry’s* class complaint. Each of the eleven counts of that complaint seeks a form of injunctive relief that does not entail any monetary payments to putative class members, with the eleventh count also seeking a corresponding declaratory judgment that defendants’ conduct is unlawful. ECF No. 6910, ¶¶ 364-428. Neither the *Barry’s* complaint nor the arguments that Rule 23(b)(2) counsel made to the Court at the preliminary approval hearing identify any relief sought in the complaint that could not still be obtained. *See* 12/06/2018 Hearing Tr. at 5:05-19. At the preliminary approval hearing, the only relief that Rule 23(b)(2) counsel said they may seek that might be considered “equitable” rather than “injunctive” is “a temporary rate cap on interchange fees.” *Id.* at 5:07-10. However, an interchange fee rate cap is relief that could be sought through an injunction to prohibit fees in excess of the cap¹, and would not be relief in the nature of monetary payments.

¹ Whether such relief could ever be obtained is a different matter, and one as to which Defendants reserve all rights. Defendants note in that regard, though, that Judge Gleeson previously concluded that “regulation of interchange fees” is relief “that this Court could not order even if the plaintiffs obtained a

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Moreover, to the extent Rule 23(b)(2) counsel seek to enlarge their claims to include “other equitable relief” such as restitution of interchange fees, this would go beyond what Rule 23(b)(2) permits. *See, e.g., Nationwide Life Ins. Co. v. Haddock*, 460 Fed. App’x. 26, 29 (2d Cir. 2012) (disgorgement remedy requiring the determination of how much money each class member receives is inappropriate under Rule 23(b)(2) and *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 360 (2011)); *Ackerman v. Coca-Cola Co.*, 2013 WL 7044866, at *17 n.28 (E.D.N.Y. July 18, 2013) (restitution remedy requiring “individualized assessments of damages” is “problematic” under Rule 23(b)(2) and *Dukes*, despite plaintiffs’ characterization of “restitution as a form of equitable relief”).

* * *

For the foregoing reasons, Rule 23(b)(3) class plaintiffs and defendants respectfully request that the Court enter the revised Rule 23(b)(3) Class Settlement Preliminary Approval Order, with its exhibits revising the notices to class members and the notice to those with claims excluded from the settlement.

Respectfully submitted,

/s/ K. Craig Wildfang
K. Craig Wildfang
Thomas J. Undlin
Robins Kaplan LLP

/s/ Merrill G. Davidoff
Merrill G. Davidoff
H. Laddie Montague, Jr.
Berger Montague PC

/s/ Patrick J. Coughlin
Patrick J. Coughlin
Alexandra S. Bernay
Robbins Geller Rudman
& Dowd LLP

Rule 23(b)(3) Class Counsel

Rule 23(b)(3) Class Counsel

Rule 23(b)(3) Class Counsel

/s/ Kenneth A. Gallo
Kenneth A. Gallo
Paul, Weiss, Rifkind,
Wharton & Garrison LLP
Counsel for Mastercard

/s/ Robert J. Vizas
Robert J. Vizas
Arnold & Porter Kaye
Scholer LLP
Counsel for Visa

cc: All Counsel of Record by ECF

complete victory on the merits.” *In re Payment Card Interchange Fee and Merch. Disc. Antitrust Litig.*, 986 F. Supp. 2d 207, 218 (E.D.N.Y. 2013), *rev’d on other grounds*, 827 F.3d 223 (2d Cir. 2016); *see also* 986 F. Supp. 2d at 239 (finding certification of a Rule 23(b)(2) settlement class appropriate in part because the settlement did not include “judicial regulation of default interchange fees,” which “would affect the class unequally”).

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**IN RE PAYMENT CARD
INTERCHANGE FEE AND MERCHANT
DISCOUNT ANTITRUST LITIGATION**

This Document Applies to: All Cases.

No. 05-MD-1720 (MKB) (JO)

RULE 23(b)(3) CLASS SETTLEMENT PRELIMINARY APPROVAL ORDER

WHEREAS, the Court has considered the Superseding and Amended Definitive Class Settlement Agreement of the Rule 23(b)(3) Class Plaintiffs and the Defendants, including its Appendices, dated September 17, 2018 (the “Superseding and Amended Class Settlement Agreement”), which sets forth the terms and conditions for a proposed settlement of the Class Actions in MDL 1720 except for *Barry’s Cut Rate Stores, Inc., et al. v. Visa, Inc., et al.*, MDL No. 1720 Docket No. 05-md-01720-MKB-JO (“*Barry’s*”), and the termination and disposition of all causes of action against the Defendants in those Class Actions with prejudice;

WHEREAS, the Court has considered the motion of Rule 23(b)(3) Class Plaintiffs for preliminary approval of the Superseding and Amended Class Settlement Agreement, the Memorandum of Law and evidence filed in support thereof, and all other papers submitted in connection with the Superseding and Amended Class Settlement Agreement and the motion for preliminary approval, and;

WHEREAS, the Court held a hearing on December 6, 2018, at which the Court heard argument on whether the Superseding and Amended Class Settlement Agreement should be preliminarily approved;

NOW, THEREFORE, IT IS HEREBY ORDERED AND DECREED as follows:

1. The Court hereby approves Rule 23(b)(3) Class Plaintiffs and Defendants entering into the Superseding and Amended Class Settlement Agreement, which amends, modifies, and supersedes the Definitive Class Settlement Agreement dated October 19, 2012.¹ In addition, the Court has considered whether the Superseding and Amended Class Settlement Agreement preliminarily satisfies the class action settlement requirements of Federal Rule of Civil Procedure 23. Based on its consideration, the Court hereby also preliminarily approves the Superseding and Amended Class Settlement Agreement for class action settlement purposes, including specifically the Plan of Administration and Distribution contained in Appendix I of the Superseding and Amended Class Settlement Agreement, as within the range of a fair, reasonable, and adequate settlement within the meaning of Federal Rule of Civil Procedure 23 and applicable law, and consistent with due process.

2. This Rule 23(b)(3) Class Settlement Preliminary Approval Order incorporates by reference the definitions in the Superseding and Amended Class Settlement Agreement, and all terms herein shall have the same meanings as set forth in the Superseding and Amended Class Settlement Agreement.

3. The Court has subject matter and personal jurisdiction over the Rule 23(b)(3) Class Plaintiffs, all members of the Rule 23(b)(3) Settlement Class provisionally certified below, and the Defendants.

4. The Court orders Rule 23(b)(3) Class Counsel, the Visa Defendants, the Mastercard Defendants, and the Bank Defendants to continue to maintain the Class Settlement

¹ The Rule 23(b)(3) Class Plaintiffs include the Class Plaintiffs as defined in the Definitive Class Settlement Agreement. On April 27, 2018, the Court ordered that the claims and action of Crystal Rock LLC be dismissed. As a result, Crystal Rock LLC is not a named plaintiff in the Third Consolidated Amended Class Action Complaint or in any other operative complaint in MDL 1720, and is no longer a Class Plaintiff as defined in the Definitive Class Settlement Agreement.

Cash Escrow Account and the Class Settlement Interchange Escrow Account as provided in Paragraphs 8-12 of the Superseding and Amended Class Settlement Agreement, the Amended and Restated Class Settlement Cash Escrow Agreement (attached as Appendix C to the Superseding and Amended Class Settlement Agreement), and the Amended and Restated Class Settlement Interchange Escrow Agreement (attached as Appendix D to the Superseding and Amended Class Settlement Agreement).

5. Based on and pursuant to the class action criteria of Federal Rules of Civil Procedure 23(a) and 23(b)(3), [as explained in the accompanying opinion,] the Court preliminarily finds that the requirements of Rule 23(a) and (b)(3) have been met and therefore provisionally certifies, for settlement purposes only, a Rule 23(b)(3) Settlement Class consisting of all persons, businesses, and other entities that have accepted any Visa-Branded Cards and/or Mastercard-Branded Cards in the United States at any time from January 1, 2004 to the Settlement Preliminary Approval Date, except that the Rule 23(b)(3) Settlement Class shall not include (a) the Dismissed Plaintiffs, (b) the United States government, (c) the named Defendants in this Action or their directors, officers, or members of their families, or (d) financial institutions that have issued Visa-Branded Cards or Mastercard-Branded Cards or acquired Visa-Branded Card transactions or Mastercard-Branded Card transactions at any time from January 1, 2004 to the Settlement Preliminary Approval Date.

6. The definition of the proposed class in the Third Consolidated Amended Class Action Complaint is hereby amended to be the same as the settlement class provisionally certified above.

7. In the event of termination of the Superseding and Amended Class Settlement Agreement as provided therein, certification of the Rule 23(b)(3) Settlement Class shall

automatically be vacated and each Defendant may fully contest certification of any class as if no Rule 23(b)(3) Settlement Class had been certified.

8. The Court finds and concludes[, as explained in the accompanying opinion,] that the Rule 23(b)(3) Class Plaintiffs will fairly and adequately represent and protect the interests of the Rule 23(b)(3) Settlement Class and appoints them to serve as the representatives of the Rule 23(b)(3) Settlement Class. The Court appoints the law firms of Robins Kaplan LLP, Berger Montague PC, and Robbins Geller Rudman & Dowd LLP to serve as Rule 23(b)(3) Class Counsel, finding and concluding that they meet the requirements to be class counsel pursuant to Federal Rule of Civil Procedure 23(g)[, as explained in the accompanying opinion].

9. The notice requirements of the Class Action Fairness Act, 28 U.S.C. § 1715, have been met.

10. The Court appoints Epiq Systems, Inc. as the Class Administrator to assist Rule 23(b)(3) Class Counsel in effectuating and administering the Notice Plan delineated in Appendix F to the Superseding and Amended Class Settlement Agreement and the exclusion process for Opt Outs, in analyzing and evaluating the amount of the Class Exclusion Takedown Payments, and in effectuating and administering the claims process for members of the Rule 23(b)(3) Settlement Class.

11. The Court determines that notice should be provided to members of the Rule 23(b)(3) Settlement Class with exclusion rights afforded to them as to their participation in the Rule 23(b)(3) Settlement Class.

12. The Court approves the method of notice to be provided to the Rule 23(b)(3) Settlement Class that is described in the Superseding and Amended Class Settlement Agreement and in the Notice Plan contained in Appendix F to the Superseding and Amended Class Settlement Agreement. The Court also approves the use of the long-form notice to be mailed

and included on the Case Website and the publication notice contained in Appendix G to the Superseding and Amended Class Settlement Agreement, as revised in the attached Exhibit 1.

The Court further approves the use of the additional notice attached as Exhibit 2 to be mailed to Dismissed Plaintiffs.

13. The Court finds and concludes that the foregoing notice: (a) is the best notice that is practicable under the circumstances, and is reasonably calculated to reach the members of the Rule 23(b)(3) Settlement Class that would be bound by the Superseding and Amended Class Settlement Agreement and to apprise them of the Action, the terms and conditions of the Superseding and Amended Class Settlement Agreement, their right to opt out and be excluded from the Rule 23(b)(3) Settlement Class, and to object to the Superseding and Amended Class Settlement Agreement; and (b) meets the requirements of Federal Rule of Civil Procedure 23 and due process.

14. Consistent with the Notice Plan, the Court directs the Class Administrator, as soon as practicable following the Court's entry of this Class Settlement Preliminary Approval Order, but before commencement of the mail and publication notice, to continue to provide, or re-establish, the dedicated Case Website, post office box, and toll-free telephone line for providing notice and information to members of the Rule 23(b)(3) Settlement Class, and receiving exclusion requests and other filings or communications from members of the Rule 23(b)(3) Settlement Class.

15. Within ninety days following the Court's entry of this Rule 23(b)(3) Class Settlement Preliminary Approval Order, the Class Administrator shall complete the mail and publication notice to members of the Rule 23(b)(3) Settlement Class that is described in the Notice Plan, using the long form mail notice and the publication notice contained in Appendix G

to the Superseding and Amended Class Settlement Agreement, as revised in the attached Exhibit 1.

16. As explained in the long-form notice and publication notice, any member of the Rule 23(b)(3) Settlement Class that does not wish to participate in the Rule 23(b)(3) Settlement Class shall have until one hundred eighty days after the Court's entry of this Rule 23(b)(3) Class Settlement Preliminary Approval Order — i.e., ninety days after the last date for completion of the mail and publication notice (the “Class Exclusion Period”) — to submit a request to become an Opt Out and be excluded from the Rule 23(b)(3) Settlement Class.

17. A member of the Rule 23(b)(3) Settlement Class may effect such an exclusion by sending a written request to the Class Administrator, by first-class mail with postage prepaid and postmarked or received within the Class Exclusion Period, or by overnight delivery shown as sent within the Class Exclusion Period. The written request must be signed by a person authorized to do so, and provide all of the following information:

(a) The words “In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation.”

(b) A statement of the Rule 23(b)(3) Settlement Class member's full name, address, telephone number, and taxpayer identification number.

(c) A statement that the Rule 23(b)(3) Settlement Class member desires to be excluded from the Rule 23(b)(3) Settlement Class, and by what position or authority he or she has the power to exclude the member from the Rule 23(b)(3) Settlement Class.

(d) The business names, brand names, “doing business as” names, taxpayer identification number(s), and addresses of any stores or sales locations whose sales the Rule 23(b)(3) Settlement Class member desires to be excluded from the Rule 23(b)(3) Settlement Class.

Members of the Rule 23(b)(3) Settlement Class also will be requested to provide for each such business or brand name, if reasonably available: the legal name of any parent (if applicable), dates Visa or Mastercard card acceptance began (if after January 1, 2004) and ended (if prior to the Settlement Preliminary Approval Date), names of all banks that acquired the Visa or Mastercard card transactions, and acquiring merchant ID(s).

18. As also explained in the long-form notice and publication notice, any Rule 23(b)(3) Settlement Class member that does not submit a request for exclusion, shall have until one hundred eighty days after the Court's entry of the Rule 23(b)(3) Class Settlement Preliminary Approval Order — i.e., ninety days after the last date for completion of the mail and publication notice (the "Class Objection Period") — to submit an objection to the Superseding and Amended Class Settlement Agreement, any request for Attorneys' Fee Awards, any request for Expense Awards, or any request for Rule 23(b)(3) Class Plaintiffs' Service Awards (be an "Objector"), and to file any notice to appear.

19. Such an Objector must file a written statement of objections with the Court within the Class Objection Period, and send it to the following designees of Rule 23(b)(3) Class Counsel and counsel for the Defendants, by first-class mail and postmarked within the Class Objection Period:

Designee of Rule 23(b)(3) Class Counsel: Alexandra S. Bernay, Robbins Geller Rudman & Dowd LLP, 655 West Broadway, Suite 1900, San Diego, CA, 92101-3301, xanb@rgrdlaw.com.

Designee of the Defendants: Matthew A. Eisenstein, Arnold & Porter Kaye Scholer LLP, 601 Massachusetts Ave., NW, Washington, DC, 20001-3743, matthew.eisenstein@arnoldporter.com.

20. The Objector's written statement of objections must: (a) contain the words "In re Interchange Fee and Merchant Discount Antitrust Litigation"; (b) state each and every objection of the Objector and the specific reasons therefor; (c) provide all legal support and all evidence on

which the Objector relies in support of any objection; (d) state the full name and address and telephone number of the Objector; (e) provide information sufficient to establish that the Objector is a member of the Rule 23(b)(3) Settlement Class, including the information required by Paragraphs 16(c) and (d) above; and (f) state the full name, mail address, email address, and telephone number of any counsel representing the Objector in connection with the objections.

21. In addition, any Objector or counsel for an Objector that desires to appear at the final approval hearing must file with the Court within the Class Objection Period, and send to the designees of Rule 23(b)(3) Class Counsel and the Defendants identified above, by first class mail and postmarked within the Class Objection Period, a separate notice of intention to appear that identifies by name, position, address, and telephone number each person who intends to appear at the final approval hearing on behalf of the Objector.

22. Prior to forty-five days before the end of the Class Exclusion Period and Class Objection Period — i.e., within one hundred thirty-five days after the Court's entry of this Rule 23(b)(3) Class Settlement Preliminary Approval Order — Rule 23(b)(3) Class Counsel will file all motions and supporting papers seeking the Court's final approval of the Superseding and Amended Class Settlement Agreement, and the Court's approval of any Attorneys' Fee Awards, Expense Awards, or Rule 23(b)(3) Class Plaintiffs' Service Awards with respect to the their representation of merchants in MDL 1720, which culminated in the Superseding and Amended Class Settlement Agreement. Rule 23(b)(3) Class Counsel will also file any additional details regarding the Plan of Administration and Distribution, after timely and regular consultation with the Defendants and subject to the Court's approval, prior to forty-five days before the end of the Class Exclusion Period and Class Objection Period. Rule 23(b)(3) Class Counsel will provide notice of such motions and any additional details to members of the Rule 23(b)(3) Settlement Class by causing all such motions and supporting papers, and any additional details regarding the

Plan of Administration and Distribution, to be posted prominently on the Case Website prior to, or simultaneously with, their filing with the Court.

23. Within one hundred ninety-five days after the Court's entry of the Rule 23(b)(3) Class Settlement Preliminary Approval Order— i.e., within fifteen days after the conclusion of the Class Exclusion Period — the Class Administrator shall prepare a report, and file it with the Court and provide it to the following designees of Rule 23(b)(3) Class Counsel, the Visa Defendants, the MasterCard Defendants, and the Bank Defendants:

Designee of Rule 23(b)(3) Class Counsel: Alexandra S. Bernay, Robbins Geller Rudman & Dowd LLP, 655 West Broadway, Suite 1900, San Diego, CA, 92101-3301, xanb@rgrdlaw.com.

Designee of the Visa Defendants: Matthew A. Eisenstein, Arnold & Porter Kaye Scholer LLP, 601 Massachusetts Ave., NW, Washington, DC, 20001-3743, matthew.eisenstein@arnoldporter.com.

Designee of the Mastercard Defendants: Kenneth A. Gallo, Paul, Weiss, Rifkind, Wharton & Garrison LLP, 2001 K Street, NW, Washington, DC, 20006-1047, kgallo@paulweiss.com.

Designee of the Bank Defendants: Boris Bershteyn, Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, NY 10036, boris.bershteyn@skadden.com.

24. The Class Administrator's report shall:

(a) Confirm that the Notice Plan was carried out and that the website notice, mail notice, publication notice, and any other notice to members of the Rule 23(b)(3) Settlement Class was provided in the manner directed by the Court.

(b) Identify the date on which all new content on the Case Website was made available to members of the Rule 23(b)(3) Settlement Class, and identify the dates on which the mail notice was mailed, the dates of publication notices, and the date or dates of any other notice directed by the Court.

(c) List each member of the Rule 23(b)(3) Settlement Class that sought to become an Opt Out and be excluded from the Rule 23(b)(3) Settlement Class, and on what date the request to be excluded was postmarked and received, and state whether the Rule 23(b)(3) Settlement Class member's request for exclusion was timely and validly made.

(d) Attach a copy of all documentation concerning each request for exclusion that the Class Administrator received, with any taxpayer identification number, or other confidential information filed under seal with the Court.

25. To facilitate determination of the amount of the Class Exclusion Takedown Payments, upon providing the report to designees of Rule 23(b)(3) Class Counsel, the Visa Defendants, the Mastercard Defendants, and the Bank Defendants, the Class Administrator shall also provide those designees with an electronic spreadsheet or file that identifies information obtained from each request for exclusion, in a form agreed upon by the Class Administrator, the Rule 23(b)(3) Class Counsel, the Visa Defendants, the Mastercard Defendants, and the Bank Defendants.

26. As provided in the Superseding and Amended Class Settlement Agreement, within approximately two hundred forty days after the Court's entry of the Rule 23(b)(3) Class Settlement Preliminary Approval Order, in the event that the Rule 23(b)(3) Class Plaintiffs and the Defendants have not resolved all differences regarding the amount of the Class Exclusion Takedown Payments to be made to the Visa Defendants, and to the Mastercard Defendants and Bank Defendants, they shall submit their dispute to the Court for resolution in connection with the final approval hearing, so that the Court's Rule 23(b)(3) Class Settlement Order and Final Judgment may identify each Opt Out and state the Class Exclusion Takedown Payments to be made, respectively, to the Visa Defendants, to the Mastercard Defendants, and to the Bank

Defendants from the Class Settlement Cash Escrow Account as provided in the Superseding and Amended Class Settlement Agreement.

27. The Class Administrator's expenses for the foregoing notice and exclusion activities, including those of any third-party vendors it uses to perform tasks necessary for the implementation or effectuation of its duties, shall be paid from the Class Settlement Cash Escrow Account. In no event shall any Defendant or other Rule 23(b)(3) Settlement Class Released Party have any obligation, responsibility, or liability with respect to the Class Administrator, the Notice Plan, or the exclusion procedures for members of the Rule 23(b)(3) Settlement Class, including with respect to the costs, administration expenses, or any other charges for any notice and exclusion procedures.

28. Within two hundred twenty days after the Court's entry of the Rule 23(b)(3) Class Settlement Preliminary Approval Order — i.e., within forty days after the conclusion of the Class Objection Period — Rule 23(b)(3) Class Counsel and any other party will file papers responding to objections, if any, to any aspect of the Superseding and Amended Class Settlement Agreement, or to any aspect of the requests for approval of Attorneys' Fee Awards, Expense Awards, or Rule 23(b)(3) Class Plaintiffs' Service Awards with respect to their representation of merchants in MDL 1720, which culminated in the Superseding and Amended Class Settlement Agreement.

29. The Court will hold a final approval hearing at least two hundred eighty-five days after the Court's entry of this Rule 23(b)(3) Class Settlement Preliminary Approval Order, at ____ o'clock on _____, 2019, at the Courthouse for the United States District Court for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, NY 11201. At that final approval hearing, the Court will conduct an inquiry as it deems appropriate into the fairness, reasonableness, and adequacy of the Superseding and Amended Class Settlement Agreement,

address any objections to it, and determine whether the Superseding and Amended Class Settlement Agreement and the Plan of Administration and Distribution should be finally approved, whether final judgment should be entered thereon, and whether to approve any motions for Attorneys' Fee Awards, Expense Awards, and Rule 23(b)(3) Class Plaintiffs' Service Awards.

30. The Court stays all further proceedings in this Action as between the Rule 23(b)(3) Class Plaintiffs or any other plaintiff in a putative class action consolidated in MDL 1720 and the Defendants or any other defendant in a putative class action consolidated in MDL 1720, except for proceedings in *Barry's* and proceedings related to effectuating and complying with the Superseding and Amended Class Settlement Agreement and the terms of this Order, pending the Court's determination of whether the Superseding and Amended Class Settlement Agreement should be finally approved or the termination of the Superseding and Amended Class Settlement Agreement. Orders of the Court in MDL 1720 regarding third-party claims filing companies, including the Order filed December 20, 2013 (ECF No. 6137), the Order filed December 30, 2013 (ECF No. 6147), the docket entry Order of February 25, 2014, and the Order filed October 3, 2014 (ECF No. 6349), shall apply to conduct with respect to the Superseding and Amended Class Settlement Agreement with the same force and effect as those Orders applied to conduct with respect to the Definitive Class Settlement Agreement.

31. The parties to the Superseding and Amended Class Settlement Agreement have clarified that in the first sentence of Paragraph 34(a), they understand "injunctive relief claims" to be claims to prohibit or require certain conduct, including declaratory relief claims that are a predicate for those injunctive relief claims, but not including any claims for payment of money (such as damages, restitution, or disgorgement). That clarification of the parties is hereby

incorporated into this Order without modification of the release and covenant not to sue in the Superseding and Amended Class Settlement Agreement.

32. Pending the Court's determination of whether the Superseding and Amended Class Settlement Agreement should finally be approved or the termination of the Superseding and Amended Class Settlement Agreement, the Court enjoins the members of the Rule 23(b)(3) Settlement Class from challenging in any action or proceeding any matter covered by the Superseding and Amended Class Settlement Agreement or its release and covenant not to sue provisions, and from commencing, maintaining, or participating in, or permitting another to commence, maintain, or participate in on its behalf, any claims being released against Rule 23(b)(3) Settlement Class Released Parties, except for: (a) proceedings in MDL 1720 related to effectuating and complying with the Superseding and Amended Class Settlement Agreement; (b) the pursuit in *Barry's* of injunctive relief claims; and (c) the pursuit by the named plaintiffs in actions in MDL 1720 that are not class actions of the claims in those actions, unless and until those named plaintiffs fail to exclude themselves from the Rule 23(b)(3) Settlement Class.

IT IS SO ORDERED.

DATED: _____

THE HONORABLE MARGO K. BRODIE
UNITED STATES DISTRICT JUDGE

Exhibit 1

APPENDIX G – Settlement Class Notices

Appendix G1 – Publication Notice

LEGAL NOTICE

To merchants who have accepted Visa and Mastercard at any time from January 1, 2004 to [the Settlement Preliminary Approval Date]: Notice of a class action settlement of approximately [\$5.54-6.24] Billion.

Si desea leer este aviso en español, llámenos o visite nuestro sitio web, www.PaymentCardSettlement.com.

Notice of a class action settlement authorized by the U.S. District Court, Eastern District of New York.

This notice is authorized by the Court to inform you about an agreement to settle a class action lawsuit that may affect you. The lawsuit claims that Visa and Mastercard, separately, and together with certain banks, violated antitrust laws and caused merchants to pay excessive fees for accepting Visa and Mastercard credit and debit cards, including by:

- Agreeing to set, apply, and enforce rules about merchant fees (called *default interchange fees*);
- Limiting what merchants could do to encourage their customers to use other forms of payment; and
- Continuing that conduct after Visa and Mastercard changed their corporate structures.

The defendants say they have done nothing wrong. They say that their business practices are legal and the result of competition, and have benefitted merchants and consumers. The Court has not decided who is right because the parties agreed to a settlement. The Court has given preliminary approval to this settlement.

THE SETTLEMENT

Under the settlement, Visa, Mastercard, and the bank defendants have agreed to provide approximately [\$6.24] billion in class settlement funds. Those funds are subject to a deduction to account for certain merchants that exclude themselves from the Rule 23(b)(3) Settlement Class, but in no event will the deduction be greater than \$700 million. The net class settlement fund will be used to pay valid claims of merchants that accepted Visa or Mastercard credit or debit cards at any time between January 1, 2004 and [the Settlement Preliminary Approval Date].

This settlement creates the following Rule 23(b)(3) Settlement Class: All persons, businesses, and other entities that have accepted any Visa-Branded Cards and/or Mastercard-Branded Cards in the United States at any time from January 1, 2004 to [the Settlement Preliminary Approval Date], except that the Rule 23(b)(3) Settlement Class shall not include (a) the Dismissed Plaintiffs, (b) the United States government, (c) the named Defendants in this Action or their

directors, officers, or members of their families, or (d) financial institutions that have issued Visa-Branded Cards or Mastercard-Branded Cards or acquired Visa-Branded Card transactions or Mastercard-Branded Card transactions at any time from January 1, 2004 to the Settlement Preliminary Approval Date. The Dismissed Plaintiffs are plaintiffs that previously settled and dismissed their own lawsuit against a Defendant, and entities related to those plaintiffs. If you are uncertain about whether you may be a Dismissed Plaintiff, you should call 1-800-625-6440 or visit www.PaymentCardSettlement.com for more information.

WHAT MERCHANTS WILL GET FROM THE SETTLEMENT

Every merchant in the Rule 23(b)(3) Settlement Class that does not exclude itself from the class by the deadline described below and files a valid claim will get money from the class settlement fund. The value of each claim will be based on the actual or estimated interchange fees attributable to the merchant's Mastercard and Visa payment card transactions from January 1, 2004 to [the Settlement Preliminary Approval Date]. *Pro rata* payments to merchants who file valid claims for a portion of the class settlement fund will be based on:

- The amount in the class settlement fund after the deductions described below,
- The deduction to account for certain merchants who exclude themselves from the class,
- Deductions for the cost of settlement administration and notice, applicable taxes on the settlement fund and any other related tax expenses, money awarded to the Rule 23(b)(3) Class Plaintiffs for their service on behalf of the Class, and attorneys' fees and expenses, all as approved by the Court, and
- The total dollar value of all valid claims filed.

Attorneys' fees and expenses and service awards for the Rule 23(b)(3) Class Plaintiffs: For work done through final approval of the settlement by the district court, Rule 23(b)(3) Class Counsel will ask the Court for attorneys' fees in an amount that is a reasonable proportion of the class settlement fund, not to exceed 10% of the class settlement fund, to compensate all of the lawyers and their law firms that have worked on the class case. For additional work to administer the settlement, distribute the funds, and litigate any appeals, Rule 23(b)(3) Class Counsel may seek reimbursement at their normal hourly rates. Rule 23(b)(3) Class Counsel will also request (i) an award of their litigation expenses (not including the administrative costs of settlement or notice), not to exceed \$40 million and (ii) up to \$250,000 per each of the eight Rule 23(b)(3) Class Plaintiffs in service awards for their efforts on behalf of the Rule 23(b)(3) Settlement Class.

HOW TO ASK FOR PAYMENT

To receive payment, merchants must fill out a claim form. If the Court finally approves the settlement, and you do not exclude yourself from the Rule 23(b)(3) Settlement Class, you will receive a claim form in the mail or by email. Or you may ask for one at: www.PaymentCardSettlement.com, or call: 1-800-625-6440.

LEGAL RIGHTS AND OPTIONS

Merchants who are included in this lawsuit have the legal rights and options explained below. You may:

- **File a claim to ask for payment.** Once you receive a claim form, you can submit it via mail or email, or may file it online at www.PaymentCardSettlement.com.
- **Exclude yourself** from the Rule 23(b)(3) Settlement Class. If you exclude yourself, you can individually sue the Defendants on your own at your own expense, if you want to. If you exclude yourself, you will not get any money from this settlement. If you are a merchant and wish to exclude yourself, you must make a written request, place it in an envelope, and mail it with postage prepaid and postmarked no later than [MM, DD, 2019], or send it by overnight delivery shown as sent by [MM,DD,2019], to Class Administrator, Payment Card Interchange Fee Settlement, P.O. Box 2530, Portland, OR 97208-2530. Your written request must be signed by a person authorized to do so and provide all of the following information: (1) the words “In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation,” (2) your full name, address, telephone number, and taxpayer identification number, (3) the merchant that wishes to be excluded from the Rule 23(b)(3) Settlement Class, and what position or authority you have to exclude the merchant, and (4) the business names, brand names, “doing business as” names, taxpayer identification number(s), and addresses of any stores or sales locations whose sales the merchant desires to be excluded. You also are requested to provide for each such business or brand name, if reasonably available: the legal name of any parent (if applicable), dates Visa or Mastercard card acceptance began (if after January 1, 2004) and ended (if prior to [the Settlement Preliminary Approval Date]), names of all banks that acquired the Visa or Mastercard card transactions, and acquiring merchant ID(s).
- **Object to the settlement.** The deadline to object is: **[MM DD, 2019]**. To learn how to object, visit www.PaymentCardSettlement.com or call 1-800-625-6440. Note: If you exclude yourself from the Rule 23(b)(3) Settlement Class you cannot object to the settlement.

For more information about these rights and options, visit: www.PaymentCardSettlement.com.

IF THE COURT APPROVES THE FINAL SETTLEMENT

Members of the Rule 23(b)(3) Settlement Class who do not exclude themselves by the deadline will be bound by the terms of this settlement, including the release of claims against the released parties provided in the settlement agreement, whether or not the members file a claim for payment.

The settlement will resolve and release claims by class members for monetary compensation or injunctive relief against Visa, Mastercard, or other defendants. The release bars the following claims:

- Claims based on conduct and rules that were alleged or raised in the litigation, or that could have been alleged or raised in the litigation relating to its subject

matter. This includes any claims based on interchange fees, network fees, merchant discount fees, no-surcharge rules, no-discounting rules, honor-all-cards rules, and certain other conduct and rules. These claims are released if they already have accrued or accrue in the future up to five years following the court's approval of the settlement and the resolution of all appeals.

- Claims based on rules in the future that are substantially similar to – i.e., do not change substantively the nature of – the above-mentioned rules as they existed as of preliminary approval of the settlement. These claims based on future substantially similar rules are released if they accrue up to five years following the court's approval of the settlement and the resolution of all appeals.

The settlement's resolution and release of these claims is intended to be consistent with and no broader than federal law on the identical factual predicate doctrine.

The release does *not* extinguish the following claims:

- Claims based on conduct or rules that could not have been alleged or raised in the litigation.
- Claims based on future rules that are not substantially similar to rules that were or could have been alleged or raised in the litigation.
- Any claims that accrue more than five years after the court's approval of the settlement and the resolution of any appeals.

The release also will have the effect of extinguishing all similar or overlapping claims in any other actions, including but not limited to the claims asserted in a California state court class action brought on behalf of California citizen merchants and captioned *Nuts for Candy v. Visa, Inc., et al.*, No. 17-01482 (San Mateo County Superior Court). Pursuant to an agreement between the parties in *Nuts for Candy*, subject to and upon final approval of the settlement of the Rule 23(b)(3) Settlement Class, the plaintiff in *Nuts for Candy* will request that the California state court dismiss the *Nuts for Candy* action. Plaintiff's counsel in *Nuts for Candy* may seek an award in *Nuts for Candy* of attorneys' fees not to exceed \$6,226,640.00 and expenses not to exceed \$493,697.56. Any fees or expenses awarded in *Nuts for Candy* will be separately funded and will not reduce the settlement funds available to members of the Rule 23(b)(3) Settlement Class.

The release **does not** bar the injunctive relief claims or the declaratory relief claims that are a predicate for the injunctive relief claims asserted in the pending proposed Rule 23(b)(2) class action captioned *Barry's Cut Rate Stores, Inc., et al. v. Visa, Inc., et al.*, MDL No. 1720, Docket No. 05-md-01720-MKB-JO ("*Barry's*"). Injunctive relief claims are claims to prohibit or require certain conduct. They do not include claims for payment of money, such as damages, restitution, or disgorgement. As to all such claims for declaratory or injunctive relief in *Barry's*, merchants will retain all rights pursuant to Rule 23 of the Federal Rules of Civil Procedure which they have as a named representative plaintiff or absent class member in *Barry's*, except that merchants remaining in the Rule 23(b)(3) Settlement Class **will release** their right to initiate a

new and separate action for the period up to five (5) years following the court's approval of the settlement and the exhaustion of appeals.

The release also does not bar certain claims asserted in the class action captioned *B&R Supermarket, Inc., et al. v. Visa, Inc., et al.*, No. 17-CV-02738 (E.D.N.Y.), or claims based on certain standard commercial disputes arising in the ordinary course of business.

For more information on the release, see the full mailed Notice to Rule 23(b)(3) Settlement Class Members and the settlement agreement at: www.PaymentCardSettlement.com.

THE COURT HEARING ABOUT THIS SETTLEMENT

On [MM, DD, 2019], there will be a Court hearing to decide whether to approve the proposed settlement. The hearing also will address the Rule 23(b)(3) Class Counsel's requests for attorneys' fees and expenses, and awards for the Rule 23(b)(3) Class Plaintiffs for their representation of merchants in MDL 1720, which culminated in the settlement agreement. The hearing will take place at:

United States District Court for the
Eastern District of New York
225 Cadman Plaza
Brooklyn, NY 11201

You do not have to go to the Court hearing or hire an attorney. But you can if you want to, at your own cost. The Court has appointed the law firms of Robins Kaplan LLP, Berger Montague PC, and Robbins Geller Rudman & Dowd LLP as Rule 23(b)(3) Class Counsel to represent the Rule 23(b)(3) Settlement Class.

QUESTIONS?

For more information about this case (*In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, MDL 1720), you may:

Call toll-free: 1-800-625-6440.

Visit: www.PaymentCardSettlement.com

Write to the Class Administrator:

Payment Card Interchange Fee Settlement
P.O. Box 2530
Portland, OR 97208-2530

Email: info@PaymentCardSettlement.com

Please check www.PaymentCardSettlement.com for any updates relating to the settlement or the settlement approval process.

www.PaymentCardSettlement.com

1-800-625-6440 • info@PaymentCardSettlement.com

APPENDIX G2 – Long Form Notice

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

IN RE PAYMENT CARD INTERCHANGE FEE
AND MERCHANT DISCOUNT ANTITRUST
LITIGATION

Case No. 05-md-01720 (MKB) (JO)

This Document Relates to: All Cases.

NOTICE OF CLASS ACTION SETTLEMENT

AUTHORIZED BY THE U.S. DISTRICT COURT, EASTERN DISTRICT OF NEW YORK

A settlement of as much as [\$6.24] Billion and not less than [\$5.54] Billion will provide payments to merchants that accepted Visa and Mastercard since 2004.

A federal court directed this Notice. This is not a solicitation from a lawyer.

- The Court has preliminarily approved a proposed settlement of a maximum of approximately [\$6.24] billion and a minimum of at least [\$5.54] billion in a class action lawsuit, called *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, MDL 1720 (MKB) (JO). The lawsuit is about claims that merchants paid excessive fees to accept Visa and Mastercard cards because Visa and Mastercard, individually, and together with their respective member banks, violated the antitrust laws.
- The settlement creates the following Rule 23(b)(3) Settlement Class: All persons, businesses, and other entities that have accepted any Visa-Branded Cards and/or Mastercard-Branded Cards in the United States at any time from January 1, 2004 to the Settlement Preliminary Approval Date, except that the Rule 23(b)(3) Settlement Class shall not include (a) the Dismissed Plaintiffs, (b) the United States government, (c) the named Defendants in this Action or their directors, officers, or members of their families, or (d) financial institutions that have issued Visa-Branded Cards or Mastercard-Branded Cards or acquired Visa-Branded Card transactions or Mastercard-Branded Card transactions at any time from January 1, 2004 to the Settlement Preliminary Approval Date. The Dismissed Plaintiffs are plaintiffs that previously settled and dismissed their own lawsuit against a Defendant, and entities related to those plaintiffs. If you are uncertain about whether you may be a Dismissed Plaintiff, you should call 1-800-625-6440 or visit www.PaymentCardSettlement.com for more information.
- This Notice has important information for merchants that accepted Visa and Mastercard at any time since January 1, 2004. It explains the settlement in a class action lawsuit. It also explains your rights and options in this case.

- For the full terms of the settlement, you should look at the Superseding and Amended Definitive Class Settlement Agreement of the Rule 23(b)(3) Class Plaintiffs and the Defendants and its Appendices (the “Class Settlement Agreement”), available at www.PaymentCardSettlement.com or by calling 1-800-625-6440. In the event of any conflict between the terms of this Notice and the Class Settlement Agreement, the terms of the Class Settlement Agreement shall control.
- Please check www.PaymentCardSettlement.com for any updates relating to the settlement or the settlement approval process.

Legal Rights and Options

Your legal rights and options are described in this section. You may:

File a Claim: This is the only way to get money from the settlement.

Exclude Yourself: This is the only way you can be part of another lawsuit that asks for money for claims in this case. If you exclude yourself, you will *not* get a payment from this settlement.

This is also the only way you can sue individually for injunctive relief based on the claims in this lawsuit; however, if you do not exclude yourself, you may still get injunctive relief through the proposed Rule 23(b)(2) equitable relief class action which is pending in this Court captioned *Barry's Cut Rate Stores, Inc., et. al. v. Visa, Inc., et al.*, MDL No. 1720, Docket No. 05-md-01720-MKB-JO ("*Barry's*"). The proposed Rule 23(b)(2) class is represented by other class representatives and other class counsel. (See Questions 10 and 13).

Object: If you do not agree with any part of this settlement, including the plan to distribute money to class members, or you do not agree with the requested award of attorneys' fees and expenses, or service awards for the named Rule 23(b)(3) Class Plaintiffs, you may:

- Write to the court to say why (See Questions 14 and 18), and
- Ask to speak at the Court hearing about either the fairness of this settlement or about the requested attorneys' fees or service awards. (See Question 21).

Do Nothing: If you do not file a claim, you will not get money. You will give up your rights to sue for damages about the claims in this case and to sue individually for injunctive relief about the claims in this case. You can get injunctive relief only as a member of the proposed Rule 23(b)(2) class action pending in this Court. (See Questions 10 and 13).

Deadlines: If you wish to exclude yourself from the settlement, or if you wish to be included in the settlement but want to object to the settlement, you must do so by [one hundred eighty days after the Settlement Preliminary Approval Date]. See Questions 10-24 for more information about rights and options and all deadlines.

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BASIC INFORMATION

1. Why did I get this Notice?

This Notice tells you about your rights and options in a class action lawsuit in the U.S. District Court for the Eastern District of New York. Judge Margo K. Brodie and Magistrate Judge James Orenstein are overseeing this class action, which is called *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, MDL No. 1720 (MKB) (JO). This Notice also explains the lawsuit, the proposed settlement, the benefits available, eligibility for those benefits, and how to get them.

The companies or entities who started this case are called the “Plaintiffs.” The companies they are suing are the “Defendants.”

This case has been brought on behalf of merchants. The specific merchants that filed the case are the Rule 23(b)(3) Class Plaintiffs and the Court has authorized them to act on behalf of all merchants in the class described below in connection with the proposed settlement of this case. The Rule 23(b)(3) Class Plaintiffs are:

30 Minute Photos Etc. Corporation; Traditions, Ltd.; Capital Audio Electronics, Inc.; CHS Inc.; Discount Optics, Inc.; Leon’s Transmission Service, Inc.; Parkway Corporation; and Payless Inc.

The companies that the plaintiffs have been suing are the “Defendants.” Defendants are:

- Network Defendants:

“Visa”: Visa U.S.A. Inc., Visa International Service Association, and Visa Inc.;

“Mastercard”: Mastercard International Incorporated and Mastercard Incorporated; and

- “Bank Defendants”: Bank of America, N.A.; BA Merchant Services LLC (formerly known as National Processing, Inc.); Bank of America Corporation; Barclays Bank plc; Barclays Delaware Holdings, LLC (formerly known as Juniper Financial Corporation); Barclays Bank Delaware (formerly known as Juniper Bank); Barclays Financial Corp.; Capital One Bank (USA), N.A.; Capital One F.S.B.; Capital One Financial Corporation; Chase Bank USA, N.A. (and as successor to Chase Manhattan Bank USA, N.A. and Bank One, Delaware, N.A.); Paymentech, LLC (and as successor to Chase Paymentech Solutions, LLC); JPMorgan Chase & Co. (and as successor to Bank One Corporation); JPMorgan Chase Bank, N.A. (and as successor to Washington Mutual Bank); Citibank, N.A.; Citigroup Inc.; Citicorp; Fifth Third Bancorp; First National Bank of Omaha; HSBC Finance Corporation; HSBC Bank USA, N.A.; HSBC North America Holdings Inc.; HSBC Holdings plc; HSBC Bank plc; The PNC Financial Services Group, Inc. (and as acquirer of National City Corporation); National City Corporation; National City Bank of Kentucky; SunTrust Banks, Inc.; SunTrust Bank; Texas Independent Bancshares, Inc.; and Wells Fargo & Company (and as successor to Wachovia Corporation).

2. What is this lawsuit about?

- This lawsuit is principally about the interchange fees attributable to merchants that accepted Visa or Mastercard credit or debit cards between January 1, 2004 and [the Settlement Preliminary Approval Date], and Visa’s and Mastercard’s rules for merchants that have accepted those cards.

The Rule 23(b)(3) Class Plaintiffs claim that:

- Visa, and its respective member banks, including the Bank Defendants, violated the law because they set interchange fees.

- Mastercard and its respective member banks, including the Bank Defendants, violated the law because they set interchange fees.
- Visa and its respective member banks, including the Bank Defendants, violated the law because they imposed and enforced rules that limited merchants from steering their customers to other payment methods. Those rules include so-called no-surcharge rules, no-discounting rules, honor-all-cards rules, and certain other rules. Doing so insulated them from competitive pressure to lower the interchange fees.
- Mastercard and its respective member banks, including the Bank Defendants, violated the law because they imposed and enforced rules that limited merchants from steering their customers to other payment methods. Those rules include so-called no-surcharge rules, no-discounting rules, honor-all-cards rules, and certain other rules. Doing so insulated them from competitive pressure to lower the interchange fees.
- Visa and Mastercard conspired together about some of the business practices challenged.
- Visa and its respective member banks continued in those activities despite the fact that Visa changed its corporate structure and became a publicly owned corporation after this case was filed.
- Mastercard and its respective member banks continued in those activities despite the fact that Mastercard changed its corporate structure and became a publicly owned corporation after this case was filed.
- The Defendants' conduct caused the merchants to pay excessive interchange fees for accepting Visa and Mastercard cards.
- But for Defendants' conduct there would have been no interchange fee or those fees would have been lower.

The Defendants say they have done nothing wrong. They claim their business practices are legal, justified, the result of independent competition and have benefitted merchants and consumers.

3. What is an interchange fee?

When a cardholder makes a purchase with a credit or debit card, there is an *interchange fee* attributable to those transactions, which is usually around 1% to 2% of the purchase price. Interchange fees typically account for the greatest part of the fees paid by merchants for accepting Visa and Mastercard cards.

Visa and Mastercard set interchange fee rates for different kinds of transactions and publish them on their websites, usually twice a year.

4. Why is this a class action?

In a class action, people or businesses sue not only for themselves, but also on behalf of other people or businesses with similar legal claims and interests. Together all of these people or businesses with similar claims and interests form a class, and are class members.

When a court decides a case or approves a settlement, it is applicable to all members of the class (except class members who exclude themselves). In this case, the Court has given its preliminary approval to the settlement and the class defined below in Question 6, and approved the mailing of this Notice.

5. Why is there a settlement?

The Court has not decided which side was right or wrong or if any laws were violated. Instead, both sides agreed to settle the case and avoid the cost and risk of trial and appeals that would follow a trial.

In this case, the settlement is the product of extensive negotiations, including mediation before two experienced mediators, chosen by the parties. Settling this case allows class members to receive payments. The Rule 23(b)(3) Class Plaintiffs and their lawyers believe the settlement is best for all class members.

The parties agreed to settle this case only after thirteen years of extensive litigation. During discovery, Rule 23(b)(3) Class Plaintiffs reviewed and analyzed more than 60 million pages of documents and participated in more than 550 depositions, including fact and expert depositions. Also, earlier in this litigation, motions to dismiss, motions for summary judgment, motions to exclude expert testimony, and the motion for class certification had been fully briefed and argued, but not decided by the Court.

6. Am I part of this settlement?

If this Notice was mailed to you, the Defendants' records show that you are probably in the Rule 23(b)(3) Settlement Class, consisting of:

All persons, businesses, and other entities that have accepted any Visa-Branded Cards and/or Mastercard-Branded Cards in the United States at any time from January 1, 2004 to the Settlement Preliminary Approval Date, except that the Rule 23(b)(3) Settlement Class shall not include (a) the Dismissed Plaintiffs, (b) the United States government, (c) the named Defendants in this Action or their directors, officers, or members of their families, or (d) financial institutions that have issued Visa-Branded Cards or Mastercard-Branded Cards or acquired Visa-Branded Card transactions or Mastercard-Branded Card transactions at any time from January 1, 2004 to the Settlement Preliminary Approval Date.

The Dismissed Plaintiffs are plaintiffs that previously settled and dismissed their own lawsuit against a Defendant; those plaintiffs are listed in Appendix B to the Class Settlement Agreement, which is available on the case website. The Dismissed Plaintiffs also include entities related to the plaintiffs listed in Appendix B. If you are uncertain about whether you may be a Dismissed Plaintiff, you should call 1-800-625-6440 or visit www.PaymentCardSettlement.com for more information.

The Settlement Preliminary Approval Date referenced in this class definition is [_____, 20__].

If you are not sure whether you are part of this settlement, contact the Class Administrator at:

- Call the toll-free number, 1-800-625-6440.
- Visit www.PaymentCardSettlement.com.
- Write to: P.O. Box 2530, Portland, OR 97208-2530, or
- Email: info@PaymentCardSettlement.com.

SETTLEMENT BENEFITS

7. How much money will be provided for in this settlement?

Under the settlement, Visa, Mastercard and the Bank Defendants have agreed to provide a maximum of approximately [\$6.24] billion, and a minimum of at least [\$5.54] billion depending on the class members that exclude themselves from the Rule 23(b)(3) Settlement Class.

Every merchant in the Rule 23(b)(3) Settlement Class that does not exclude itself from the class by the deadline described below and files a valid claim (“Authorized Claimant”) will be paid from the

settlement fund. This settlement fund will be reduced by an amount not to exceed \$700 million to account for merchants who exclude themselves from the Rule 23(b)(3) Settlement Class (“opt-outs”). The money in this settlement fund after the reduction for excluded merchants will also be used to pay:

- The cost of settlement administration and notice, and applicable taxes on the settlement fund and any other related tax expenses, as approved by the Court,
- Money awards for Rule 23(b)(3) Class Plaintiffs for their service on behalf of the class, as approved by the Court, and
- Attorneys’ fees and expenses, as approved by the Court.

The money in this settlement fund will only be distributed if the Court finally approves the settlement.

8. How do I ask for money from the settlement?

You must file a valid claim to get money from this settlement. If the Court finally approves the settlement, and you do not exclude yourself from the Rule 23(b)(3) Settlement Class, you will receive a claim form in the mail or by email. If you do not receive a claim form and/or are not sure whether you are part of this settlement, contact the Class Administrator at:

Call the toll-free number: 1-800-625-6440 or
write to: Payment Card Interchange Fee Settlement, P.O. Box 2530, Portland, OR 97208-2530, or
Email: info@PaymentCardSettlement.com.

How much money will I get?

The amount paid from the settlement fund will be based on your actual or estimated interchange fees attributable to Visa and Mastercard card transactions (between you and your customers) from January 1, 2004 through [the Settlement Preliminary Approval Date].

The amount of money each Authorized Claimant will receive from the settlement fund depends on the money available to pay all claims, the total dollar value of all valid claims filed, the deduction for opt-outs described above not to exceed \$700 million, the cost of class administration and notice, applicable taxes on the settlement fund and any other related tax expenses, attorneys’ fees and expenses, and money awards to the Rule 23(b)(3) Class Plaintiffs their representation of merchants in MDL 1720, which culminated in the Class Settlement Agreement, all as approved by the Court.

HOW TO FILE A CLAIM

9. How do I file a claim?

If the Court approves the settlement (see “The Court’s Fairness Hearing” below), the Court will approve a Claim Form and set a deadline for members of the Rule 23(b)(3) Settlement Class to submit claims. In order to receive a payment, you must submit a Claim Form.

If you received this Notice in the mail, a Claim Form will be mailed or emailed to you automatically. The Claim Form will also be posted on the website and available by calling the toll free number shown below. Class members will be able to submit claims electronically using this website or by email or by returning a paper Claim Form.

Who decides the value of my claim?

The Class Administrator will have data from Defendants and others which it expects will permit it to estimate the total value of interchange fees attributable to each Authorized Claimant on its Visa and Mastercard card transactions during the period from January 1, 2004 to [the Settlement Preliminary Approval Date] (“Interchange Fees Paid”). It is the current intention to utilize this data to the extent possible, to estimate the interchange fees attributable to members of the Rule 23(b)(3) Settlement Class.

Where the necessary data is not reasonably available to estimate a class member’s Interchange Fees Paid or if the Interchange Fees Paid claim value established by the Class Administrator is disputed by the class member, the class member will be required to submit information in support of its claim. This information will include, to the extent known, Interchange Fees Paid attributable to the class member, merchant discount fees paid, the class member’s merchant category code and/or a description of the class member’s business, and total Visa and Mastercard transaction volume and/or total sales volume. Based on these data, the Interchange Fees Paid attributable to the class member will be estimated for each known member of the Rule 23(b)(3) Settlement Class.

The Class Administrator also expects to provide class members the ability to access the claims website with a unique code to permit it to view the manner in which its claim value was calculated and may also provide this information on a pre-populated claim form. Class members may accept or disagree with data on the claim form or the website. The claim form and website will explain how to challenge the data.

More details about how all claims are calculated will be available at www.PaymentCardSettlement.com in Appendix I to the Class Settlement Agreement and in subsequent postings that may be made no later than [one hundred thirty-five days after the Court’s entry of the Rules 23(b)(3) Settlement Class Preliminary Approval Order].

Claim Preregistration Form

Class members may also fill out a pre-registration form at the website. You do not have to pre-register but doing so may be helpful, and does not impact your rights in this case. If you previously pre-registered on the case website, you are encouraged to check your status on the website to update any information.

What if the Class Administrator doesn’t have my data?

The claim form also allows class members for whom no financial data is available or who were not identified as class members to file a claim. Those merchants will have to fill out and sign a claim form and return it by the deadline.

Can anyone else file a claim for me?

Some companies may offer to help you file your Claim Form in exchange for a portion of your recovery from the settlement. While you may choose to use such companies, you should know that you can file with the Claims Administrator on your own, free of charge. Additionally, you are entitled to contact the Claims Administrator or Rule 23(b)(3) Class Counsel for assistance with understanding and filing your Claim Form—again, at no cost to you. Prior orders of the Court regarding third-party claims filing companies are available for review on the case website

10. Am I giving anything up by filing a claim or not filing a claim?

Members of the Rule 23(b)(3) Settlement Class who do not exclude themselves by the deadline will be bound by the terms of the Class Settlement Agreement, including the release of claims against the Defendants and other released parties identified in Paragraph 30 of the Class Settlement Agreement, whether or not the members file a claim for payment.

The settlement will resolve and release claims by class members for monetary compensation or injunctive relief against Visa, Mastercard, or other defendants. The release bars the following claims:

- Claims based on conduct and rules that were alleged or raised in the litigation, or that could have been alleged or raised in the litigation relating to its subject matter. This includes any claims based on interchange fees, network fees, merchant discount fees, no-surcharge rules, no-discounting rules, honor-all-cards rules, and certain other conduct and rules. These claims are released if they already have accrued or accrue in the future up to five years following the court's approval of the settlement and the resolution of all appeals.
- Claims based on rules in the future that are substantially similar to – i.e., do not change substantively the nature of – the above-mentioned rules as they existed as of preliminary approval of the settlement. These claims based on future substantially similar rules are released if they accrue up to five years following the court's approval of the settlement and the resolution of all appeals.

The settlement's resolution and release of these claims is intended to be consistent with and no broader than federal law on the identical factual predicate doctrine.

The release does *not* extinguish the following claims:

- Claims based on conduct or rules that could not have been alleged or raised in the litigation.
- Claims based on future rules that are not substantially similar to rules that were or could have been alleged or raised in the litigation.
- Any claims that accrue more than five years after the court's approval of the settlement and the resolution of any appeals.

The release also will have the effect of extinguishing all similar or overlapping claims in any other actions, including but not limited to the claims asserted in a California state court class action brought on behalf of California citizen merchants and captioned *Nuts for Candy v. Visa, Inc., et al.*, No. 17-01482 (San Mateo County Superior Court). Pursuant to an agreement between the parties in *Nuts for Candy*, subject to and upon final approval of the settlement of the Rule 23(b)(3) Settlement Class, the plaintiff in *Nuts for Candy* will request that the California state court dismiss the *Nuts for Candy* action. Plaintiff's counsel in *Nuts for Candy* may seek an award in *Nuts for Candy* of attorneys' fees not to exceed \$6,226,640.00 and expenses not to exceed \$493,697.56. Any fees or expenses awarded in *Nuts for Candy* will be separately funded and will not reduce the settlement funds available to members of the Rule 23(b)(3) Settlement Class.

The release does not bar the injunctive relief claims or the declaratory relief claims that are a predicate for the injunctive relief claims asserted in the pending proposed Rule 23(b)(2) class action captioned *Barry's Cut Rate Stores, Inc., et. al. v. Visa, Inc., et al.*, MDL No. 1720, Docket No. 05-md-01720-MKB-JO ("*Barry's*"). Injunctive relief claims are claims to prohibit or require certain conduct. They do not include claims for payment of money, such as damages, restitution, or disgorgement. As to all such claims for declaratory or injunctive relief in *Barry's*, merchants will retain all rights pursuant to Rule 23 of the Federal Rules of Civil Procedure which they have as a named representative plaintiff or absent class member in *Barry's*, except that merchants remaining in the Rule 23(b)(3) Settlement Class will

release their right to initiate a new and separate action for the period up to five (5) years following the court's approval of the settlement and the exhaustion of appeals.

The release also does not bar certain claims asserted in the class action captioned *B&R Supermarket, Inc., et al. v. Visa, Inc., et al.*, No. 17-CV-02738 (E.D.N.Y.), or claims based on certain standard commercial disputes arising in the ordinary course of business.

The full text of the Release for the Rule 23(b)(3) Settlement Class is set forth at pages __ to __ of this Notice. The Release describes the released claims in legal language. You should carefully read the Release and if you have questions about the Release you may:

- Call Rule 23(b)(3) Class Counsel listed in Question 16 at no charge,
- Talk to a lawyer, at your own expense, about the release and what it means to you.
- Read the complete Class Settlement Agreement and the complaints in the *Barry's, Nuts for Candy*, and *B&R Supermarket* cases, which may be viewed on the website www.PaymentCardSettlement.com.

Important! If you want to keep your right to be part of any other lawsuit based on similar claims, you must opt-out (exclude yourself) from the Rule 23(b)(3) Settlement Class.

11. How do I opt out of the Rule 23(b)(3) Settlement Class?

To opt-out (exclude yourself) from the Rule 23(b)(3) Settlement Class, send a letter to:

Class Administrator
Payment Card Interchange Fee Settlement
P.O. Box 2530
Portland, OR 97208-2530

Your letter must be postmarked by [one hundred eighty days after the Settlement Preliminary Approval Date]. You cannot exclude yourself by phone, fax, email or online.

How should I send my letter?

You may send your letter by first-class mail and pay for the postage. You also may send your letter by overnight delivery. Keep a copy for your records.

What should my letter say?

Your letter must be signed by a person authorized to do so and state as follows:

- I want to exclude [name of merchant] from the Rule 23(b)(3) Settlement Class in the case called *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*.

- My personal information is:

Name (first, middle, last):

Position:

Name of Merchant:

Address:

Phone No.:

Merchant's taxpayer identification number:

- The stores or sales locations that I want to exclude from the Rule 23(b)(3) Settlement Class are:
- For each store or sales location, provide:

Business name:

Brand names and "doing business as" names:

Address:

Taxpayer identification number(s):

- For each such business or brand name, also provide (if reasonably available):

Legal name of parent, if applicable:

Dates Visa or Mastercard card acceptance began (if after January 1, 2004) and ended (if prior to the Settlement Preliminary Approval Date):

Names of all banks that acquired the Visa or Mastercard card transactions:

Acquiring merchant ID(s):

- My position at the business that gives me the authority to exclude it from the Rule 23(b)(3) Settlement Class is as follows:

Warning! If your letter is sent after the deadline it will be considered invalid. If this happens, you won't be excluded from the Rule 23(b)(3) Settlement Class, and you will still be part of the settlement and will be bound by all of its terms.

12. If I exclude myself from the Rule 23(b)(3) Settlement Class, can I still get money from this settlement?

No. If you exclude yourself from the Rule 23(b)(3) Settlement Class:

- You cannot get money from this settlement, and
- You cannot object to the Rule 23(b)(3) Settlement.

The deadline to exclude yourself is: [one hundred eighty days after the Settlement Preliminary Approval Date]. To do this, *see*: www.PaymentCardSettlement.com.

Important! If you exclude yourself, do not file a claim form asking for payment.

13. If I do not exclude myself from the Rule 23(b)(3) Settlement Class, can I individually sue these Defendants for damages or for injunctive relief?

No. If you do not exclude yourself, you give up your right to sue any of the released parties described in the Class Settlement Agreement for released conduct until five years following the court's approval of the settlement and the exhaustion of all appeals. You also give up your right to individually pursue declaratory or injunctive relief for the same period of time except as a member of the pending proposed

Rule 23(b)(2) class action (*Barry's Cut Rate Stores, Inc., et al. v. Visa, Inc., et al.*, MDL No. 1720, Docket No. 05-md-01720-MKB-JO).

HOW TO DISAGREE WITH THE SETTLEMENT

14. What if I disagree with the settlement?

You may object to the settlement for the Rule 23(b)(3) Settlement Class if you do not exclude yourself. The Court will consider your objection(s) when it decides whether or not to finally approve the settlement.

How do I tell the Court I disagree with the settlement?

You must file a Statement of Objections with the Court at this address:

United States District Court for the Eastern District of New York
Clerk of Court
225 Cadman Plaza
Brooklyn, New York 11201

You must also send a copy of your Statement of Objections to Rule 23(b)(3) Class Counsel and Counsel for the Defendants at the following addresses:

Designated Rule 23(b)(3) Class Counsel:

Alexandra S. Bernay
Robbins Geller Rudman & Dowd LLP
655 West Broadway, Suite 1900
San Diego, CA 92101

Designated Defendants' Counsel:

Matthew A. Eisenstein
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743.

You must send your Statement of Objections postmarked no later than [one hundred eighty days after the Settlement Preliminary Approval Date].

What should my Statement of Objections say?

Your Statement of Objections must contain the following information:

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

_____ : No. 05-MD-01720 (MKB) (JO)

Merchant Discount Antitrust Litigation :

_____ :

Statement of Objections

(Merchant name) is a member of the Rule 23(b)(3) Settlement Class in the case called *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*.

(Merchant name) is a Class member because *[List information that will prove you are a class member, such as your business name and address, and how long you have accepted Visa or Mastercard cards]*.

(Merchant name) objects to the settlement in this lawsuit. It objects to *(list what part(s) of the Settlement you disagree with, e.g. the cash settlement, Allocation Plan, notice procedures, other features.)* [Note that you may also object to any requests for attorneys' fees and expenses, or service awards for the named Rule 23(b)(3) Class Plaintiffs, as part of the same objection].

My reasons for objecting are:

The laws and evidence that support each of my objections are:

My personal information is:

Name (first, middle, last):

Address:

Phone No.:

The contact information for my lawyer (if any) is:

Can I call the Court or the Judge's office about my objections?

No. If you have questions, you may visit the website for the settlement or call the Class Administrator.

www.PaymentCardSettlement.com

1-800-625-6440

15. Is objecting the same as being excluded?

No. **Objecting** means you tell the Court which part(s) of the settlement you disagree with (including the plan for distributing the settlement fund, request for attorneys' fees and expenses, or service awards for the named Rule 23(b)(3) Class Plaintiffs).

Being excluded (also called opting-out) means you tell the Court you do not want to be part of the Rule 23(b)(3) Settlement Class.

THE LAWYERS REPRESENTING YOU

16. Who are the lawyers that represent the Rule 23(b)(3) Settlement Class?

The Court has appointed the lawyers listed below to represent you. These lawyers are called Rule 23(b)(3) Class Counsel. Many other lawyers have also worked with Rule 23(b)(3) Class Counsel to represent you in this case. Because you are a class member, you do not have to pay any of these lawyers. They will be paid from the settlement funds.

K. Craig Wildfang
Robins Kaplan LLP
2800 LaSalle Plaza
800 LaSalle Avenue
Minneapolis, MN 55402

H. Laddie Montague, Jr.

Berger Montague PC
1818 Market Street
Suite 3600
Philadelphia, PA 19103

Patrick J. Coughlin

Robbins Geller Rudman & Dowd LLP
655 West Broadway, Suite 1900
San Diego, CA 92101

Should I hire my own lawyer?

You do not have to hire your own lawyer. But you can if you want to, at your own cost.

If you hire your own lawyer to appear in this case, you must tell the Court and send a copy of your notice to Rule 23(b)(3) Class Counsel at any of the addresses above.

17. How much will the lawyers and Rule 23(b)(3) Class Plaintiffs be paid?

For work done through final approval of the settlement by the district court, Rule 23(b)(3) Class Counsel will ask the Court for an amount that is a reasonable proportion of the settlement fund, not to exceed 10% of the settlement fund to compensate all of the lawyers and their law firms that have worked on the class case. For additional work to administer the settlement, distribute the settlement fund, and through any appeals, Rule 23(b)(3) Class Counsel may seek reimbursement at their normal hourly rates.

Rule 23(b)(3) Class Counsel will also request an award of their litigation expenses (not including the administrative costs of settlement or notice), not to exceed \$40 million, and the reimbursement of each of the eight Rule 23(b)(3) Class Plaintiffs' out of pocket expenses and a service award for each of them up to \$250,000 for their representation of merchants in MDL 1720, which culminated in the Class Settlement Agreement.

The amounts to be awarded as attorneys' fees, expenses, and Rule 23(b)(3) Class Plaintiffs' service awards **must** be approved by the Court. Rule 23(b)(3) Class Counsel must file their requests for fees, expenses, and service awards with the Court by [one hundred thirty-five days after the Settlement Preliminary Approval Date]. You can object to the requests for attorneys' fees, expenses, and service awards in compliance with the instructions in Question 18 below.

Copies of the lawyers' requests for fees, expenses, and service awards will be posted on the settlement website the same day they are filed.

18. How do I disagree with the requested attorneys' fees, expenses or service awards to Rule 23(b)(3) Class Plaintiffs?

You may tell the Court you object to (disagree with) any request for attorneys' fees and expenses or service awards to the Rule 23(b)(3) Class Plaintiffs. You may do so if you do not exclude yourself from the Rule 23(b)(3) Settlement Class. The Court will consider your objection(s) when it evaluates any request for attorneys' fees and expenses and/or service awards to the Rule 23(b)(3) Class Plaintiffs in connection with its decision on final approval of the settlement.

To file an objection, you must file a Statement of Objections with the Court at this address:

United States District Court for the Eastern District of New York
Clerk of Court

225 Cadman Plaza
Brooklyn, New York 11201

You must also send a copy of your Statement of Objections to Rule 23(b)(3) Class Counsel and Counsel for the Defendants at the following addresses:

Designated Rule 23(b)(3) Class Counsel:

Alexandra S. Bernay
Robbins Geller Rudman & Dowd LLP
655 West Broadway, Suite 1900
San Diego, CA 92101

Designated Defendants' Counsel:

Matthew A. Eisenstein
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743.

The Clerk of Court, the attorneys for the class and defendants must receive your letter by [one hundred eighty days after the Settlement Preliminary Approval Date].

What should my Statement of Objections say?

Your Statement of Objections must contain the following information:

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

_____ :
In re Payment Card Interchange Fee and : No. 05-MD-01720 (MKB) (JO)
Merchant Discount Antitrust Litigation :
_____ :

Statement of Objections

I am a member of the Rule 23(b)(3) Settlement Class in the case called *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*.

I am a Class member because [*List information that will prove you are a class member, such as your business name and address, and how long you have accepted Visa or Mastercard cards*].

I object to class counsel's request for attorneys' fees and expenses and/or to the request for service awards to the Rule 23(b)(3) Class Plaintiffs.

My reasons for objecting are:

The laws and evidence that support each of my objections are:

My personal information is:

Name (first, middle, last):

Address:

Phone No.:

The contact information for my lawyer (if any) is:

Can I call the Court or the Judge's office about my objections?

No. If you have questions, you may visit the website for the settlement www.PaymentCardSettlement.com or call the Class Administrator 1-800-625-6440

THE COURT'S FAIRNESS HEARING

19. When and where will the Court decide whether to approve the settlement?

There will be a Fairness Hearing at __:__.m. on _____, 201_. The hearing will take place at:

United States District Court for the Eastern District of New York
225 Cadman Plaza
Brooklyn, NY 11201

We do not know how long the Court will take to make its decision.

Important! The time and date of this hearing may change without additional mailed or published notice. For updated information on the hearing, visit: www.PaymentCardSettlement.com.

Why is there a hearing?

The hearing is about whether or not the settlement is fair, adequate, and reasonable.

The Court will consider any objections and listen to class members who have asked to speak at the hearing.

The Court will also decide whether it should give its final approval of the Plaintiffs' requests for attorneys' fees and expenses, service awards, and other costs.

20. Do I have to come to the hearing to get my money?

No. You do not have to go to the hearing, even if you sent the Court an objection. But, you can go to the hearing or hire a lawyer to go the hearing if you want to, at your own expense.

21. What if I want to speak at the hearing?

You must file a Notice of Intention to Appear with the Court at this address:

United States District Court for the Eastern District of New York
Clerk of Court
225 Cadman Plaza
Brooklyn, New York 11201

Your Notice of Intention to Appear must be filed by [one hundred eighty days after the Settlement Preliminary Approval Date]. You must also mail a copy of your letter to Rule 23(b)(3) Class Counsel and Counsel for the Defendants at the addresses listed in Question 18.

What should my Notice of Intention to Appear say?

Your Notice of Intention to Appear must be signed and contain the following information:

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

In re Payment Card Interchange Fee and : No. 05-MD-01720 (MKB) (JO)

Merchant Discount Antitrust Litigation :

_____:

- Notice of Intention to Appear
- I want to speak on behalf of (Merchant name) at the Fairness Hearing for the case called *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*.

My personal information is:

Name (first, middle, last):

Address:

Phone No.:

Personal information for other people (including lawyers) who want to speak at the hearing:

IF YOU DO NOTHING

22. What happens if I do nothing?

If you do not file a claim, you cannot get money from this settlement.

If you do not exclude yourself from the Rule 23(b)(3) Settlement Class, you cannot be part of any other lawsuit against Defendants and other released parties listed in the Rule 23(b)(3) Class Settlement Agreement for released conduct. You will be bound by the Rule 23(b)(3) Settlement Class Release, **except that** as to the declaratory and injunctive relief claims asserted in the pending proposed Rule 23(b)(2) class action captioned *Barry's Cut Rate Stores, Inc., et. al. v. Visa, Inc., et al.*, MDL No. 1720, Docket No. 05-md-01720-MKB-JO, you will continue to have all rights pursuant to Rule 23 of the Federal Rules of Civil Procedure which you have as a named representative plaintiff or absent class member in that action, except the right to initiate a new separate action before five (5) years following the court's approval of the settlement and the exhaustion of all appeals.

GETTING MORE INFORMATION

23. How do I get more information?

There are several ways to get more information about the settlement.

You will find the following information at: www.PaymentCardSettlement.com:

- The complete Superseding and Amended Class Settlement Agreement, including all attachments, and
- Other documents related to this lawsuit.

To receive a copy of the Rule 23(b)(3) Class Settlement Agreement or other documents related to this lawsuit, you may:

Visit: www.PaymentCardSettlement.com.
Write to: P.O. Box 2530, Portland, OR 97208-2530, or
Email: info@PaymentCardSettlement.com, or
Call : 1-800-625-6440 – *toll-free*

If you do not get a claim form in the mail or by email, you may download one at: www.PaymentCardSettlement.com, or call: 1-800-625-6440.

Please Do Not Attempt to Contact Judge Brodie or the Clerk of Court With Any Questions

THE FULL TEXT OF THE RELEASE

24. What is the full text of the release for the Rule 23(b)(3) Settlement Class?

29. The “Rule 23(b)(3) Settlement Class Releasing Parties” are individually and collectively Rule 23(b)(3) Class Plaintiffs and each member of the Rule 23(b)(3) Settlement Class, on behalf of themselves and any of their respective past, present, or future officers, directors, stockholders, agents, employees, legal representatives, partners, associates, trustees, parents, subsidiaries, divisions, affiliates, heirs, executors, administrators, estates, purchasers, predecessors, successors, and assigns, whether or not they object to the settlement set forth in this Superseding and Amended Class Settlement Agreement, and whether or not they make a claim for payment from the Net Cash Settlement Fund.

30. The “Rule 23(b)(3) Settlement Class Released Parties” are all of the following:

(a) Visa U.S.A. Inc., Visa International Service Association, Visa International, Visa Inc., Visa Asia Pacific Region, Visa Canada Association, Visa Central & Eastern Europe, Middle East & Africa Region, Visa Latin America & Caribbean Region, Visa Europe, Visa Europe Limited, Visa Europe Services, Inc., and any other entity that now authorizes or licenses, or in the past has authorized or licensed, a financial institution to issue any Visa-Branded Cards or to acquire any Visa-Branded Card transactions.

(b) Mastercard International Incorporated, Mastercard Incorporated, and any other entity that now authorizes or licenses, or in the past has authorized or licensed, a financial institution to issue any Mastercard-Branded Cards or to acquire any Mastercard-Branded Card transactions.

(c) Bank of America, N.A.; BA Merchant Services LLC (formerly known as National Processing, Inc.); Bank of America Corporation; NB Holdings; MBNA America Bank, N.A.; and FIA Card Services, N.A.

(d) Barclays Bank plc; Barclays Delaware Holdings, LLC (formerly known as Juniper Financial Corporation); Barclays Bank Delaware (formerly known as Juniper Bank); and Barclays Financial Corp.

(e) Capital One Bank (USA), N.A.; Capital One F.S.B.; and Capital One Financial Corporation.

(f) Chase Bank USA, N.A. (and as successor to Chase Manhattan Bank USA, N.A. and Bank One, Delaware, N.A.); Paymentech, LLC (and as successor to Chase Paymentech Solutions, LLC); JPMorgan Chase & Co. (and as successor to Bank One Corporation); and JPMorgan Chase Bank, N.A. (and as successor to Washington Mutual Bank).

(g) Citibank (South Dakota), N.A.; Citibank, N.A.; Citigroup Inc.; and Citicorp.

(h) Fifth Third Bancorp.

(i) First National Bank of Omaha.

(j) HSBC Finance Corporation; HSBC Bank USA, N.A.; HSBC North America Holdings Inc.; HSBC Holdings plc; HSBC Bank plc; and HSBC U.S.A. Inc.

(k) National City Corporation and National City Bank of Kentucky.

(l) The PNC Financial Services Group, Inc. and PNC Bank, National Association.

(m) SunTrust Banks, Inc. and SunTrust Bank.

(n) Texas Independent Bancshares, Inc.

(o) Wachovia Bank, N.A. and Wachovia Corporation.

(p) Washington Mutual, Inc.; Washington Mutual Bank; Providian National Bank (also known as Washington Mutual Card Services, Inc.); and Providian Financial Corporation.

(q) Wells Fargo & Company (and as successor to Wachovia Corporation) and Wells Fargo Bank, N.A. (and as successor to Wachovia Bank, N.A.).

(r) Each and every entity or person alleged to be a co-conspirator of any Defendant in the Third Consolidated Amended Class Action Complaint or any of the Class Actions.

(s) Each of the past, present, or future member or customer financial institutions of Visa U.S.A. Inc., Visa International Service Association, Visa Inc., Visa Europe, Visa Europe Limited, Mastercard International Incorporated, or Mastercard Incorporated.

(t) For each of the entities or persons in Paragraphs 30(a)-(s) above, each of their respective past, present, and future, direct and indirect, parents (including holding companies), subsidiaries, affiliates, and associates (all as defined in SEC Rule 12b-2 promulgated pursuant to the Securities Exchange Act of 1934), or any other entity in which more than 50% of the equity interests are held.

(u) For each of the entities or persons in Paragraphs 30(a)-(t) above, each of their respective past, present, and future predecessors, successors, purchasers, and assigns (including acquirers of all or substantially all of the assets, stock, or other ownership interests of any of the Defendants to the extent a successor's, purchaser's, or acquirer's liability is based on the Rule 23(b)(3) Settlement Class Released Parties as defined in Paragraphs 30(a)-(t) above).

(v) For each of the entities or persons in Paragraphs 30(a)-(u) above, each of their respective past, present, and future principals, trustees, partners, officers, directors, employees, agents, attorneys, legal or other representatives, trustees, heirs, executors, administrators, estates, shareholders,

advisors, predecessors, successors, purchasers, and assigns (including acquirers of all or substantially all of the assets, stock, or other ownership interests of each of the foregoing entities to the extent a successor's, purchaser's, or acquirer's liability is based on the Rule 23(b)(3) Settlement Class Released Parties as defined in Paragraphs 30(a)-(u) above).

31. In addition to the effect of the Rule 23(b)(3) Class Settlement Order and Final Judgment entered in accordance with this Superseding and Amended Class Settlement Agreement, including but not limited to any *res judicata* effect, and except as provided hereinafter in Paragraphs 34 and 37 below:

(a) The Rule 23(b)(3) Settlement Class Releasing Parties hereby expressly and irrevocably waive, and fully, finally, and forever settle, discharge, and release the Rule 23(b)(3) Settlement Class Released Parties from, any and all manner of claims, demands, actions, suits, and causes of action, whether individual, class, representative, *parens patriae*, or otherwise in nature, for damages, restitution, disgorgement, interest, costs, expenses, attorneys' fees, fines, civil or other penalties, or other payment of money, or for injunctive, declaratory, or other equitable relief, whenever incurred, whether directly, indirectly, derivatively, or otherwise, whether known or unknown, suspected or unsuspected, in law or in equity, that any Rule 23(b)(3) Settlement Class Releasing Party ever had, now has, or hereafter can, shall, or may have and that have accrued as of the Settlement Preliminary Approval Date or accrue no later than five years after the Settlement Final Date arising out of or relating to any conduct, acts, transactions, events, occurrences, statements, omissions, or failures to act of any Rule 23(b)(3) Settlement Class Released Party that are or have been alleged or otherwise raised in the Action, or that could have been alleged or raised in the Action relating to the subject matter thereof, or arising out of or relating to a continuation or continuing effect of any such conduct, acts, transactions, events, occurrences, statements, omissions, or failures to act. For avoidance of doubt, this release shall extend to, but only to, the fullest extent permitted by federal law.

(b) It is expressly agreed, for purposes of clarity, that any claims arising out of or relating to any of the following conduct, acts, transactions, events, occurrences, statements, omissions, or failures to act are claims that were or could have been alleged in this Action and relate to the subject matter thereof:

(i) any interchange fees, interchange rates, or any Rule of any Visa Defendant or Mastercard Defendant relating to interchange fees, interchange rates, or to the setting of interchange fees or interchange rates with respect to any Visa-Branded Card transactions in the United States or any Mastercard-Branded Card transactions in the United States;

(ii) any Merchant Fee of any Rule 23(b)(3) Settlement Class Released Party relating to any Visa-Branded Card transactions in the United States or any Mastercard-Branded transactions in the United States;

(iii) any actual or alleged "no surcharge" rules, "honor all cards" rules, "honor all issuers" rules, "honor all devices" rules, rules requiring the honoring of all credentials or accounts, "no minimum purchase" rules, "no discounting" rules, "non-discrimination" rules, "anti-steering" rules, Rules that limit merchants in favoring or steering customers to use certain payment systems, "all outlets" rules, "no bypass" rules, "no multi-issuer" rules, "no multi-bug" rules, routing rules, cross-border acquiring rules, card authentication or cardholder verification rules, "cardholder selection" rules or requirements, PAVD rules, rules or conduct relating to routing options regarding acceptance technology for mobile, e-commerce, or online payments, or development and implementation of tokenization standards;

(iv) any reorganization, restructuring, initial or other public offering, or other corporate structuring of any Visa Defendant or Mastercard Defendant;

(v) any service of an employee or agent of any Rule 23(b)(3) Settlement Class Released Party on any board or committee of any Visa Defendant or Mastercard Defendant; or

(vi) any actual or alleged agreement (or alleged continued participation therein) (A) between or among any Visa Defendant and any Mastercard Defendant, (B) between or among any Visa Defendant or Mastercard Defendant and any other Rule 23(b)(3) Settlement Class Released Party or Parties, or (C) between or among any Defendant or Rule 23(b)(3) Settlement Class Released Party or Parties, relating to (i)-(v) above or to any Rule 23(b)(3) Settlement Class Released Party's imposition of, compliance with, or adherence to (i)-(v) above.

(c) For purposes of clarity, references to the rules identified in this Paragraph 31 mean those rules as they are or were in place on or before the Settlement Preliminary Approval Date and rules in place thereafter that are substantially similar to those rules in place as of the Settlement Preliminary Approval Date.

32. Each Rule 23(b)(3) Settlement Class Releasing Party further expressly and irrevocably waives, and fully, finally, and forever settles and releases, any and all defenses, rights, and benefits that the Rule 23(b)(3) Settlement Class Releasing Party may have or that may be derived from the provisions of applicable law which, absent such waiver, may limit the extent or effect of the release contained in the preceding Paragraphs 29-31. Without limiting the generality of the foregoing, each Rule 23(b)(3) Settlement Class Releasing Party expressly and irrevocably waives and releases any and all defenses, rights, and benefits that the Rule 23(b)(3) Settlement Class Releasing Party might otherwise have in relation to the release by virtue of the provisions of California Civil Code Section 1542 or similar laws of any other state or jurisdiction. SECTION 1542 PROVIDES: "CERTAIN CLAIMS NOT AFFECTED BY GENERAL RELEASE. A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR." In addition, although each Rule 23(b)(3) Settlement Class Releasing Party may hereafter discover facts other than, different from, or in addition to those that it or he or she knows or believes to be true with respect to any claims released in the preceding Paragraphs 29-31, each Rule 23(b)(3) Settlement Class Releasing Party hereby expressly waives, and fully, finally, and forever settles, discharges, and releases, any known or unknown, suspected or unsuspected, contingent or non-contingent claims within the scope of the preceding Paragraphs 29-31, whether or not concealed or hidden, and without regard to the subsequent discovery or existence of such other, different, or additional facts. Rule 23(b)(3) Class Plaintiffs acknowledge, and the members of the Rule 23(b)(3) Settlement Class shall be deemed by operation of the Rule 23(b)(3) Class Settlement Order and Final Judgment to have acknowledged, that the foregoing waiver was separately bargained for and is a key element of this Superseding and Amended Class Settlement Agreement.

33. The release in Paragraphs 29-32 above does not bar an investigation or action, whether denominated as *parens patriae*, law enforcement, or regulatory, by a state, quasi-state, or local governmental entity to vindicate sovereign or quasi-sovereign interests. The release shall bar a claim brought by a state, quasi-state, or local governmental entity to the extent that such claim is based on a state, quasi-state, or local government entity's proprietary interests as a member of the Rule 23(b)(3) Settlement Class that has received or is entitled to receive a financial recovery in this action. The release shall also bar a claim, whether denominated as seeking damages, restitution, unjust enrichment, or other monetary relief, brought by a state, quasi-state, or local governmental entity for monetary harm sustained by natural persons, businesses, other non-state, non-quasi-state, and non-local governmental entities or private parties who themselves are eligible to be members of the Rule 23(b)(3) Settlement Class.

34. Notwithstanding anything to the contrary in Paragraphs 29-33 above, the release in Paragraphs 29-33 above shall not release:

(a) A Rule 23(b)(3) Settlement Class Releasing Party's continued participation, as a named representative or non-representative class member, in *Barry's Cut Rate Stores, Inc., et al. v. Visa, Inc., et al.*, MDL No. 1720 Docket No. 05-md-01720-MKB-JO ("*Barry's*"), solely as to injunctive relief claims alleged in *Barry's*. As to all such claims for injunctive relief in *Barry's*, the Rule 23(b)(3) Settlement Class Releasing Parties retain all rights pursuant to Rule 23 of the Federal Rules of Civil Procedure which they have as a named representative plaintiff or absent class member in *Barry's* except the right to initiate a new separate action before five years after the Settlement Final Date. Nothing in this Paragraph shall be read to enlarge, restrict, conflict with, or affect the terms of any release or judgment to which any Rule 23(b)(3) Settlement Class Releasing Party may become bound in *Barry's*, and nothing in the release in Paragraphs 29-33 above shall be interpreted to enlarge, restrict, conflict with, or affect the request for injunctive relief that the plaintiffs in *Barry's* may seek or obtain in *Barry's*.

(b) Any claims asserted in *B&R Supermarket, Inc., et al. v. Visa, Inc., et al.*, No. 17-CV-02738 (E.D.N.Y.), as of the date of the parties' execution of this Superseding and Amended Class Settlement Agreement, that are based on allegations that payment card networks unlawfully agreed with one another to shift the liability of fraudulent payment card transactions from card-issuing financial institutions to merchants beginning in October 2015.

(c) Any claim of a Rule 23(b)(3) Settlement Class Releasing Party that is based on standard commercial disputes arising in the ordinary course of business under contracts or commercial relations regarding loans, lines of credit, or other related banking or credit relations, individual chargeback disputes, products liability, breach of warranty, misappropriation of cardholder data or invasion of privacy, compliance with technical specifications for a merchant's acceptance of Visa-Branded Credit Cards or Debit Cards, or Mastercard-Branded Credit Cards or Debit Cards, and any other dispute arising out of a breach of any contract between any of the Rule 23(b)(3) Settlement Class Releasing Parties and any of the Rule 23(b)(3) Settlement Class Released Parties; provided, however, that Paragraphs 29-33 above and not this Paragraph shall control in the event that any such claim challenges the legality of interchange rules, interchange rates, or interchange fees, or any other Rule, fee, charge, or other conduct covered by any of the claims released in Paragraphs 29-33 above.

(d) Claims based only on an injury suffered as (i) a payment card network competitor of the Visa Defendants or the Mastercard Defendants, or (ii) an ATM operator that is not owned by, or directly or indirectly controlled by, one or more of the Rule 23(b)(3) Settlement Class Released Parties.

35. Except as provided above in Paragraph 34, upon the Settlement Final Approval Date each of the Rule 23(b)(3) Settlement Class Releasing Parties agrees and covenants not to: (a) sue any of the Rule 23(b)(3) Settlement Class Released Parties on the basis of any claim released in Paragraphs 29-33 above; (b) assist any third party in commencing or maintaining any private civil lawsuit against any Rule 23(b)(3) Settlement Class Released Party related in any way to any claim released in Paragraphs 29-33 above; or (c) take any action or make any claim until five years after the Settlement Final Date that as of or after the Settlement Final Approval Date a Rule 23(b)(3) Settlement Class Released Party has continued to participate in, and failed to withdraw from, any alleged unlawful horizontal conspiracies or agreements relating to the claims released in Paragraphs 29-33 above, which allegedly arise from or relate to the pre-IPO structure or governance of any of the Visa Defendants or the pre-IPO structure or governance of any of the Mastercard Defendants, or any Bank Defendant's participation therein. For the avoidance of doubt, however, nothing in this Paragraph shall preclude a Rule 23(b)(3) Settlement Class Releasing Party from taking any action compelled by law or court order.

36. Each Rule 23(b)(3) Settlement Class Releasing Party further releases each of the Visa Defendants, Mastercard Defendants, and Bank Defendants, and their counsel and experts in this Action, from any claims relating to the defense and conduct of this Action, including the negotiation and terms of the Definitive Class Settlement Agreement or this Superseding and Amended Class Settlement Agreement, except for any claims relating to enforcement of this Superseding and Amended Class Settlement Agreement. Each Visa Defendant, Mastercard Defendant, and Bank Defendant releases the Rule 23(b)(3) Class Plaintiffs, the other plaintiffs in the Class Actions (except for the plaintiffs named in *Barry's*), Rule 23(b)(3) Class Counsel, Rule 23(b)(3) Class Plaintiffs' other counsel who have participated in any settlement conferences before the Court for a Class Plaintiff that executes this Superseding and Amended Class Settlement Agreement, and their respective experts in the Class Actions, from any claims relating to their institution or prosecution of the Class Actions, including the negotiation and terms of the Definitive Class Settlement Agreement or this Superseding and Amended Class Settlement Agreement, except for any claims relating to enforcement of this Superseding and Amended Class Settlement Agreement.

37. In the event that this Superseding and Amended Class Settlement Agreement is terminated pursuant to Paragraphs 61-64 below, or any condition for the Settlement Final Approval Date is not satisfied, the release and covenant not to sue provisions of Paragraphs 29-36 above shall be null and void and unenforceable.

Exhibit 2

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**IN RE PAYMENT CARD
INTERCHANGE FEE AND MERCHANT
DISCOUNT ANTITRUST LITIGATION**

No. 05-md-01720 (MKB) (JO)

This Document Relates to: All Cases.

Notice of Exclusion from Class Action Settlement

AUTHORIZED BY THE U.S. DISTRICT COURT, EASTERN DISTRICT OF NEW YORK

To merchants listed on the attached Appendix B and related merchants that have accepted any Visa or Mastercard cards

Si desea leer este aviso en español, llámenos o visite nuestro sitio web, www.PaymentCardSettlement.com.

A federal court directed this Notice. This is not a solicitation from a lawyer.

This notice is authorized by the Court to inform you that you have been identified as a “Dismissed Plaintiff” (defined below) in a \$5.54-\$6.24 billion settlement of a class action lawsuit, in *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, MDL 1720 (MKB) (JO). You therefore will be excluded from the class as defined in the settlement and will not be eligible to receive settlement funds, unless you also accepted Visa and Mastercard cards in a capacity other than as a Dismissed Plaintiff.

The lawsuit claims that merchants paid excessive interchange fees to accept Visa and Mastercard cards because Visa and Mastercard, individually and together with banks, adopted rules and engaged in conduct that violated the antitrust laws. The Court initially approved a settlement with a class of merchants in 2012, but that approval was reversed on appeal. The Court now has preliminarily approved a new settlement with a class of persons, businesses, and other entities that accepted Visa-Branded Cards and Mastercard-Branded Cards since January 1, 2004.

The class and the settlement exclude “Dismissed Plaintiffs” that filed their own individual lawsuits against any Defendant¹ and subsequently dismissed those lawsuits with prejudice. The

¹ Defendants in this action are Visa U.S.A. Inc.; Visa International Service Association (also known as Visa International); Visa Inc.; Mastercard International Incorporated; Mastercard Incorporated; Bank of America, N.A.; BA Merchant Services LLC (formerly known as National Processing, Inc.); Bank of America Corporation; Barclays Bank plc; Barclays Delaware Holdings, LLC (formerly known as Juniper Financial Corporation); Barclays Bank Delaware (formerly known as Juniper Bank); Barclays Financial Corp.; Capital One Bank (USA), N.A.; Capital One F.S.B.; Capital One Financial Corporation; Chase Bank USA, N.A. (and as successor to Chase Manhattan Bank USA, N.A. and Bank One, Delaware, N.A.); Paymentech, LLC (and as successor to Chase Paymentech Solutions, LLC); JPMorgan Chase & Co. (and as successor to Bank One Corporation); JPMorgan Chase Bank, N.A. (and as successor to Washington Mutual Bank); Citibank, N.A.; Citigroup Inc.; Citicorp; Fifth Third Bancorp; First National

“Dismissed Plaintiffs” also include stores, locations, brand names, businesses, and additional entities that those dismissing plaintiffs identified in their requests to be excluded from the prior class settlement in 2012.

You have been identified as a “Dismissed Plaintiff” because you are (1) a merchant listed on the attached Appendix B that dismissed its lawsuit with prejudice, or (2) were identified as a merchant related to one of those dismissing merchants on its request to be excluded from the prior class settlement in 2012. If you have questions about why you were identified as a “Dismissed Plaintiff,” or do not believe that you should be considered a “Dismissed Plaintiff,” you should contact the counsel identified below.

If you are a “Dismissed Plaintiff” that accepted Visa or Mastercard cards *only* as a merchant listed on Appendix B or because of your relationship to one of those merchants, you will not be eligible to make a claim or receive funds in the new class action settlement.

However, if you also accepted Visa or Mastercard cards in a different capacity, you may still be able to participate in the class settlement and make a claim for settlement funds to the extent that you accepted Visa or Mastercard cards in that different capacity. That would be the case, for example, if you had other businesses, brand names, or locations not related to a merchant listed on Appendix B at which you also accepted Visa or Mastercard cards. If so, you should follow the instructions on how to participate in the settlement or exclude yourself from the settlement in a separate notice that you should receive with information regarding the lawsuit and its settlement. That notice also can be found on the website identified below. You should carefully review that notice. If you have questions, you can contact the counsel listed below for further information.

QUESTIONS?

If you have any questions about this Notice or the settlement, or how you may be eligible to participate in the settlement and receive settlement funds, you should contact:

Michael J. Kane
Berger Montague PC
1818 Market Street, Suite 3600
Philadelphia, PA 19103
mkane@bm.net
215-875-3000

More information about the settlement is available at www.PaymentCardSettlement.com

Bank of Omaha; HSBC Finance Corporation; HSBC Bank USA, N.A.; HSBC North America Holdings Inc.; HSBC Holdings plc; HSBC Bank plc; The PNC Financial Services Group, Inc. (and as acquirer of National City Corporation); National City Corporation; National City Bank of Kentucky; SunTrust Banks, Inc.; SunTrust Bank; Texas Independent Bancshares, Inc.; and Wells Fargo & Company (and as successor to Wachovia Corporation).

APPENDIX B – Dismissed Plaintiffs

BI-LO, LLC; and Bruno's Supermarkets, Inc.

Hy-Vee, Inc.

The Kroger Co.

Albertson's Inc.

Safeway, Inc.

Ahold U.S.A., Inc.

Walgreen Co.

Maxi Drug, Inc. (and doing business as Brooks Pharmacy)

Eckerd Corporation

Delhaize America, Inc.

The Great Atlantic & Pacific Tea Company

H.E. Butt Grocery Company

Meijer, Inc.; and Meijer Stores Limited Partnership

Publix Supermarkets, Inc.

QVC, Inc.

Raley's

Rite Aid Corporation; and Pathmark Stores, Inc.

Supervalu Inc.

Wakefern Food Corporation

Delta Air Lines, Inc. (and as successor in interest to Northwest Airlines Corp.); Delta Private Jets, Inc.; and MLT, Inc.

Fiesta Restaurant Group, Inc.

Alfred H. Siegel as Trustee of the Circuit City Stores, Inc. Liquidating Trust

Curtis R. Smith as Trustee of the BGI Creditors' Liquidating Trust

Performance Food Group, Inc.

META Advisors LLC (f/k/a KDW Restructuring and Liquidation Services, LLC) as Trustee of the Deel Liquidating Trust

Dots, LLC

Hewlett-Packard Company

Manheim, Inc.; AutoTrader Group, Inc.; Cox Media Group, LLC; Cox Communications, Inc.; and Cox Enterprises, Inc.

G6 Hospitality, LLC (and as successor in interest to Accor North America, Inc.); and Motel 6 Operating LP

Live Nation Entertainment, Inc.

Air Canada

Air New Zealand Limited

Amway Corp. (f/k/a Quixtar, Inc.); and Alticor Inc.

Blue Nile, LLC

Callaway Golf Company; Callaway Golf Interactive, Inc.; Callaway Golf Sales Company; and uPlay, Inc.

CheapCarribbean.com, Inc.

Cinemark USA, Inc.; CNMK Texas Properties, LLC; Laredo Theater, Ltd.; Greeley, Ltd.; Cinemark Partners II, Ltd.; and Century Theaters, Inc.

City of Houston

ClubCorp USA, Inc. (both itself and as assignee of all affiliates listed in Exhibit 5 to the August 13, 2013 complaint in *Delta Air Lines, Inc. et al. v. Visa, Inc., et al.*, No. 13-CV-04766 (E.D.N.Y.))

CST Brands, Inc.; CST USA, Inc.; CST Services, LLC; Autotronic Systems, Inc.; Big Diamond, LLC; Big Diamond Number 1, LLC; CST Arkansas Stations, LLC; CST California Stations, Inc.; CST Diamond, LP; CST Marketing and Supply Company; CST Metro LLC; CST Security Services, Inc.; Diamond Shamrock Arizona, Inc.; Diamond Shamrock Stations, Inc.; Emerald Marketing, Inc.; National Convenience Stores Incorporated; Sigmor Beverage, Inc.; Sigmor Company, LLC; Sigmor Number 5, Inc.; Sigmor Number 43, Inc.; Sigmor Number 79, Inc.; Sigmor Number 80, Inc.; Sigmor Number 103, Inc.; Sigmor Number 105, Inc.; Sigmor Number 119, Inc.; Sigmor Number 178, Inc.; Sigmor Number 196, Inc.; Sigmor Number 238, Inc.; Sigmor Number 259, Inc.; Sigmor Number 422, Inc.; Skipper Beverage Company, LLC;

Sunshine Beverage Co.; TOC-DS Company; Valley Shamrock, Inc.; and VRG Diamond Holdings, LLC

Diamond Foods, LLC

Duke Energy Corporation; Cinergy Corporation; Duke Energy Business Services LLC; Duke Energy Carolinas LLC; Duke Energy Florida, Inc.; Duke Energy Ohio, Inc.; Duke Energy Indiana, Inc.; Duke Energy Kentucky, Inc.; Duke Energy Progress, Inc.; Progress Energy Services Company LLC; and Progress Energy, Inc.

El Al Israel Airlines Ltd.

Emerald Foods, Inc.

Etihad Airways

EVA Airways Corp.

Fastrac Markets, LLC

Group 1 Automotive, Inc. (both itself and as assignee of all affiliates listed in Exhibit 1 to the August 13, 2013 in *Delta Air Lines, Inc. et al. v. Visa, Inc., et al.*, No. 13-CV-04766 (E.D.N.Y.))

Harris County, Texas

Harris County Hospital District d/b/a Harris County Health System

J Hilburn, Inc.

K Partners Hospitality Group, LP (both itself and as assignee of all affiliates listed in Exhibit 2 to the August 13, 2013 complaint in *Delta Air Lines, Inc. et al. v. Visa, Inc., et al.*, No. 13-CV-04766 (E.D.N.Y.))

KEL, Inc. d/b/a Dimensions

LQ Management, L.L.C.; La Quinta Inns, Inc.

MAPCO Express, Inc.

The Mark Travel Corporation; The Mark Travel Corporation dba Lamacchia Enterprises, Inc.; The Mark Travel Corporation dba United Vacations Hawaii; MGM Resorts Vacations, LLC dba MGM Mirage Resorts Vacations; The Mark Travel Corporation dba Blue Sky Tours, Inc.; The Mark Travel Corporation dba Nevada Coaches, LLC; The Mark Travel Corporation dba Showtime Tours; Trans Global Tours, LLC; The Mark Travel Corporation dba Adventure Tours USA; The Mark Travel Corporation dba VAX Vacation Access; The Mark Travel Corporation dba Mark International; Bestway Limousine, Inc. dba Casino Holiday; Vacations Together, Inc.; Vacation Together, Inc. dba Sears Vacation; Tratterra; The Mark Travel Corporation dba Trisept Solutions; The Mark Travel Corporation dba Global Booking Solutions (G2 Switchworks); Bestway Limousine; and Hidden Glen at Bently Farms

Mary Kay Inc.

The Men's Wearhouse, Inc. (both itself and as assignee of all affiliates listed in Exhibit 3 to the August 13, 2013 complaint in *Delta Air Lines, Inc. et al. v. Visa, Inc., et al.*, No. 13-CV-04766 (E.D.N.Y.))

Murphy Oil USA, Inc.

The Neptune Society, Inc.

OnCue Marketing, LLC; Shaw's Gulf, LLC (formerly known as Shaw's Gulf, Inc.); and Jack Griffith's Gas-Up, LLC (formerly known as Jack Griffith's Gas-Up, Inc.)

Orbitz Worldwide, LLC; Orbitz, LLC ("Orbitz.com"); and Trip Network, Inc. ("Cheaptickets.com")

Pier 1 Imports (U.S.), Inc.

Qantas Airways Limited; and Jetstar Airways Limited

RadioShack Corporation; Kiosk Operations, Inc.; SCK, Inc. a/k/a SC Kiosks, Inc.; TE Electronics, LP; Atlantic Retail Ventures, Inc.; and ITC Service, Inc.

Red Roof Inns, Inc.; Red Roof Franchising, LLC; RRI Reservations, LLC; R-Roof I, LLC; R-Roof II, LLC; R-Roof III, LLC; R-Roof IV, LLC; R-Roof V, LLC; R-Roof VI, LLC; R-Roof Holdings I, LLC; R-Roof Holdings II, LLC; R-Roof Funds, LLC; R-Roof Assets, LLC; R-Roof Business Trust I; R-Roof Business Trust IV; R-Roof Business Trust VI; R-Roof Mezz I, LLC; R-Roof Mezz II, LLC; R-Roof Mezz III, LLC; R-Roof Mezz IV, LLC; R-Roof Mezz V, LLC; R-Roof Mezz VI, LLC; R-Roof Mezz VI A, LLC; and R-Roof Mezz VI B, LLC

Red Wing Brands of America, Inc.; and Red Wing Shoe Company, Inc.

Reliant Energy Retail Services LLC; NRG EV Services LLC d/b/a eVgo; US Retailers, LLC d/b/a Pennywise Power; and Everything Energy LLC d/b/a Independence Energy

Service Corporation International; SCI Funeral & Cemetery Purchasing Cooperative, Inc. (both itself and as assignee of all affiliates listed in Exhibit 4 to the August 13, 2013 complaint in *Delta Air Lines, Inc. et al. v. Visa, Inc., et al.*, No. 13-CV-04766 (E.D.N.Y.))

Singapore Airlines Limited

Societe Air France

Suit Mart, Inc.

Travelocity.com LP

United Supermarkets, LLC

Valero Energy Corporation; and Valero Marketing and Supply Company

WW Grainger, Inc.; Zoro Tools, Inc.; Imperial Supplies LLC ; and GHC Specialty Brands, LLC

Wesco, Inc.

T-Mobile USA, Inc.; Western PCS Corporation; VoiceStream Wireless Corporation; and MetroPCS Wireless Inc.

Hawaiian Holdings, Inc.; and Hawaiian Airlines, Inc.

JetBlue Airways Corporation; and Live TV, LLC

DSW Inc. (identified as in its complaint as DSW, Inc.)

Federal Express Corporation; FedEx Ground Package Systems, Inc.; FedEx Trade Networks, Inc.; FedEx Freight, Inc.; FedEx Office and Print Services, Inc.; and FedEx Tech Connect Services, Inc. f/k/a FedEx Customer Information Services, Inc.

Southwest Airlines Co.; and Airtran Airways, Inc.

Alaska Air Group, Inc.; Alaska Airlines, Inc.; and Horizon Air Industries, Inc.

Progressive Casualty Insurance Company

Avis Budget Group, Inc.; Avis Rent A Car System LLC; Budget Rent A Car System, Inc.; Budget Truck Rental LLC; Zipcar, Inc.; and LAS Rentals, LLC d/b/a Payless Car Rental

Bed Bath & Beyond Inc.; Buy Buy Baby, Inc.; Christmas Tree Shops, Inc.; Harmon Stores, Inc.; Cost Plus, Inc.; Harbor Linen, LLC; and T-Y Group, LLC

Brinker International, Inc.

Pepper Dining, Inc.

Burlington Coat Factory Warehouse Corporation

Forever 21 Retail, Inc.

Global Cash Access, Inc.\

Harris Teeter, Inc.

Landry's, Inc.

R.T.G. Furniture Corp.

Safe Auto Insurance Company

Spirit Airlines, Inc.

Toys “R” Us, Inc.; and Toys “R” Us-Delaware, Inc.

Wegmans Food Markets, Inc.

Winn-Dixie Stores, Inc.

Carnival Corporation; and Carnival PLC

O’Reilly Automotive Stores, Inc.; and O’Reilly Auto Enterprises, LLC f/k/a CSK Auto, Inc.

British Airways, Plc

Bloomin’ Brands, Inc.

Piggly Wiggly Midwest, LLC

Butera Finer Foods, Inc.

AutoZone, Inc.

Century 21 Department Stores LLC

Host Hotels and Resorts, L.P.; HST Lessee SLT LLC; HST Lessee Boston LLC; HST Lessee Keystone LLC; HST Lessee Needham LLC; HST Lessee SNYT LLC; HST Lessee CMBS LLC; HST Lessee San Diego LP; HST Lessee Tucson LLC; HST Lessee SR Houston LP; HST Lessee WNY LLC; HST Union Square LLC; CCSH Atlanta LLC; HST WRN LLC; HST Lessee Cincinnati LLC; HST Lessee Denver LLC; HST Lessee Indianapolis LLC; HST Kierland LLC; HST Lessee LAX LP; HST Lessee Mission Hills LP; HST Grand Central LLC; HST W. Seattle LLC ; HST Lessee S. Coast LP; and HST Lessee Waltham LLC

The Gymboree Corporation

Google Inc.; and Google Payment Corp.

1-800 CONTACTS, Inc. d/b/a South Valley Optical; and 1-800 CONTACTS, Inc. (identified in the complaint in *Bass Pro Group, LLC, et al. v. Visa, Inc., et al.*, No. 14-CV-07540 (E.D.N.Y.), as 1-800 CONTACTS, Inc. d/b/a Glasses.com but formerly and no longer doing business as Glasses.com)

Bass Pro Group, LLC; American Sportsman Holdings Co.; Bass Pro Outdoor World, LLC (individually and as successor in interest to World Wide Sportsman, LLC and World Wide Sportsman, Inc.); Bass Pro Shops White River Conference & Education Center, LLC; Big Cedar, LLC; BPIP, LLC; BPS Direct, LLC; Fryingpan River Ranch, LLC; Islamorada Fish Company, LLC; Islamorada Fish Company Kansas, LLC; Islamorada Fish Company Texas, LLC; Sportsman’s Distribution Co. of GA, LLC; Sportsman’s Specialty Group, LLC; TMBC Corp. of Canada (individually and as successor in interest to TMBC Corp. of Canada (Calgary)); TMBC, LLC; Tracker Marine Financial Services, LLC; Tracker Marine, LLC (individually and as successor in interest to Mako Marine International, LLC f/k/a Mako Marine International, Inc.);

Tracker Marine Retail, LLC (individually and as successor in interest to Flagship, LLC); and Travis Boats & Motors Baton Rouge, LLC

Board of Trustees of the University of Arkansas, acting for the University of Arkansas, Fayetteville

Charming Charlie LLC (as successor in interest to Charming Charlie, Inc.)

City of Scottsdale

Crocs, Inc.; Bite, Inc.; Crocs Retail, LLC (individually and as successor in interest to Crocs Online, Inc. and Crocs Retail, Inc.); Fury, Inc.; Jibbitz, LLC; and Ocean Minded, Inc.

Ethan Allen (Canada) Inc.; Ethan Allen Interiors, Inc.; Ethan Allen Miami, LLC; Ethan Allen Operations, Inc. (and as successor to Ethan Allen Manufacturing Corporation); Ethan Allen Realty, LLC; Ethan Allen Retail, Inc. (and as successor to Ethan Allen, Inc.); Ethanallen.com Inc. (identified in the complaint in *Bass Pro Group, LLC, et al. v. Visa, Inc., et al.*, No. 14-CV-07540 (E.D.N.Y.), as Ethan Allen.com, Inc.); Ethan Allen Global, Inc; Lake Avenue Associates, Inc.; and Manor House, Inc.

Ignite Restaurant Group, Inc.; BHTT Entertainment, Inc.; BHTT Private Club – Plano TX; Crab Addison, Inc.; Ignite Restaurants – New Jersey, Inc.; Joe’s Crab Shack – Abingdon MD, Inc.; Joe’s Crab Shack – Alabama Private Club, Inc.; Joe’s Crab Shack – Anne Arundel MD, Inc. (identified in the complaint as Joe’s Crab Shack – Anne Arundel MC, Inc.); Joe’s Crab Shack – Hunt Valley MD, Inc.; Joe’s Crab Shack – Kansas, Inc.; Joe’s Crab Shack – Maryland, Inc.; Joe’s Crab Shack – Redondo Beach, Inc.; Joe’s Crab Shack – San Diego, Inc.; Joe’s Crab Shack – Texas Inc.; and JCS Monmouth Mall – NJ, LLC

Love’s Travel Stops & Country Stores, Inc.

Lucky Brand Dungarees Stores, Inc.

Nine West Holdings (identified in the complaint in *Bass Pro Group, LLC, et al. v. Visa, Inc., et al.*, No. 14-CV-07540 (E.D.N.Y.), as successor in interest to The Jones Group Inc., Brian Atwood IP Company, LLC, JAG Footwear, Accessories and Retail Corporation, Jones Apparel Group Holdings, Inc., and Jones Apparel Group USA, Inc.); Jones Distribution Corporation; Nine West Jeanswear Holding LLC f/k/a Jones Holding Inc.; Jones Investment Co. Inc.; Jones Management Service Company; One Jeanswear Group, Inc. (and as successor in interest to Jones Jeanswear Group, Inc.); and Nine West Development LLC f/k/a Nine West Development Corporation

Ross Dress for Less, Inc.

Scandinavian Airlines of North America, Inc.; and Scandinavian Airlines System Denmark–Norway–Sweden

Sinclair Oil Corporation; Grand America Hotel Company; Little America Hotel Company; Sun Valley Company; Westgate Hotel Company; Little America Hotels and Resorts Inc.; and Snowbasin Resort Company

Starving Students, Inc.

Stuart Weitzman Holdings, LLC; Lizzy Mae, Inc.; Stuart Weitzman IP, LLC; Stuart Weitzman Retail Stores, LLC; and Stuart Weitzman, LLC

Tiffany and Company d/b/a Tiffany & Co.

Twin Liquors, LP

Waffle House, Inc.; East Coast Waffles, Inc.; Mid South Waffles, Inc.; Midwest Waffles, Inc.; and Ozark Waffles, L.L.C.

Williams-Sonoma, Inc.

TXU Energy Retail Company, LLC

Minnesota Twins, LLC; Twins Ballpark, LLC; Facets Fine Jewelry, LLC; Granite City Food & Brewery Ltd.; TCA Imports, LLC; Twin Cities Hyundai, LLC; Twin Cities VW, LLC; St. Cloud Hyundai, LLC; North Branch TCA Chevrolet, LLC; Star West TCA Chevrolet, LLC; Maplewood TCA A, LLC; Golden Valley TCA P, LLC; Maplewood TCA MP, LLC; Golden Valley TCA A, LLC; and Twin Cities CRA, LLC

Grayling Corporation (d/b/a Chili's Grill & Bar); Bluewater Grille, LLC (d/b/a Blue2O Seafood Bar + Grill); Grady's American Grill Restaurant Corporation (d/b/a Porterhouse Steaks & Seafood); Grady's American Grill, L.P. (d/b/a Grady's American Grill); Quality Dining, Inc.; Bravogrand, Inc. (d/b/a Burger King); Full Service Dining, Inc. (d/b/a Spageddies); Grady's American Grill Restaurant Corporation (d/b/a Grady's American Grill); Bravotampa, LLC (d/b/a Burger King); Bravokilo, Inc. (d/b/a Burger King); Southwest Dining, Inc. (d/b/a Chili's Grill & Bar); and Full Service Dining, Inc. (d/b/a Papa Vino's Italian Kitchen)

State of Arizona

Speedy Stop Food Stores, LLC; Thomas Petroleum LLC; Thomas Foods, LLC; and C.L. Thomas, Inc.

Shop Rite, Inc.; Tobacco Plus, Inc.; Rice Palace, Inc.; and Gielen Development, Inc. (replacing plaintiff Gielen Enterprises, Inc.)

Holiday Companies; Holiday Stationstores, Inc.; Gander Mountain Company; Consumers Marine Electronics, Inc.; GMTN Tall Tales, LLC; and Overton's, Inc.

Trans World Entertainment Corporation

Maverik, Inc. (formerly doing business as Maverik Country Stores, Inc. and Caribou Four Corners, Inc.)

Carmike Cinemas, Inc.

ABC Carpet Co., Inc.; ABC Home Furnishings, Inc.; ABC Oriental Carpets, Inc.; The ABC Outlet, Inc.; and ABC Carpet of New Jersey, LLC

Furniture Row BC, Inc.; and Furniture Row, LLC

Sheetz, Inc.

Giant Eagle, Inc.; Riser Foods Company; and The Tamarkin Company

Kum & Go, L.C.

Haverty Furniture Companies, Inc.

ADFP Management Inc.

Allsup's Convenience Stores, Inc.

Citi Trends, Inc.

Kwik Trip, Inc.

Quick Chek Corporation f/k/a Quick Chek Food Stores

QuikTrip Corporation; and QuikTrip West, Incorporated

Wawa, Inc.

American Airlines, Inc.; American Airlines Group Inc.; and US Airways Group, Inc.

Urban Outfitters, Inc.

Charles M. Forman as the Chapter 7 Trustee for the consolidated bankruptcy estates of Linens Holding Co.; Linens 'n Things, Inc.; Linens 'n Things Center, Inc.; Bloomington, MN., L.T., Inc.; Vendor Finance, LLC; LNT, Inc.; LNT Services, Inc.; LNT Leasing II, LLC; LNT West, Inc.; LNT Virginia LLC; LNT Merchandising Company LLC; LNT Leasing III, LLC; and Citadel LNT, LLC

J.Crew Group, Inc.

BSN SPORTS LLC f/k/a BSN SPORTS, Inc.

RaceTrac Petroleum, Inc.

Waffle House, Inc. (and as assignee on behalf of Ahrooo Waffles, LLC; Amarillo Waffles, LLC; Angelle Enterprises, Inc.; Bluegrass Waffle, LLC; Buckeye Waffles, Inc.; Cathia Inc.; Chesapeake Waffles; Choo Choo Waffles, LLC; D. Love's Restaurants, LLC; Derby City Waffles, LLC; Hillcrest Foods, Inc. ; Hilltop Foods, LLC; J. Thomas & Co. Inc.; JD's Wild West Waffles, Inc.; JKW Enterprises, Inc.; Just Us Waffles, LLC; Lakeland Foods, Inc.; Lehigh Valley Waffles, Inc.; Lewis Jones Enterprises, Inc.; Lexidan Foods, LLC; Longhorn Waffles,

Inc.; Look Out Waffles, LLC; M&M Waffles, LLC; Memphis Food Group/River Waffles; Mericle's, Inc.; Miller Properties, Inc.; Riverside Restaurant Group, LLC; Rocky Top Waffles, LLC; Texas Waffle Co., Ltd.; TW Odom Management Services; West Penn Waffles, LLC; Winning Waffles, LLC; Yellow Brick Foods, Inc.; and Yogi Hill Corp.)

Einstein Noah Restaurant Group, Inc.

Go-Mart, Inc.

ANN INC.; AnnTaylor, Inc.; AnnTaylor Retail, Inc.; ANN INC. d/b/a Ann Taylor Stores; ANN INC. d/b/a LOFT Stores; ANN INC. d/b/a Ann Taylor Factory Stores; ANN INC. d/b/a LOFT Outlet Stores; ANN INC. d/b/a www.anntaylor.com; and ANN INC. d/b/a www.LOFT.com

NPC International, Inc.

CVS Pharmacy, Inc.

Brown-Thompson General Partnership d/b/a 7-Eleven Stores

Cleveland State University

D & H Company; Dodge Brothers, Inc. (also known as Dodge Brothers); Dodge Oil Company; Dodge Oil Company of Arkansas; Dodge Oil Company of Mississippi; East Coast Oil Company; Giant Oil Company of Mississippi; Giant Oil Company of Kentucky; Go Oil Company, Inc.; H & D Oil Company, Inc. (identified in the complaint in *National Restaurants Management, Inc., et al. v. Visa Inc., et al.*, No. 15-CV-06827 (E.D.N.Y.) as H & D Oil Company); Henry Oil Company of Tennessee; North Mississippi Oil Company; Park Oil Company; Perfection Oil Company; Progressive Oil Company; Quality Oil Company; Royal Oil Company; Savings Carolina Division; Savings Oil Company; Savings, Alabama Division, Inc.; and Savings, Inc.

GES Inc., dba Food Giant

Kent State University

National Restaurants Management, Inc.

Ohio University

The University of Akron

The University of Toledo

Youngstown State University; and YSU Bookstore

Brookstone Company, Inc.; Brookstone Stores, Inc.; and Brookstone Holdings Corp.

Newegg Inc.; and Evolution Design Lab Inc.

New Prime Inc., d/b/a "PRIME INC."

Wal-Mart Stores, Inc.; Wal-Mart Stores Texas, LLC; Wal-Mart Stores East, LP; Wal-Mart Stores East, LLC; Wal-Mart Louisiana, LLC; Wal-Mart Stores Arkansas, LLC; Sam's West, Inc.; Sam's East, Inc.; Wal-Mart.com USA, LLC; Vudu, Inc.; Inkiru, Inc.; Ozark Spirits, LLC; Green River Spirits, LLC; and Quality Licensing Corp.

State of New Mexico

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**IN RE PAYMENT CARD
INTERCHANGE FEE AND MERCHANT
DISCOUNT ANTITRUST LITIGATION**

No. 05-MD-1720 (MKB) (JO)

This Document Applies to: All Cases.

RULE 23(b)(3) CLASS SETTLEMENT PRELIMINARY APPROVAL ORDER

WHEREAS, the Court has considered the Superseding and Amended Definitive Class Settlement Agreement of the Rule 23(b)(3) Class Plaintiffs and the Defendants, including its Appendices, dated September 17, 2018 (the “Superseding and Amended Class Settlement Agreement”), which sets forth the terms and conditions for a proposed settlement of the Class Actions in MDL 1720 except for *Barry’s Cut Rate Stores, Inc., et al. v. Visa, Inc., et al.*, MDL No. 1720 Docket No. 05-md-01720-MKB-JO (“*Barry’s*”), and the termination and disposition of all causes of action against the Defendants in those Class Actions with prejudice;

WHEREAS, the Court has considered the motion of Rule 23(b)(3) Class Plaintiffs for preliminary approval of the Superseding and Amended Class Settlement Agreement, the Memorandum of Law and evidence filed in support thereof, and all other papers submitted in connection with the Superseding and Amended Class Settlement Agreement and the motion for preliminary approval, and;

WHEREAS, the Court held a hearing on **December 6**, 2018, at which the Court heard argument on whether the Superseding and Amended Class Settlement Agreement should be preliminarily approved;

NOW, THEREFORE, IT IS HEREBY ORDERED AND DECREED as follows:

1. The Court hereby approves Rule 23(b)(3) Class Plaintiffs and Defendants entering into the Superseding and Amended Class Settlement Agreement, which amends, modifies, and supersedes the Definitive Class Settlement Agreement dated October 19, 2012.¹ In addition, the Court has considered whether the Superseding and Amended Class Settlement Agreement preliminarily satisfies the class action settlement requirements of Federal Rule of Civil Procedure 23. Based on its consideration, the Court hereby also preliminarily approves the Superseding and Amended Class Settlement Agreement for class action settlement purposes, including specifically the Plan of Administration and Distribution contained in Appendix I of the Superseding and Amended Class Settlement Agreement, as within the range of a fair, reasonable, and adequate settlement within the meaning of Federal Rule of Civil Procedure 23 and applicable law, and consistent with due process.

2. This Rule 23(b)(3) Class Settlement Preliminary Approval Order incorporates by reference the definitions in the Superseding and Amended Class Settlement Agreement, and all terms herein shall have the same meanings as set forth in the Superseding and Amended Class Settlement Agreement.

3. The Court has subject matter and personal jurisdiction over the Rule 23(b)(3) Class Plaintiffs, all members of the Rule 23(b)(3) Settlement Class provisionally certified below, and the Defendants.

4. The Court orders Rule 23(b)(3) Class Counsel, the Visa Defendants, the Mastercard Defendants, and the Bank Defendants to continue to maintain the Class Settlement

¹ The Rule 23(b)(3) Class Plaintiffs include the Class Plaintiffs as defined in the Definitive Class Settlement Agreement. On April 27, 2018, the Court ordered that the claims and action of Crystal Rock LLC be dismissed. As a result, Crystal Rock LLC is not a named plaintiff in the Third Consolidated Amended Class Action Complaint or in any other operative complaint in MDL 1720, and is no longer a Class Plaintiff as defined in the Definitive Class Settlement Agreement.

Cash Escrow Account and the Class Settlement Interchange Escrow Account as provided in Paragraphs 8-12 of the Superseding and Amended Class Settlement Agreement, the Amended and Restated Class Settlement Cash Escrow Agreement (attached as Appendix C to the Superseding and Amended Class Settlement Agreement), and the Amended and Restated Class Settlement Interchange Escrow Agreement (attached as Appendix D to the Superseding and Amended Class Settlement Agreement).

5. Based on and pursuant to the class action criteria of Federal Rules of Civil Procedure 23(a) and 23(b)(3), [as explained in the accompanying opinion,] the Court preliminarily finds that the requirements of Rule 23(a) and (b)(3) have been met and therefore provisionally certifies, for settlement purposes only, a Rule 23(b)(3) Settlement Class consisting of all persons, businesses, and other entities that have accepted any Visa-Branded Cards and/or Mastercard-Branded Cards in the United States at any time from January 1, 2004 to the Settlement Preliminary Approval Date, except that the Rule 23(b)(3) Settlement Class shall not include (a) the Dismissed Plaintiffs, (b) the United States government, (c) the named Defendants in this Action or their directors, officers, or members of their families, or (d) financial institutions that have issued Visa-Branded Cards or Mastercard-Branded Cards or acquired Visa-Branded Card transactions or Mastercard-Branded Card transactions at any time from January 1, 2004 to the Settlement Preliminary Approval Date.

6. The definition of the proposed class in the Third Consolidated Amended Class Action Complaint is hereby amended to be the same as the settlement class provisionally certified above.

7. In the event of termination of the Superseding and Amended Class Settlement Agreement as provided therein, certification of the Rule 23(b)(3) Settlement Class shall

automatically be vacated and each Defendant may fully contest certification of any class as if no Rule 23(b)(3) Settlement Class had been certified.

8. The Court finds and concludes[, as explained in the accompanying opinion,] that the Rule 23(b)(3) Class Plaintiffs will fairly and adequately represent and protect the interests of the Rule 23(b)(3) Settlement Class and appoints them to serve as the representatives of the Rule 23(b)(3) Settlement Class. The Court appoints the law firms of Robins Kaplan LLP, Berger Montague PC, and Robbins Geller Rudman & Dowd LLP to serve as Rule 23(b)(3) Class Counsel, finding and concluding that they meet the requirements to be class counsel pursuant to Federal Rule of Civil Procedure 23(g)[, as explained in the accompanying opinion].

9. The notice requirements of the Class Action Fairness Act, 28 U.S.C. § 1715, have been met.

10. The Court appoints Epiq Systems, Inc. as the Class Administrator to assist Rule 23(b)(3) Class Counsel in effectuating and administering the Notice Plan delineated in Appendix F to the Superseding and Amended Class Settlement Agreement and the exclusion process for Opt Outs, in analyzing and evaluating the amount of the Class Exclusion Takedown Payments, and in effectuating and administering the claims process for members of the Rule 23(b)(3) Settlement Class.

11. The Court determines that notice should be provided to members of the Rule 23(b)(3) Settlement Class with exclusion rights afforded to them as to their participation in the Rule 23(b)(3) Settlement Class.

12. The Court approves the method of notice to be provided to the Rule 23(b)(3) Settlement Class that is described in the Superseding and Amended Class Settlement Agreement and in the Notice Plan contained in Appendix F to the Superseding and Amended Class Settlement Agreement, ~~including~~. The Court also approves the use of the long-form notice to be

mailed and included on the Case Website and the publication notice contained in Appendix G to the Superseding and Amended Class Settlement Agreement, as revised in the attached Exhibit 1.
The Court further approves the use of the additional notice attached as Exhibit 2 to be mailed to Dismissed Plaintiffs.

13. —The Court finds and concludes that ~~such~~ the foregoing notice: (a) is the best notice that is practicable under the circumstances, and is reasonably calculated to reach the members of the Rule 23(b)(3) Settlement Class that would be bound by the Superseding and Amended Class Settlement Agreement and to apprise them of the Action, the terms and conditions of the Superseding and Amended Class Settlement Agreement, their right to opt out and be excluded from the Rule 23(b)(3) Settlement Class, and to object to the Superseding and Amended Class Settlement Agreement; and (b) meets the requirements of Federal Rule of Civil Procedure 23 and due process.

1314. Consistent with the Notice Plan, the Court directs the Class Administrator, as soon as practicable following the Court's entry of this Class Settlement Preliminary Approval Order, but before commencement of the mail and publication notice, to continue to provide, or re-establish, the dedicated Case Website, post office box, and toll-free telephone line for providing notice and information to members of the Rule 23(b)(3) Settlement Class, and receiving exclusion requests and other filings or communications from members of the Rule 23(b)(3) Settlement Class.

1415. Within ninety days following the Court's entry of this Rule 23(b)(3) Class Settlement Preliminary Approval Order, the Class Administrator shall complete the mail and publication notice to members of the Rule 23(b)(3) Settlement Class that is described in the Notice Plan, using the long form mail notice and the publication notice contained in Appendix G

to the Superseding and Amended Class Settlement Agreement, as revised in the attached Exhibit 1.

~~15~~16. As explained in the long-form notice and publication notice, any member of the Rule 23(b)(3) Settlement Class that does not wish to participate in the Rule 23(b)(3) Settlement Class shall have until one hundred eighty days after the Court's entry of this Rule 23(b)(3) Class Settlement Preliminary Approval Order — i.e., ninety days after the last date for completion of the mail and publication notice (the “Class Exclusion Period”) — to submit a request to become an Opt Out and be excluded from the Rule 23(b)(3) Settlement Class.

~~16~~17. A member of the Rule 23(b)(3) Settlement Class may effect such an exclusion by sending a written request to the Class Administrator, by first-class mail with postage prepaid and postmarked or received within the Class Exclusion Period, or by overnight delivery shown as sent within the Class Exclusion Period. The written request must be signed by a person authorized to do so, and provide all of the following information:

(a) The words “In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation.”

(b) A statement of the Rule 23(b)(3) Settlement Class member's full name, address, telephone number, and taxpayer identification number.

(c) A statement that the Rule 23(b)(3) Settlement Class member desires to be excluded from the Rule 23(b)(3) Settlement Class, and by what position or authority he or she has the power to exclude the member from the Rule 23(b)(3) Settlement Class.

(d) The business names, brand names, “doing business as” names, taxpayer identification number(s), and addresses of any stores or sales locations whose sales the Rule 23(b)(3) Settlement Class member desires to be excluded from the Rule 23(b)(3) Settlement Class.

Members of the Rule 23(b)(3) Settlement Class also will be requested to provide for each such business or brand name, if reasonably available: the legal name of any parent (if applicable), dates Visa or Mastercard card acceptance began (if after January 1, 2004) and ended (if prior to the Settlement Preliminary Approval Date), names of all banks that acquired the Visa or Mastercard card transactions, and acquiring merchant ID(s).

1718. As also explained in the long-form notice and publication notice, any Rule 23(b)(3) Settlement Class member that does not submit a request for exclusion, shall have until one hundred eighty days after the Court's entry of the Rule 23(b)(3) Class Settlement Preliminary Approval Order — i.e., ninety days after the last date for completion of the mail and publication notice (the "Class Objection Period") — to submit an objection to the Superseding and Amended Class Settlement Agreement, any request for Attorneys' Fee Awards, any request for Expense Awards, or any request for Rule 23(b)(3) Class Plaintiffs' Service Awards (be an "Objector"), and to file any notice to appear.

1819. Such an Objector must file a written statement of objections with the Court within the Class Objection Period, and send it to the following designees of Rule 23(b)(3) Class Counsel and counsel for the Defendants, by first-class mail and postmarked within the Class Objection Period:

Designee of Rule 23(b)(3) Class Counsel: Alexandra S. Bernay, Robbins Geller Rudman & Dowd LLP, 655 West Broadway, Suite 1900, San Diego, CA, 92101-3301, xanb@rgrdlaw.com.

Designee of the Defendants: Matthew A. Eisenstein, Arnold & Porter Kaye Scholer LLP, 601 Massachusetts Ave., NW, Washington, DC, 20001-3743, matthew.eisenstein@arnoldporter.com.

1920. The Objector's written statement of objections must: (a) contain the words "In re Interchange Fee and Merchant Discount Antitrust Litigation"; (b) state each and every objection of the Objector and the specific reasons therefor; (c) provide all legal support and all evidence on

which the Objector relies in support of any objection; (d) state the full name and address and telephone number of the Objector; (e) provide information sufficient to establish that the Objector is a member of the Rule 23(b)(3) Settlement Class, including the information required by Paragraphs 16(c) and (d) above; and (f) state the full name, mail address, email address, and telephone number of any counsel representing the Objector in connection with the objections.

2021. In addition, any Objector or counsel for an Objector that desires to appear at the final approval hearing must file with the Court within the Class Objection Period, and send to the designees of Rule 23(b)(3) Class Counsel and the Defendants identified above, by first class mail and postmarked within the Class Objection Period, a separate notice of intention to appear that identifies by name, position, address, and telephone number each person who intends to appear at the final approval hearing on behalf of the Objector.

2122. Prior to forty-five days before the end of the Class Exclusion Period and Class Objection Period — i.e., within one hundred thirty-five days after the Court's entry of this Rule 23(b)(3) Class Settlement Preliminary Approval Order — Rule 23(b)(3) Class Counsel will file all motions and supporting papers seeking the Court's final approval of the Superseding and Amended Class Settlement Agreement, and the Court's approval of any Attorneys' Fee Awards, Expense Awards, or Rule 23(b)(3) Class Plaintiffs' Service Awards with respect to the their representation of merchants in MDL 1720, which culminated in the Superseding and Amended Class Settlement Agreement. Rule 23(b)(3) Class Counsel will also file any additional details regarding the Plan of Administration and Distribution, after timely and regular consultation with the Defendants and subject to the Court's approval, prior to forty-five days before the end of the Class Exclusion Period and Class Objection Period. Rule 23(b)(3) Class Counsel will provide notice of such motions and any additional details to members of the Rule 23(b)(3) Settlement Class by causing all such motions and supporting papers, and any additional details regarding the

Plan of Administration and Distribution, to be posted prominently on the Case Website prior to, or simultaneously with, their filing with the Court.

2223. Within one hundred ninety-five days after the Court's entry of the Rule 23(b)(3) Class Settlement Preliminary Approval Order— i.e., within fifteen days after the conclusion of the Class Exclusion Period — the Class Administrator shall prepare a report, and file it with the Court and provide it to the following designees of Rule 23(b)(3) Class Counsel, the Visa Defendants, the MasterCard Defendants, and the Bank Defendants:

Designee of Rule 23(b)(3) Class Counsel: Alexandra S. Bernay, Robbins Geller Rudman & Dowd LLP, 655 West Broadway, Suite 1900, San Diego, CA, 92101-3301, xanb@rgrdlaw.com.

Designee of the Visa Defendants: Matthew A. Eisenstein, Arnold & Porter Kaye Scholer LLP, 601 Massachusetts Ave., NW, Washington, DC, 20001-3743, matthew.eisenstein@arnoldporter.com.

Designee of the Mastercard Defendants: Kenneth A. Gallo, Paul, Weiss, Rifkind, Wharton & Garrison LLP, 2001 K Street, NW, Washington, DC, 20006-1047, kgallo@paulweiss.com.

Designee of the Bank Defendants: Boris Bershteyn, Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, NY 10036, boris.bershteyn@skadden.com.

2324. The Class Administrator's report shall:

(a) Confirm that the Notice Plan was carried out and that the website notice, mail notice, publication notice, and any other notice to members of the Rule 23(b)(3) Settlement Class was provided in the manner directed by the Court.

(b) Identify the date on which all new content on the Case Website was made available to members of the Rule 23(b)(3) Settlement Class, and identify the dates on which the mail notice was mailed, the dates of publication notices, and the date or dates of any other notice directed by the Court.

(c) List each member of the Rule 23(b)(3) Settlement Class that sought to become an Opt Out and be excluded from the Rule 23(b)(3) Settlement Class, and on what date the request to be excluded was postmarked and received, and state whether the Rule 23(b)(3) Settlement Class member's request for exclusion was timely and validly made.

(d) Attach a copy of all documentation concerning each request for exclusion that the Class Administrator received, with any taxpayer identification number, or other confidential information filed under seal with the Court.

2425. To facilitate determination of the amount of the Class Exclusion Takedown Payments, upon providing the report to designees of Rule 23(b)(3) Class Counsel, the Visa Defendants, the Mastercard Defendants, and the Bank Defendants, the Class Administrator shall also provide those designees with an electronic spreadsheet or file that identifies information obtained from each request for exclusion, in a form agreed upon by the Class Administrator, the Rule 23(b)(3) Class Counsel, the Visa Defendants, the Mastercard Defendants, and the Bank Defendants.

2526. As provided in the Superseding and Amended Class Settlement Agreement, within approximately two hundred forty days after the Court's entry of the Rule 23(b)(3) Class Settlement Preliminary Approval Order, in the event that the Rule 23(b)(3) Class Plaintiffs and the Defendants have not resolved all differences regarding the amount of the Class Exclusion Takedown Payments to be made to the Visa Defendants, and to the Mastercard Defendants and Bank Defendants, they shall submit their dispute to the Court for resolution in connection with the final approval hearing, so that the Court's Rule 23(b)(3) Class Settlement Order and Final Judgment may identify each Opt Out and state the Class Exclusion Takedown Payments to be made, respectively, to the Visa Defendants, to the Mastercard Defendants, and to the Bank

Defendants from the Class Settlement Cash Escrow Account as provided in the Superseding and Amended Class Settlement Agreement.

2627. The Class Administrator's expenses for the foregoing notice and exclusion activities, including those of any third-party vendors it uses to perform tasks necessary for the implementation or effectuation of its duties, shall be paid from the Class Settlement Cash Escrow Account. In no event shall any Defendant or other Rule 23(b)(3) Settlement Class Released Party have any obligation, responsibility, or liability with respect to the Class Administrator, the Notice Plan, or the exclusion procedures for members of the Rule 23(b)(3) Settlement Class, including with respect to the costs, administration expenses, or any other charges for any notice and exclusion procedures.

2728. Within two hundred twenty days after the Court's entry of the Rule 23(b)(3) Class Settlement Preliminary Approval Order — i.e., within forty days after the conclusion of the Class Objection Period — Rule 23(b)(3) Class Counsel and any other party will file papers responding to objections, if any, to any aspect of the Superseding and Amended Class Settlement Agreement, or to any aspect of the requests for approval of Attorneys' Fee Awards, Expense Awards, or Rule 23(b)(3) Class Plaintiffs' Service Awards with respect to their representation of merchants in MDL 1720, which culminated in the Superseding and Amended Class Settlement Agreement.

2829. The Court will hold a final approval hearing at least two hundred eighty-five days after the Court's entry of this Rule 23(b)(3) Class Settlement Preliminary Approval Order, at ____ o'clock on _____, 2019, at the Courthouse for the United States District Court for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, NY 11201. At that final approval hearing, the Court will conduct an inquiry as it deems appropriate into the fairness, reasonableness, and adequacy of the Superseding and Amended Class Settlement Agreement,

address any objections to it, and determine whether the Superseding and Amended Class Settlement Agreement and the Plan of Administration and Distribution should be finally approved, whether final judgment should be entered thereon, and whether to approve any motions for Attorneys' Fee Awards, Expense Awards, and Rule 23(b)(3) Class Plaintiffs' Service Awards.

2930. The Court stays all further proceedings in this Action as between the Rule 23(b)(3) Class Plaintiffs or any other plaintiff in a putative class action consolidated in MDL 1720 and the Defendants or any other defendant in a putative class action consolidated in MDL 1720, except for proceedings in *Barry's* and proceedings related to effectuating and complying with the Superseding and Amended Class Settlement Agreement and the terms of this Order, pending the Court's determination of whether the Superseding and Amended Class Settlement Agreement should be finally approved or the termination of the Superseding and Amended Class Settlement Agreement. Orders of the Court in MDL 1720 regarding third-party claims filing companies, including the Order filed December 20, 2013 (ECF No. 6137), the Order filed December 30, 2013 (ECF No. 6147), the docket entry Order of February 25, 2014, and the Order filed October 3, 2014 (ECF No. 6349), shall apply to conduct with respect to the Superseding and Amended Class Settlement Agreement with the same force and effect as those Orders applied to conduct with respect to the Definitive Class Settlement Agreement.

31. The parties to the Superseding and Amended Class Settlement Agreement have clarified that in the first sentence of Paragraph 34(a), they understand "injunctive relief claims" to be claims to prohibit or require certain conduct, including declaratory relief claims that are a predicate for those injunctive relief claims, but not including any claims for payment of money (such as damages, restitution, or disgorgement). That clarification of the parties is hereby

incorporated into this Order without modification of the release and covenant not to sue in the Superseding and Amended Class Settlement Agreement.

~~3032~~. Pending the Court's determination of whether the Superseding and Amended Class Settlement Agreement should finally be approved or the termination of the Superseding and Amended Class Settlement Agreement, the Court enjoins the members of the Rule 23(b)(3) Settlement Class from challenging in any action or proceeding any matter covered by the Superseding and Amended Class Settlement Agreement or its release and covenant not to sue provisions, and from commencing, maintaining, or participating in, or permitting another to commence, maintain, or participate in on its behalf, any claims being released against Rule 23(b)(3) Settlement Class Released Parties, except for: (a) proceedings in MDL 1720 related to effectuating and complying with the Superseding and Amended Class Settlement Agreement; (b) the pursuit in *Barry's* of injunctive relief claims; and (c) the pursuit by the named plaintiffs in actions in MDL 1720 that are not class actions of the claims in those actions, unless and until those named plaintiffs fail to exclude themselves from the Rule 23(b)(3) Settlement Class.

IT IS SO ORDERED.

DATED: _____

THE HONORABLE MARGO K. BRODIE
UNITED STATES DISTRICT JUDGE

Exhibit 1

APPENDIX G – Settlement Class Notices

Appendix G1 – Publication Notice

LEGAL NOTICE

To merchants who have accepted Visa and Mastercard at any time from January 1, 2004 to [the Settlement Preliminary Approval Date]: Notice of a class action settlement of approximately [\$5.54-6.24] Billion.

Si desea leer este aviso en español, llámenos o visite nuestro sitio web, www.PaymentCardSettlement.com.

Notice of a class action settlement authorized by the U.S. District Court, Eastern District of New York.

This notice is authorized by the Court to inform you about an agreement to settle a class action lawsuit that may affect you. The lawsuit claims that Visa and Mastercard, separately, and together with certain banks, violated antitrust laws and caused merchants to pay excessive fees for accepting Visa and Mastercard credit and debit cards, including by:

- Agreeing to set, apply, and enforce rules about merchant fees (called *default interchange fees*);
- Limiting what merchants could do to encourage their customers to use other forms of payment; and
- Continuing that conduct after Visa and Mastercard changed their corporate structures.

The defendants say they have done nothing wrong. They say that their business practices are legal and the result of competition, and have benefitted merchants and consumers. The Court has not decided who is right because the parties agreed to a settlement. The Court has given preliminary approval to this settlement.

THE SETTLEMENT

Under the settlement, Visa, Mastercard, and the bank defendants have agreed to provide approximately [\$6.24] billion in class settlement funds. Those funds are subject to a deduction to account for certain merchants that exclude themselves from the Rule 23(b)(3) Settlement Class, but in no event will the deduction be greater than \$700 million. The net class settlement fund will be used to pay valid claims of merchants that accepted Visa or Mastercard credit or debit cards at any time between January 1, 2004 and [the Settlement Preliminary Approval Date].

This settlement creates the following Rule 23(b)(3) Settlement Class: All persons, businesses, and other entities that have accepted any Visa-Branded Cards and/or Mastercard-Branded Cards in the United States at any time from January 1, 2004 to [the Settlement Preliminary Approval Date], except that the Rule 23(b)(3) Settlement Class shall not include (a) the Dismissed Plaintiffs, (b) the United States government, (c) the named Defendants in this Action or their

directors, officers, or members of their families, or (d) financial institutions that have issued Visa-Branded Cards or Mastercard-Branded Cards or acquired Visa-Branded Card transactions or Mastercard-Branded Card transactions at any time from January 1, 2004 to the Settlement Preliminary Approval Date. ~~The Dismissed Plaintiffs are plaintiffs that have previously settled individually with a Defendant.~~ The Dismissed Plaintiffs are plaintiffs that previously settled and dismissed their own lawsuit against a Defendant, and entities related to those plaintiffs. If you are uncertain about whether you may be a Dismissed Plaintiff, you should call 1-800-625-6440 or visit www.PaymentCardSettlement.com for more information.

WHAT MERCHANTS WILL GET FROM THE SETTLEMENT

Every merchant in the Rule 23(b)(3) Settlement Class that does not exclude itself from the class by the deadline described below and files a valid claim will get money from the class settlement fund. The value of each claim will be based on the actual or estimated interchange fees attributable to the merchant's Mastercard and Visa payment card transactions from January 1, 2004 to [the Settlement Preliminary Approval Date]. *Pro rata* payments to merchants who file valid claims for a portion of the class settlement fund will be based on:

- The amount in the class settlement fund after the deductions described below,
- The deduction to account for certain merchants who exclude themselves from the class,
- Deductions for the cost of settlement administration and notice, applicable taxes on the settlement fund and any other related tax expenses, money awarded to the Rule 23(b)(3) Class Plaintiffs for their service on behalf of the Class, and attorneys' fees and expenses, all as approved by the Court, and
- The total dollar value of all valid claims filed.

Attorneys' fees and expenses and service awards for the Rule 23(b)(3) Class Plaintiffs: For work done through final approval of the settlement by the district court, Rule 23(b)(3) Class Counsel will ask the Court for attorneys' fees in an amount that is a reasonable proportion of the class settlement fund, not to exceed 10% of the class settlement fund, to compensate all of the lawyers and their law firms that have worked on the class case. For additional work to administer the settlement, distribute the funds, and litigate any appeals, Rule 23(b)(3) Class Counsel may seek reimbursement at their normal hourly rates. Rule 23(b)(3) Class Counsel will also request (i) an award of their litigation expenses (not including the administrative costs of settlement or notice), not to exceed \$40 million and (ii) up to \$250,000 per each of the eight Rule 23(b)(3) Class Plaintiffs in service awards for their efforts on behalf of the Rule 23(b)(3) Settlement Class.

HOW TO ASK FOR PAYMENT

To receive payment, merchants must fill out a claim form. If the Court finally approves the settlement, and you do not exclude yourself from the Rule 23(b)(3) Settlement Class, you will receive a claim form in the mail or by email. Or you may ask for one at: www.PaymentCardSettlement.com, or call: 1-800-625-6440.

LEGAL RIGHTS AND OPTIONS

Merchants who are included in this lawsuit have the legal rights and options explained below. You may:

- **File a claim to ask for payment.** Once you receive a claim form, you can submit it via mail or email, or may file it online at www.PaymentCardSettlement.com.
- **Exclude yourself** from the Rule 23(b)(3) Settlement Class. If you exclude yourself, you can individually sue the Defendants on your own at your own expense, if you want to. If you exclude yourself, you will not get any money from this settlement. If you are a merchant and wish to exclude yourself, you must make a written request, place it in an envelope, and mail it with postage prepaid and postmarked no later than [MM, DD, 2019], or send it by overnight delivery shown as sent by [MM,DD,2019], to Class Administrator, Payment Card Interchange Fee Settlement, P.O. Box 2530, Portland, OR 97208-2530. Your written request must be signed by a person authorized to do so and provide all of the following information: (1) the words “In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation,” (2) your full name, address, telephone number, and taxpayer identification number, (3) the merchant that wishes to be excluded from the Rule 23(b)(3) Settlement Class, and what position or authority you have to exclude the merchant, and (4) the business names, brand names, “doing business as” names, taxpayer identification number(s), and addresses of any stores or sales locations whose sales the merchant desires to be excluded. You also are requested to provide for each such business or brand name, if reasonably available: the legal name of any parent (if applicable), dates Visa or Mastercard card acceptance began (if after January 1, 2004) and ended (if prior to [the Settlement Preliminary Approval Date]), names of all banks that acquired the Visa or Mastercard card transactions, and acquiring merchant ID(s).
- **Object to the settlement.** The deadline to object is: [MM DD, 2019]. To learn how to object, visit www.PaymentCardSettlement.com or call 1-800-625-6440. Note: If you exclude yourself from the Rule 23(b)(3) Settlement Class you cannot object to the settlement.

For more information about these rights and options, visit: www.PaymentCardSettlement.com.

IF THE COURT APPROVES THE FINAL SETTLEMENT

Members of the Rule 23(b)(3) Settlement Class who do not exclude themselves by the deadline will be bound by the terms of this settlement, including the release of claims against the released parties provided in the settlement agreement, whether or not the members file a claim for payment.

~~The settlement will resolve and release any claims for monetary compensation or injunctive relief by merchants against Visa, Mastercard, or other defendants that were or could have been alleged in the lawsuit. This includes any claims based on interchange fees, network fees, merchant discount fees, no surcharge rules, no discounting rules, honor all cards rules, and certain other rules, including any continuing or future rules that are substantially similar to the above mentioned rules. The release will bar claims that have accrued within five (5) years~~

following the court's approval of the settlement and the exhaustion of all appeals. The settlement will resolve and release claims by class members for monetary compensation or injunctive relief against Visa, Mastercard, or other defendants. The release bars the following claims:

- Claims based on conduct and rules that were alleged or raised in the litigation, or that could have been alleged or raised in the litigation relating to its subject matter. This includes any claims based on interchange fees, network fees, merchant discount fees, no-surcharge rules, no-discounting rules, honor-all-cards rules, and certain other conduct and rules. These claims are released if they already have accrued or accrue in the future up to five years following the court's approval of the settlement and the resolution of all appeals.
- Claims based on rules in the future that are substantially similar to – i.e., do not change substantively the nature of – the above-mentioned rules as they existed as of preliminary approval of the settlement. These claims based on future substantially similar rules are released if they accrue up to five years following the court's approval of the settlement and the resolution of all appeals.

The settlement's resolution and release of these claims is intended to be consistent with and no broader than federal law on the identical factual predicate doctrine.

The release does not extinguish the following claims:

- Claims based on conduct or rules that could not have been alleged or raised in the litigation.
- Claims based on future rules that are not substantially similar to rules that were or could have been alleged or raised in the litigation.
- Any claims that accrue more than five years after the court's approval of the settlement and the resolution of any appeals.

The release also will have the effect of extinguishing all similar or overlapping claims in any other actions, including but not limited to the claims asserted in a California state court class action brought on behalf of California citizen merchants and captioned *Nuts for Candy v. Visa, Inc., et al.*, No. 17-01482 (San Mateo County Superior Court). Pursuant to an agreement between the parties in *Nuts for Candy*, subject to and upon final approval of the settlement of the Rule 23(b)(3) Settlement Class, the plaintiff in *Nuts for Candy* will request that the California state court dismiss the *Nuts for Candy* action. Plaintiff's counsel in *Nuts for Candy* may seek an award in *Nuts for Candy* of attorneys' fees not to exceed \$6,226,640.00 and expenses not to exceed \$493,697.56. Any fees or expenses awarded in *Nuts for Candy* will be separately funded and will not reduce the settlement funds available to members of the Rule 23(b)(3) Settlement Class. ~~[Add any other language required by the California state court in *Nuts for Candy*.]~~

The release **does not** bar the injunctive relief claims or the declaratory relief claims that are a predicate for the injunctive relief claims asserted in the pending proposed Rule 23(b)(2) class action captioned *Barry's Cut Rate Stores, Inc., et al. v. Visa, Inc., et al.*, MDL No. 1720, Docket No. 05-md-01720-MKB-JO ("*Barry's*"). Injunctive relief claims are claims to prohibit or

require certain conduct. They do not include claims for payment of money, such as damages, restitution, or disgorgement. As to all such claims for declaratory or injunctive relief in *Barry's*, merchants will retain all rights pursuant to Rule 23 of the Federal Rules of Civil Procedure which they have as a named representative plaintiff or absent class member in *Barry's*, except that merchants remaining in the Rule 23(b)(3) Settlement Class **will release** their right to initiate a new and separate action for the period up to five (5) years following the court's approval of the settlement and the exhaustion of appeals.

The release also does not bar certain claims asserted in the class action captioned *B&R Supermarket, Inc., et al. v. Visa, Inc., et al.*, No. 17-CV-02738 (E.D.N.Y.), or claims based on certain standard commercial disputes arising in the ordinary course of business.

For more information on the release, see the full mailed Notice to Rule 23(b)(3) Settlement Class Members and the settlement agreement at: www.PaymentCardSettlement.com.

THE COURT HEARING ABOUT THIS SETTLEMENT

On [MM, DD, 2019], there will be a Court hearing to decide whether to approve the proposed settlement. The hearing also will address the Rule 23(b)(3) Class Counsel's requests for attorneys' fees and expenses, and awards for the Rule 23(b)(3) Class Plaintiffs for their representation of merchants in MDL 1720, which culminated in the settlement agreement. The hearing will take place at:

United States District Court for the
Eastern District of New York
225 Cadman Plaza
Brooklyn, NY 11201

You do not have to go to the Court hearing or hire an attorney. But you can if you want to, at your own cost. The Court has appointed the law firms of Robins Kaplan LLP, Berger Montague PC, and Robbins Geller Rudman & Dowd LLP as Rule 23(b)(3) Class Counsel to represent the Rule 23(b)(3) Settlement Class.

QUESTIONS?

For more information about this case (*In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, MDL 1720), you may:

Call toll-free: 1-800-625-6440.

Visit: www.PaymentCardSettlement.com

Write to the Class Administrator:

Payment Card Interchange Fee Settlement
P.O. Box 2530
Portland, OR 97208-2530

Email: info@PaymentCardSettlement.com

Please check www.PaymentCardSettlement.com for any updates relating to the settlement or the settlement approval process.

www.PaymentCard Settlement.com

1-800-625-6440 • info@PaymentCardSettlement.com

APPENDIX G2 – Long Form Notice

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

IN RE PAYMENT CARD INTERCHANGE FEE
AND MERCHANT DISCOUNT ANTITRUST
LITIGATION

Case No. 05-md-01720 (MKB) (JO)

This Document Relates to: All Cases.

NOTICE OF CLASS ACTION SETTLEMENT

AUTHORIZED BY THE U.S. DISTRICT COURT, EASTERN DISTRICT OF NEW YORK

A settlement of as much as [\$6.24] Billion and not less than [\$5.54] Billion will provide payments to merchants that accepted Visa and Mastercard since 2004.

A federal court directed this Notice. This is not a solicitation from a lawyer.

- The Court has preliminarily approved a proposed settlement of a maximum of approximately [\$6.24] billion and a minimum of at least [\$5.54] billion in a class action lawsuit, called *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, MDL 1720 (MKB) (JO). The lawsuit is about claims that merchants paid excessive fees to accept Visa and Mastercard cards because Visa and Mastercard, individually, and together with their respective member banks, violated the antitrust laws.
- The settlement creates the following Rule 23(b)(3) Settlement Class: All persons, businesses, and other entities that have accepted any Visa-Branded Cards and/or Mastercard-Branded Cards in the United States at any time from January 1, 2004 to the Settlement Preliminary Approval Date, except that the Rule 23(b)(3) Settlement Class shall not include (a) the Dismissed Plaintiffs, (b) the United States government, (c) the named Defendants in this Action or their directors, officers, or members of their families, or (d) financial institutions that have issued Visa-Branded Cards or Mastercard-Branded Cards or acquired Visa-Branded Card transactions or Mastercard-Branded Card transactions at any time from January 1, 2004 to the Settlement Preliminary Approval Date. ~~The Dismissed Plaintiffs are plaintiffs that have previously settled individually with a Defendant.~~ The Dismissed Plaintiffs are plaintiffs that previously settled and dismissed their own lawsuit against a Defendant, and entities related to those plaintiffs. If you are uncertain about whether you may be a Dismissed Plaintiff, you should call 1-800-625-6440 or visit www.PaymentCardSettlement.com for more information.
- This Notice has important information for merchants that accepted Visa and Mastercard at any time since January 1, 2004. It explains the settlement in a class action lawsuit. It also explains your rights and options in this case.

- For the full terms of the settlement, you should look at the Superseding and Amended Definitive Class Settlement Agreement of the Rule 23(b)(3) Class Plaintiffs and the Defendants and its Appendices (the “Class Settlement Agreement”), available at www.PaymentCardSettlement.com or by calling 1-800-625-6440. In the event of any conflict between the terms of this Notice and the Class Settlement Agreement, the terms of the Class Settlement Agreement shall control.
- Please check www.PaymentCardSettlement.com for any updates relating to the settlement or the settlement approval process.

Legal Rights and Options

Your legal rights and options are described in this section. You may:

File a Claim: This is the only way to get money from the settlement.

Exclude Yourself: This is the only way you can be part of another lawsuit that asks for money for claims in this case. If you exclude yourself, you will *not* get a payment from this settlement.

This is also the only way you can sue individually for injunctive relief based on the claims in this lawsuit; however, if you do not exclude yourself, you may still get injunctive relief through the proposed Rule 23(b)(2) equitable relief class action which is pending in this Court captioned *Barry's Cut Rate Stores, Inc., et. al. v. Visa, Inc., et al.*, MDL No. 1720, Docket No. 05-md-01720-MKB-JO ("*Barry's*"). The proposed Rule 23(b)(2) class is represented by other class representatives and other class counsel. (See Questions 10 and 13).

Object: If you do not agree with any part of this settlement, including the plan to distribute money to class members, or you do not agree with the requested award of attorneys' fees and expenses, or service awards for the named Rule 23(b)(3) Class Plaintiffs, you may:

- Write to the court to say why (See Questions 14 and 18), and
- Ask to speak at the Court hearing about either the fairness of this settlement or about the requested attorneys' fees or service awards. (See Question 21).

Do Nothing: If you do not file a claim, you will not get money. You will give up your rights to sue for damages about the claims in this case and to sue individually for injunctive relief about the claims in this case. You can get injunctive relief only as a member of the proposed Rule 23(b)(2) class action pending in this Court. (See Questions 10 and 13).

Deadlines: If you wish to exclude yourself from the settlement, or if you wish to be included in the settlement but want to object to the settlement, you must do so by [one hundred eighty days after the Settlement Preliminary Approval Date]. See Questions 10-24 for more information about rights and options and all deadlines.

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BASIC INFORMATION

1. Why did I get this Notice?

This Notice tells you about your rights and options in a class action lawsuit in the U.S. District Court for the Eastern District of New York. Judge Margo K. Brodie and Magistrate Judge James Orenstein are overseeing this class action, which is called *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, MDL No. 1720 (MKB) (JO). This Notice also explains the lawsuit, the proposed settlement, the benefits available, eligibility for those benefits, and how to get them.

The companies or entities who started this case are called the “Plaintiffs.” The companies they are suing are the “Defendants.”

This case has been brought on behalf of merchants. The specific merchants that filed the case are the Rule 23(b)(3) Class Plaintiffs and the Court has authorized them to act on behalf of all merchants in the class described below in connection with the proposed settlement of this case. The Rule 23(b)(3) Class Plaintiffs are:

30 Minute Photos Etc. Corporation; Traditions, Ltd.; Capital Audio Electronics, Inc.; CHS Inc.; Discount Optics, Inc.; Leon’s Transmission Service, Inc.; Parkway Corporation; and Payless Inc.

The companies that the plaintiffs have been suing are the “Defendants.” Defendants are:

- Network Defendants:

“Visa”: Visa U.S.A. Inc., Visa International Service Association, and Visa Inc.;

“Mastercard”: Mastercard International Incorporated and Mastercard Incorporated; and

- “Bank Defendants”: Bank of America, N.A.; BA Merchant Services LLC (formerly known as National Processing, Inc.); Bank of America Corporation; Barclays Bank plc; Barclays Delaware Holdings, LLC (formerly known as Juniper Financial Corporation); Barclays Bank Delaware (formerly known as Juniper Bank); Barclays Financial Corp.; Capital One Bank (USA), N.A.; Capital One F.S.B.; Capital One Financial Corporation; Chase Bank USA, N.A. (and as successor to Chase Manhattan Bank USA, N.A. and Bank One, Delaware, N.A.); Paymentech, LLC (and as successor to Chase Paymentech Solutions, LLC); JPMorgan Chase & Co. (and as successor to Bank One Corporation); JPMorgan Chase Bank, N.A. (and as successor to Washington Mutual Bank); Citibank, N.A.; Citigroup Inc.; Citicorp; Fifth Third Bancorp; First National Bank of Omaha; HSBC Finance Corporation; HSBC Bank USA, N.A.; HSBC North America Holdings Inc.; HSBC Holdings plc; HSBC Bank plc; The PNC Financial Services Group, Inc. (and as acquirer of National City Corporation); National City Corporation; National City Bank of Kentucky; SunTrust Banks, Inc.; SunTrust Bank; Texas Independent Bancshares, Inc.; and Wells Fargo & Company (and as successor to Wachovia Corporation).

2. What is this lawsuit about?

- This lawsuit is principally about the interchange fees attributable to merchants that accepted Visa or Mastercard credit or debit cards between January 1, 2004 and [the Settlement Preliminary Approval Date], and Visa’s and Mastercard’s rules for merchants that have accepted those cards.

The Rule 23(b)(3) Class Plaintiffs claim that:

- Visa, and its respective member banks, including the Bank Defendants, violated the law because they set interchange fees.

- Mastercard and its respective member banks, including the Bank Defendants, violated the law because they set interchange fees.
- Visa and its respective member banks, including the Bank Defendants, violated the law because they imposed and enforced rules that limited merchants from steering their customers to other payment methods. Those rules include so-called no-surcharge rules, no-discounting rules, honor-all-cards rules, and certain other rules. Doing so insulated them from competitive pressure to lower the interchange fees.
- Mastercard and its respective member banks, including the Bank Defendants, violated the law because they imposed and enforced rules that limited merchants from steering their customers to other payment methods. Those rules include so-called no-surcharge rules, no-discounting rules, honor-all-cards rules, and certain other rules. Doing so insulated them from competitive pressure to lower the interchange fees.
- Visa and Mastercard conspired together about some of the business practices challenged.
- Visa and its respective member banks continued in those activities despite the fact that Visa changed its corporate structure and became a publicly owned corporation after this case was filed.
- Mastercard and its respective member banks continued in those activities despite the fact that Mastercard changed its corporate structure and became a publicly owned corporation after this case was filed.
- The Defendants' conduct caused the merchants to pay excessive interchange fees for accepting Visa and Mastercard cards.
- But for Defendants' conduct there would have been no interchange fee or those fees would have been lower.

The Defendants say they have done nothing wrong. They claim their business practices are legal, justified, the result of independent competition and have benefitted merchants and consumers.

3. What is an interchange fee?

When a cardholder makes a purchase with a credit or debit card, there is an *interchange fee* attributable to those transactions, which is usually around 1% to 2% of the purchase price. Interchange fees typically account for the greatest part of the fees paid by merchants for accepting Visa and Mastercard cards.

Visa and Mastercard set interchange fee rates for different kinds of transactions and publish them on their websites, usually twice a year.

4. Why is this a class action?

In a class action, people or businesses sue not only for themselves, but also on behalf of other people or businesses with similar legal claims and interests. Together all of these people or businesses with similar claims and interests form a class, and are class members.

When a court decides a case or approves a settlement, it is applicable to all members of the class (except class members who exclude themselves). In this case, the Court has given its preliminary approval to the settlement and the class defined below in Question 6, and approved the mailing of this Notice.

5. Why is there a settlement?

The Court has not decided which side was right or wrong or if any laws were violated. Instead, both sides agreed to settle the case and avoid the cost and risk of trial and appeals that would follow a trial.

In this case, the settlement is the product of extensive negotiations, including mediation before two experienced mediators, chosen by the parties. Settling this case allows class members to receive payments. The Rule 23(b)(3) Class Plaintiffs and their lawyers believe the settlement is best for all class members.

The parties agreed to settle this case only after thirteen years of extensive litigation. During discovery, Rule 23(b)(3) Class Plaintiffs reviewed and analyzed more than 60 million pages of documents and participated in more than 550 depositions, including fact and expert depositions. Also, earlier in this litigation, motions to dismiss, motions for summary judgment, motions to exclude expert testimony, and the motion for class certification had been fully briefed and argued, but not decided by the Court.

6. Am I part of this settlement?

If this Notice was mailed to you, the Defendants' records show that you are probably in the Rule 23(b)(3) Settlement Class, consisting of:

All persons, businesses, and other entities that have accepted any Visa-Branded Cards and/or Mastercard-Branded Cards in the United States at any time from January 1, 2004 to the Settlement Preliminary Approval Date, except that the Rule 23(b)(3) Settlement Class shall not include (a) the Dismissed Plaintiffs, (b) the United States government, (c) the named Defendants in this Action or their directors, officers, or members of their families, or (d) financial institutions that have issued Visa-Branded Cards or Mastercard-Branded Cards or acquired Visa-Branded Card transactions or Mastercard-Branded Card transactions at any time from January 1, 2004 to the Settlement Preliminary Approval Date.

The Dismissed Plaintiffs are plaintiffs that ~~have~~ previously settled ~~individually with and dismissed their own lawsuit against~~ a Defendant. ~~Dismissed Plaintiffs are identified; those plaintiffs are listed~~ in Appendix B to the Class Settlement Agreement, which is available on the case website. The Dismissed Plaintiffs also include entities related to the plaintiffs listed in Appendix B. If you are uncertain about whether you may be a Dismissed Plaintiff, you should call 1-800-625-6440 or visit www.PaymentCardSettlement.com for more information.

The Settlement Preliminary Approval Date referenced in this class definition is [_____, 20__].

If you are not sure whether you are part of this settlement, contact the Class Administrator at:

Call the toll-free number, 1-800-625-6440.
Visit www.PaymentCardSettlement.com.
Write to: P.O. Box 2530, Portland, OR 97208-2530, or
Email: info@PaymentCardSettlement.com.

SETTLEMENT BENEFITS

7. How much money will be provided for in this settlement?

Under the settlement, Visa, Mastercard and the Bank Defendants have agreed to provide a maximum of approximately [\$6.24] billion, and a minimum of at least [\$5.54] billion depending on the class members that exclude themselves from the Rule 23(b)(3) Settlement Class.

Every merchant in the Rule 23(b)(3) Settlement Class that does not exclude itself from the class by the deadline described below and files a valid claim (“Authorized Claimant”) will be paid from the settlement fund. This settlement fund will be reduced by an amount not to exceed \$700 million to account for merchants who exclude themselves from the Rule 23(b)(3) Settlement Class (“opt-outs”). The money in this settlement fund after the reduction for excluded merchants will also be used to pay:

- The cost of settlement administration and notice, and applicable taxes on the settlement fund and any other related tax expenses, as approved by the Court,
- Money awards for Rule 23(b)(3) Class Plaintiffs for their service on behalf of the class, as approved by the Court, and
- Attorneys’ fees and expenses, as approved by the Court.

The money in this settlement fund will only be distributed if the Court finally approves the settlement.

8. How do I ask for money from the settlement?

You must file a valid claim to get money from this settlement. If the Court finally approves the settlement, and you do not exclude yourself from the Rule 23(b)(3) Settlement Class, you will receive a claim form in the mail or by email. If you do not receive a claim form and/or are not sure whether you are part of this settlement, contact the Class Administrator at:

Call the toll-free number: 1-800-625-6440 or
write to: Payment Card Interchange Fee Settlement, P.O. Box 2530, Portland, OR 97208-2530, or
Email: info@PaymentCardSettlement.com.

How much money will I get?

The amount paid from the settlement fund will be based on your actual or estimated interchange fees attributable to Visa and Mastercard card transactions (between you and your customers) from January 1, 2004 through [the Settlement Preliminary Approval Date].

The amount of money each Authorized Claimant will receive from the settlement fund depends on the money available to pay all claims, the total dollar value of all valid claims filed, the deduction for opt-outs described above not to exceed \$700 million, the cost of class administration and notice, applicable taxes on the settlement fund and any other related tax expenses, attorneys’ fees and expenses, and money awards to the Rule 23(b)(3) Class Plaintiffs their representation of merchants in MDL 1720, which culminated in the Class Settlement Agreement, all as approved by the Court.

HOW TO FILE A CLAIM

9. How do I file a claim?

If the Court approves the settlement (see “The Court’s Fairness Hearing” below), the Court will approve a Claim Form and set a deadline for members of the Rule 23(b)(3) Settlement Class to submit claims. In order to receive a payment, you must submit a Claim Form.

If you received this Notice in the mail, a Claim Form will be mailed or emailed to you automatically. The Claim Form will also be posted on the website and available by calling the toll free number shown below. Class members will be able to submit claims electronically using this website or by email or by returning a paper Claim Form.

Who decides the value of my claim?

The Class Administrator will have data from Defendants and others which it expects will permit it to estimate the total value of interchange fees attributable to each Authorized Claimant on its Visa and Mastercard card transactions during the period from January 1, 2004 to [the Settlement Preliminary Approval Date] (“Interchange Fees Paid”). It is the current intention to utilize this data to the extent possible, to estimate the interchange fees attributable to members of the Rule 23(b)(3) Settlement Class.

Where the necessary data is not reasonably available to estimate a class member’s Interchange Fees Paid or if the Interchange Fees Paid claim value established by the Class Administrator is disputed by the class member, the class member will be required to submit information in support of its claim. This information will include, to the extent known, Interchange Fees Paid attributable to the class member, merchant discount fees paid, the class member’s merchant category code and/or a description of the class member’s business, and total Visa and Mastercard transaction volume and/or total sales volume. Based on these data, the Interchange Fees Paid attributable to the class member will be estimated for each known member of the Rule 23(b)(3) Settlement Class.

The Class Administrator also expects to provide class members the ability to access the claims website with a unique code to permit it to view the manner in which its claim value was calculated and may also provide this information on a pre-populated claim form. Class members may accept or disagree with data on the claim form or the website. The claim form and website will explain how to challenge the data.

More details about how all claims are calculated will be available at www.PaymentCardSettlement.com in Appendix I to the Class Settlement Agreement and in subsequent postings that may be made no later than [one hundred thirty-five days after the Court’s entry of the Rules 23(b)(3) Settlement Class Preliminary Approval Order].

Claim Preregistration Form

Class members may also fill out a pre-registration form at the website. You do not have to pre-register but doing so may be helpful, and does not impact your rights in this case. If you previously pre-registered on the case website, you are encouraged to check your status on the website to update any information.

What if the Class Administrator doesn’t have my data?

The claim form also allows class members for whom no financial data is available or who were not identified as class members to file a claim. Those merchants will have to fill out and sign a claim form and return it by the deadline.

Can anyone else file a claim for me?

Some companies may offer to help you file your Claim Form in exchange for a portion of your recovery from the settlement. While you may choose to use such companies, you should know that you can file with the Claims Administrator on your own, free of charge. Additionally, you are entitled to contact the Claims Administrator or Rule 23(b)(3) Class Counsel for assistance with understanding and filing your Claim Form—again, at no cost to you. Prior orders of the Court regarding third-party claims filing companies are available for review on the case website

10. Am I giving anything up by filing a claim or not filing a claim?

Members of the Rule 23(b)(3) Settlement Class who do not exclude themselves by the deadline will be bound by the terms of the Class Settlement Agreement, including the release of claims against the Defendants and other released parties identified in Paragraph 30 of the Class Settlement Agreement, whether or not the members file a claim for payment.

~~The settlement will resolve and release any claims for monetary compensation or injunctive relief by merchants against Visa, Mastercard, or other defendants that were or could have been alleged in the lawsuit. This includes any claims based on interchange fees, network fees, merchant discount fees, no-surcharge rules, no discounting rules, honor all cards rules, and certain other rules, including any continuing or future rules that are substantially similar to the above mentioned rules. The release will bar claims that have accrued within five (5) years following the court's approval of the settlement and the exhaustion of all appeals. The settlement will resolve and release claims by class members for monetary compensation or injunctive relief against Visa, Mastercard, or other defendants. The release bars the following claims:~~

- ~~• Claims based on conduct and rules that were alleged or raised in the litigation, or that could have been alleged or raised in the litigation relating to its subject matter. This includes any claims based on interchange fees, network fees, merchant discount fees, no-surcharge rules, no-discounting rules, honor-all-cards rules, and certain other conduct and rules. These claims are released if they already have accrued or accrue in the future up to five years following the court's approval of the settlement and the resolution of all appeals.~~
- ~~• Claims based on rules in the future that are substantially similar to – i.e., do not change substantively the nature of – the above-mentioned rules as they existed as of preliminary approval of the settlement. These claims based on future substantially similar rules are released if they accrue up to five years following the court's approval of the settlement and the resolution of all appeals.~~

~~The settlement's resolution and release of these claims is intended to be consistent with and no broader than federal law on the identical factual predicate doctrine.~~

~~The release does *not* extinguish the following claims:~~

- ~~• Claims based on conduct or rules that could not have been alleged or raised in the litigation.~~
- ~~• Claims based on future rules that are not substantially similar to rules that were or could have been alleged or raised in the litigation.~~
- ~~• Any claims that accrue more than five years after the court's approval of the settlement and the resolution of any appeals.~~

The release also will have the effect of extinguishing all similar or overlapping claims in any other actions, including but not limited to the claims asserted in a California state court class action brought on behalf of California citizen merchants and captioned *Nuts for Candy v. Visa, Inc., et al.*, No. 17-01482 (San Mateo County Superior Court). Pursuant to an agreement between the parties in *Nuts for Candy*, subject to and upon final approval of the settlement of the Rule 23(b)(3) Settlement Class, the plaintiff in *Nuts for Candy* will request that the California state court dismiss the *Nuts for Candy* action. Plaintiff's counsel in *Nuts for Candy* may seek an award in *Nuts for Candy* of attorneys' fees not to exceed \$6,226,640.00 and expenses not to exceed \$493,697.56. Any fees or expenses awarded in *Nuts for Candy* will be separately funded and will not reduce the settlement funds available to members of the Rule 23(b)(3) Settlement Class. ~~–[Add any other language required by the California state court in *Nuts for Candy*.]~~

The release does not bar the injunctive relief claims or the declaratory relief claims that are a predicate for the injunctive relief claims asserted in the pending proposed Rule 23(b)(2) class action captioned *Barry's Cut Rate Stores, Inc., et al. v. Visa, Inc., et al.*, MDL No. 1720, Docket No. 05-md-01720-MKB-JO ("Barry's"). Injunctive relief claims are claims to prohibit or require certain conduct. They do not include claims for payment of money, such as damages, restitution, or disgorgement. As to all such claims for declaratory or injunctive relief in *Barry's*, merchants will retain all rights pursuant to Rule 23 of the Federal Rules of Civil Procedure which they have as a named representative plaintiff or absent class member in *Barry's*, except that merchants remaining in the Rule 23(b)(3) Settlement Class will release their right to initiate a new and separate action for the period up to five (5) years following the court's approval of the settlement and the exhaustion of appeals.

The release also does not bar certain claims asserted in the class action captioned *B&R Supermarket, Inc., et al. v. Visa, Inc., et al.*, No. 17-CV-02738 (E.D.N.Y.), or claims based on certain standard commercial disputes arising in the ordinary course of business.

The full text of the Release for the Rule 23(b)(3) Settlement Class is set forth at pages __ to __ of this Notice. The Release describes the released claims in legal language. You should carefully read the Release and if you have questions about the Release you may:

- Call Rule 23(b)(3) Class Counsel listed in Question 16 at no charge,
- Talk to a lawyer, at your own expense, about the release and what it means to you.
- Read the complete Class Settlement Agreement and the complaints in the *Barry's*, *Nuts for Candy*, and *B&R Supermarket* cases, which may be viewed on the website www.PaymentCardSettlement.com.

Important! If you want to keep your right to be part of any other lawsuit based on similar claims, you must opt-out (exclude yourself) from the Rule 23(b)(3) Settlement Class.

11. How do I opt out of the Rule 23(b)(3) Settlement Class?

To opt-out (exclude yourself) from the Rule 23(b)(3) Settlement Class, send a letter to:

Class Administrator
Payment Card Interchange Fee Settlement
P.O. Box 2530
Portland, OR 97208-2530

Your letter must be postmarked by [one hundred eighty days after the Settlement Preliminary Approval Date]. You cannot exclude yourself by phone, fax, email or online.

How should I send my letter?

You may send your letter by first-class mail and pay for the postage. You also may send your letter by overnight delivery. Keep a copy for your records.

What should my letter say?

Your letter must be signed by a person authorized to do so and state as follows:

- I want to exclude [name of merchant] from the Rule 23(b)(3) Settlement Class in the case called *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*.

- My personal information is:

Name (first, middle, last):

Position:

Name of Merchant:

Address:

Phone No.:

Merchant's taxpayer identification number:

- The stores or sales locations that I want to exclude from the Rule 23(b)(3) Settlement Class are:
- For each store or sales location, provide:

Business name:

Brand names and "doing business as" names:

Address:

Taxpayer identification number(s):

- For each such business or brand name, also provide (if reasonably available):

Legal name of parent, if applicable:

Dates Visa or Mastercard card acceptance began (if after January 1, 2004) and ended (if prior to the Settlement Preliminary Approval Date):

Names of all banks that acquired the Visa or Mastercard card transactions:

Acquiring merchant ID(s):

- My position at the business that gives me the authority to exclude it from the Rule 23(b)(3) Settlement Class is as follows:

Warning! If your letter is sent after the deadline it will be considered invalid. If this happens, you won't be excluded from the Rule 23(b)(3) Settlement Class, and you will still be part of the settlement and will be bound by all of its terms.

12. If I exclude myself from the Rule 23(b)(3) Settlement Class, can I still get money from this settlement?

No. If you exclude yourself from the Rule 23(b)(3) Settlement Class:

- You cannot get money from this settlement, and
- You cannot object to the Rule 23(b)(3) Settlement.

The deadline to exclude yourself is: [one hundred eighty days after the Settlement Preliminary Approval Date]. To do this, *see*: www.PaymentCardSettlement.com.

Important! If you exclude yourself, do not file a claim form asking for payment.

13. If I do not exclude myself from the Rule 23(b)(3) Settlement Class, can I individually sue these Defendants for damages or for injunctive relief?

No. If you do not exclude yourself, you give up your right to sue any of the released parties described in the Class Settlement Agreement for released conduct until five years following the court's approval of the settlement and the exhaustion of all appeals. You also give up your right to individually pursue declaratory or injunctive relief for the same period of time except as a member of the pending proposed Rule 23(b)(2) class action (*Barry's Cut Rate Stores, Inc., et. al. v. Visa, Inc., et al.*, MDL No. 1720, Docket No. 05-md-01720-MKB-JO).

HOW TO DISAGREE WITH THE SETTLEMENT

14. What if I disagree with the settlement?

You may object to the settlement for the Rule 23(b)(3) Settlement Class if you do not exclude yourself. The Court will consider your objection(s) when it decides whether or not to finally approve the settlement.

How do I tell the Court I disagree with the settlement?

You must file a Statement of Objections with the Court at this address:

United States District Court for the Eastern District of New York
Clerk of Court
225 Cadman Plaza
Brooklyn, New York 11201

You must also send a copy of your Statement of Objections to Rule 23(b)(3) Class Counsel and Counsel for the Defendants at the following addresses:

Designated Rule 23(b)(3) Class Counsel:

Alexandra S. Bernay
Robbins Geller Rudman & Dowd LLP
655 West Broadway, Suite 1900
San Diego, CA 92101

Designated Defendants' Counsel:

Matthew A. Eisenstein
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743.

You must send your Statement of Objections postmarked no later than [one hundred eighty days after the Settlement Preliminary Approval Date].

What should my Statement of Objections say?

Your Statement of Objections must contain the following information:

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

In re Payment Card Interchange Fee and : No. 05-MD-01720 (MKB) (JO)
Merchant Discount Antitrust Litigation :
_____ :

Statement of Objections

(Merchant name) is a member of the Rule 23(b)(3) Settlement Class in the case called *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*.

(Merchant name) is a Class member because *[List information that will prove you are a class member, such as your business name and address, and how long you have accepted Visa or Mastercard cards]*.

(Merchant name) objects to the settlement in this lawsuit. It objects to *(list what part(s) of the Settlement you disagree with, e.g. the cash settlement, Allocation Plan, notice procedures, other features.)* [Note that you may also object to any requests for attorneys' fees and expenses, or service awards for the named Rule 23(b)(3) Class Plaintiffs, as part of the same objection].

My reasons for objecting are:

The laws and evidence that support each of my objections are:

My personal information is:

Name (first, middle, last):

Address:

Phone No.:

The contact information for my lawyer (if any) is:

Can I call the Court or the Judge's office about my objections?

No. If you have questions, you may visit the website for the settlement or call the Class Administrator.

www.PaymentCardSettlement.com

1-800-625-6440

15. Is objecting the same as being excluded?

No. **Objecting** means you tell the Court which part(s) of the settlement you disagree with (including the plan for distributing the settlement fund, request for attorneys' fees and expenses, or service awards for the named Rule 23(b)(3) Class Plaintiffs).

Being excluded (also called opting-out) means you tell the Court you do not want to be part of the Rule 23(b)(3) Settlement Class.

THE LAWYERS REPRESENTING YOU

16. Who are the lawyers that represent the Rule 23(b)(3) Settlement Class?

The Court has appointed the lawyers listed below to represent you. These lawyers are called Rule 23(b)(3) Class Counsel. Many other lawyers have also worked with Rule 23(b)(3) Class Counsel to represent you in this case. Because you are a class member, you do not have to pay any of these lawyers. They will be paid from the settlement funds.

K. Craig Wildfang
Robins Kaplan LLP
2800 LaSalle Plaza
800 LaSalle Avenue
Minneapolis, MN 55402

H. Laddie Montague, Jr.
Berger Montague PC
1818 Market Street
Suite 3600
Philadelphia, PA 19103

Patrick J. Coughlin
Robbins Geller Rudman & Dowd LLP
655 West Broadway, Suite 1900
San Diego, CA 92101

Should I hire my own lawyer?

You do not have to hire your own lawyer. But you can if you want to, at your own cost.

If you hire your own lawyer to appear in this case, you must tell the Court and send a copy of your notice to Rule 23(b)(3) Class Counsel at any of the addresses above.

17. How much will the lawyers and Rule 23(b)(3) Class Plaintiffs be paid?

For work done through final approval of the settlement by the district court, Rule 23(b)(3) Class Counsel will ask the Court for an amount that is a reasonable proportion of the settlement fund, not to exceed 10% of the settlement fund to compensate all of the lawyers and their law firms that have worked on the class case. For additional work to administer the settlement, distribute the settlement fund, and through any appeals, Rule 23(b)(3) Class Counsel may seek reimbursement at their normal hourly rates.

Rule 23(b)(3) Class Counsel will also request an award of their litigation expenses (not including the administrative costs of settlement or notice), not to exceed \$40 million, and the reimbursement of each of the eight Rule 23(b)(3) Class Plaintiffs' out of pocket expenses and a service award for each of them up to \$250,000 for their representation of merchants in MDL 1720, which culminated in the Class Settlement Agreement.

The amounts to be awarded as attorneys' fees, expenses, and Rule 23(b)(3) Class Plaintiffs' service awards **must** be approved by the Court. Rule 23(b)(3) Class Counsel must file their requests for fees, expenses, and service awards with the Court by [one hundred thirty-five days after the Settlement Preliminary Approval Date]. You can object to the requests for attorneys' fees, expenses, and service awards in compliance with the instructions in Question 18 below.

Copies of the lawyers' requests for fees, expenses, and service awards will be posted on the settlement website the same day they are filed.

18. How do I disagree with the requested attorneys' fees, expenses or service awards to Rule 23(b)(3) Class Plaintiffs?

You may tell the Court you object to (disagree with) any request for attorneys' fees and expenses or service awards to the Rule 23(b)(3) Class Plaintiffs. You may do so if you do not exclude yourself from the Rule 23(b)(3) Settlement Class. The Court will consider your objection(s) when it evaluates any request for attorneys' fees and expenses and/or service awards to the Rule 23(b)(3) Class Plaintiffs in connection with its decision on final approval of the settlement.

To file an objection, you must file a Statement of Objections with the Court at this address:

United States District Court for the Eastern District of New York
Clerk of Court
225 Cadman Plaza
Brooklyn, New York 11201

You must also send a copy of your Statement of Objections to Rule 23(b)(3) Class Counsel and Counsel for the Defendants at the following addresses:

Designated Rule 23(b)(3) Class Counsel:

Alexandra S. Bernay
Robbins Geller Rudman & Dowd LLP
655 West Broadway, Suite 1900
San Diego, CA 92101

Designated Defendants' Counsel:

Matthew A. Eisenstein
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743.

The Clerk of Court, the attorneys for the class and defendants must receive your letter by [one hundred eighty days after the Settlement Preliminary Approval Date].

What should my Statement of Objections say?

Your Statement of Objections must contain the following information:

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

In re Payment Card Interchange Fee and : No. 05-MD-01720 (MKB) (JO)
Merchant Discount Antitrust Litigation :
_____:

Statement of Objections

I am a member of the Rule 23(b)(3) Settlement Class in the case called *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*.

I am a Class member because [*List information that will prove you are a class member, such as your business name and address, and how long you have accepted Visa or Mastercard cards*].

I object to class counsel's request for attorneys' fees and expenses and/or to the request for service awards to the Rule 23(b)(3) Class Plaintiffs.

My reasons for objecting are:

The laws and evidence that support each of my objections are:

My personal information is:

Name (first, middle, last):

Address:

Phone No.:

The contact information for my lawyer (if any) is:

Can I call the Court or the Judge's office about my objections?

No. If you have questions, you may visit the website for the settlement www.PaymentCardSettlement.com or call the Class Administrator 1-800-625-6440

THE COURT'S FAIRNESS HEARING

19. When and where will the Court decide whether to approve the settlement?

There will be a Fairness Hearing at __:__ .m. on _____, 201_. The hearing will take place at:

United States District Court for the Eastern District of New York
225 Cadman Plaza
Brooklyn, NY 11201

We do not know how long the Court will take to make its decision.

Important! The time and date of this hearing may change without additional mailed or published notice. For updated information on the hearing, visit: www.PaymentCardSettlement.com.

Why is there a hearing?

The hearing is about whether or not the settlement is fair, adequate, and reasonable.

The Court will consider any objections and listen to class members who have asked to speak at the hearing.

The Court will also decide whether it should give its final approval of the Plaintiffs' requests for attorneys' fees and expenses, service awards, and other costs.

20. Do I have to come to the hearing to get my money?

No. You do not have to go to the hearing, even if you sent the Court an objection. But, you can go to the hearing or hire a lawyer to go the hearing if you want to, at your own expense.

21. What if I want to speak at the hearing?

You must file a Notice of Intention to Appear with the Court at this address:

United States District Court for the Eastern District of New York
Clerk of Court
225 Cadman Plaza
Brooklyn, New York 11201

Your Notice of Intention to Appear must be filed by [one hundred eighty days after the Settlement Preliminary Approval Date]. You must also mail a copy of your letter to Rule 23(b)(3) Class Counsel and Counsel for the Defendants at the addresses listed in Question 18.

What should my Notice of Intention to Appear say?

Your Notice of Intention to Appear must be signed and contain the following information:

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

_____ :
In re Payment Card Interchange Fee and : No. 05-MD-01720 (MKB) (JO)
Merchant Discount Antitrust Litigation :
_____ :

- Notice of Intention to Appear
- I want to speak on behalf of (Merchant name) at the Fairness Hearing for the case called *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*.

My personal information is:

Name (first, middle, last):

Address:

Phone No.:

Personal information for other people (including lawyers) who want to speak at the hearing:

IF YOU DO NOTHING

22. What happens if I do nothing?

If you do not file a claim, you cannot get money from this settlement.

If you do not exclude yourself from the Rule 23(b)(3) Settlement Class, you cannot be part of any other lawsuit against Defendants and other released parties listed in the Rule 23(b)(3) Class Settlement Agreement for released conduct. You will be bound by the Rule 23(b)(3) Settlement Class Release, **except that** as to the declaratory and injunctive relief claims asserted in the pending proposed Rule 23(b)(2) class action captioned *Barry's Cut Rate Stores, Inc., et. al. v. Visa, Inc., et al.*, MDL No. 1720, Docket No. 05-md-01720-MKB-JO, you will continue to have all rights pursuant to Rule 23 of the Federal Rules of Civil Procedure which you have as a named representative plaintiff or absent class member in that action, except the right to initiate a new separate action before five (5) years following the court's approval of the settlement and the exhaustion of all appeals.

GETTING MORE INFORMATION

23. How do I get more information?

There are several ways to get more information about the settlement.

You will find the following information at: www.PaymentCardSettlement.com:

- The complete Superseding and Amended Class Settlement Agreement, including all attachments, and
- Other documents related to this lawsuit.

To receive a copy of the Rule 23(b)(3) Class Settlement Agreement or other documents related to this lawsuit, you may:

Visit: www.PaymentCardSettlement.com.
Write to: P.O. Box 2530, Portland, OR 97208-2530, or
Email: info@PaymentCardSettlement.com, or
Call : 1-800-625-6440 – *toll-free*

If you do not get a claim form in the mail or by email, you may download one at: www.PaymentCardSettlement.com, or call: 1-800-625-6440.

Please Do Not Attempt to Contact Judge Brodie or the Clerk of Court With Any Questions

THE FULL TEXT OF THE RELEASE

24. What is the full text of the release for the Rule 23(b)(3) Settlement Class?

29. The “Rule 23(b)(3) Settlement Class Releasing Parties” are individually and collectively Rule 23(b)(3) Class Plaintiffs and each member of the Rule 23(b)(3) Settlement Class, on behalf of themselves and any of their respective past, present, or future officers, directors, stockholders, agents, employees, legal representatives, partners, associates, trustees, parents, subsidiaries, divisions, affiliates, heirs, executors, administrators, estates, purchasers, predecessors, successors, and assigns, whether or not they object to the settlement set forth in this Superseding and Amended Class Settlement Agreement, and whether or not they make a claim for payment from the Net Cash Settlement Fund.

30. The “Rule 23(b)(3) Settlement Class Released Parties” are all of the following:

(a) Visa U.S.A. Inc., Visa International Service Association, Visa International, Visa Inc., Visa Asia Pacific Region, Visa Canada Association, Visa Central & Eastern Europe, Middle East & Africa Region, Visa Latin America & Caribbean Region, Visa Europe, Visa Europe Limited, Visa Europe Services, Inc., and any other entity that now authorizes or licenses, or in the past has authorized or

licensed, a financial institution to issue any Visa-Branded Cards or to acquire any Visa-Branded Card transactions.

(b) Mastercard International Incorporated, Mastercard Incorporated, and any other entity that now authorizes or licenses, or in the past has authorized or licensed, a financial institution to issue any Mastercard-Branded Cards or to acquire any Mastercard-Branded Card transactions.

(c) Bank of America, N.A.; BA Merchant Services LLC (formerly known as National Processing, Inc.); Bank of America Corporation; NB Holdings; MBNA America Bank, N.A.; and FIA Card Services, N.A.

(d) Barclays Bank plc; Barclays Delaware Holdings, LLC (formerly known as Juniper Financial Corporation); Barclays Bank Delaware (formerly known as Juniper Bank); and Barclays Financial Corp.

(e) Capital One Bank (USA), N.A.; Capital One F.S.B.; and Capital One Financial Corporation.

(f) Chase Bank USA, N.A. (and as successor to Chase Manhattan Bank USA, N.A. and Bank One, Delaware, N.A.); Paymentech, LLC (and as successor to Chase Paymentech Solutions, LLC); JPMorgan Chase & Co. (and as successor to Bank One Corporation); and JPMorgan Chase Bank, N.A. (and as successor to Washington Mutual Bank).

(g) Citibank (South Dakota), N.A.; Citibank, N.A.; Citigroup Inc.; and Citicorp.

(h) Fifth Third Bancorp.

(i) First National Bank of Omaha.

(j) HSBC Finance Corporation; HSBC Bank USA, N.A.; HSBC North America Holdings Inc.; HSBC Holdings plc; HSBC Bank plc; and HSBC U.S.A. Inc.

(k) National City Corporation and National City Bank of Kentucky.

(l) The PNC Financial Services Group, Inc. and PNC Bank, National Association.

(m) SunTrust Banks, Inc. and SunTrust Bank.

(n) Texas Independent Bancshares, Inc.

(o) Wachovia Bank, N.A. and Wachovia Corporation.

(p) Washington Mutual, Inc.; Washington Mutual Bank; Providian National Bank (also known as Washington Mutual Card Services, Inc.); and Providian Financial Corporation.

(q) Wells Fargo & Company (and as successor to Wachovia Corporation) and Wells Fargo Bank, N.A. (and as successor to Wachovia Bank, N.A.).

(r) Each and every entity or person alleged to be a co-conspirator of any Defendant in the Third Consolidated Amended Class Action Complaint or any of the Class Actions.

(s) Each of the past, present, or future member or customer financial institutions of Visa U.S.A. Inc., Visa International Service Association, Visa Inc., Visa Europe, Visa Europe Limited, Mastercard International Incorporated, or Mastercard Incorporated.

(t) For each of the entities or persons in Paragraphs 30(a)-(s) above, each of their respective past, present, and future, direct and indirect, parents (including holding companies), subsidiaries, affiliates, and associates (all as defined in SEC Rule 12b-2 promulgated pursuant to the Securities Exchange Act of 1934), or any other entity in which more than 50% of the equity interests are held.

(u) For each of the entities or persons in Paragraphs 30(a)-(t) above, each of their respective past, present, and future predecessors, successors, purchasers, and assigns (including acquirers of all or substantially all of the assets, stock, or other ownership interests of any of the Defendants to the extent a successor's, purchaser's, or acquirer's liability is based on the Rule 23(b)(3) Settlement Class Released Parties as defined in Paragraphs 30(a)-(t) above).

(v) For each of the entities or persons in Paragraphs 30(a)-(u) above, each of their respective past, present, and future principals, trustees, partners, officers, directors, employees, agents, attorneys, legal or other representatives, trustees, heirs, executors, administrators, estates, shareholders, advisors, predecessors, successors, purchasers, and assigns (including acquirers of all or substantially all of the assets, stock, or other ownership interests of each of the foregoing entities to the extent a successor's, purchaser's, or acquirer's liability is based on the Rule 23(b)(3) Settlement Class Released Parties as defined in Paragraphs 30(a)-(u) above).

31. In addition to the effect of the Rule 23(b)(3) Class Settlement Order and Final Judgment entered in accordance with this Superseding and Amended Class Settlement Agreement, including but not limited to any *res judicata* effect, and except as provided hereinafter in Paragraphs 34 and 37 below:

(a) The Rule 23(b)(3) Settlement Class Releasing Parties hereby expressly and irrevocably waive, and fully, finally, and forever settle, discharge, and release the Rule 23(b)(3) Settlement Class Released Parties from, any and all manner of claims, demands, actions, suits, and causes of action, whether individual, class, representative, *parens patriae*, or otherwise in nature, for damages, restitution, disgorgement, interest, costs, expenses, attorneys' fees, fines, civil or other penalties, or other payment of money, or for injunctive, declaratory, or other equitable relief, whenever incurred, whether directly, indirectly, derivatively, or otherwise, whether known or unknown, suspected or unsuspected, in law or in equity, that any Rule 23(b)(3) Settlement Class Releasing Party ever had, now has, or hereafter can, shall, or may have and that have accrued as of the Settlement Preliminary Approval Date or accrue no later than five years after the Settlement Final Date arising out of or relating to any conduct, acts, transactions, events, occurrences, statements, omissions, or failures to act of any Rule 23(b)(3) Settlement Class Released Party that are or have been alleged or otherwise raised in the Action, or that could have been alleged or raised in the Action relating to the subject matter thereof, or arising out of or relating to a continuation or continuing effect of any such conduct, acts, transactions, events, occurrences, statements, omissions, or failures to act. For avoidance of doubt, this release shall extend to, but only to, the fullest extent permitted by federal law.

(b) It is expressly agreed, for purposes of clarity, that any claims arising out of or relating to any of the following conduct, acts, transactions, events, occurrences, statements, omissions, or failures to act are claims that were or could have been alleged in this Action and relate to the subject matter thereof:

(i) any interchange fees, interchange rates, or any Rule of any Visa Defendant or Mastercard Defendant relating to interchange fees, interchange rates, or to the setting of

interchange fees or interchange rates with respect to any Visa-Branded Card transactions in the United States or any Mastercard-Branded Card transactions in the United States;

(ii) any Merchant Fee of any Rule 23(b)(3) Settlement Class Released Party relating to any Visa-Branded Card transactions in the United States or any Mastercard-Branded transactions in the United States;

(iii) any actual or alleged “no surcharge” rules, “honor all cards” rules, “honor all issuers” rules, “honor all devices” rules, rules requiring the honoring of all credentials or accounts, “no minimum purchase” rules, “no discounting” rules, “non-discrimination” rules, “anti-steering” rules, Rules that limit merchants in favoring or steering customers to use certain payment systems, “all outlets” rules, “no bypass” rules, “no multi-issuer” rules, “no multi-bug” rules, routing rules, cross-border acquiring rules, card authentication or cardholder verification rules, “cardholder selection” rules or requirements, PAVD rules, rules or conduct relating to routing options regarding acceptance technology for mobile, e-commerce, or online payments, or development and implementation of tokenization standards;

(iv) any reorganization, restructuring, initial or other public offering, or other corporate structuring of any Visa Defendant or Mastercard Defendant;

(v) any service of an employee or agent of any Rule 23(b)(3) Settlement Class Released Party on any board or committee of any Visa Defendant or Mastercard Defendant; or

(vi) any actual or alleged agreement (or alleged continued participation therein) (A) between or among any Visa Defendant and any Mastercard Defendant, (B) between or among any Visa Defendant or Mastercard Defendant and any other Rule 23(b)(3) Settlement Class Released Party or Parties, or (C) between or among any Defendant or Rule 23(b)(3) Settlement Class Released Party or Parties, relating to (i)-(v) above or to any Rule 23(b)(3) Settlement Class Released Party’s imposition of, compliance with, or adherence to (i)-(v) above.

(c) For purposes of clarity, references to the rules identified in this Paragraph 31 mean those rules as they are or were in place on or before the Settlement Preliminary Approval Date and rules in place thereafter that are substantially similar to those rules in place as of the Settlement Preliminary Approval Date.

32. Each Rule 23(b)(3) Settlement Class Releasing Party further expressly and irrevocably waives, and fully, finally, and forever settles and releases, any and all defenses, rights, and benefits that the Rule 23(b)(3) Settlement Class Releasing Party may have or that may be derived from the provisions of applicable law which, absent such waiver, may limit the extent or effect of the release contained in the preceding Paragraphs 29-31. Without limiting the generality of the foregoing, each Rule 23(b)(3) Settlement Class Releasing Party expressly and irrevocably waives and releases any and all defenses, rights, and benefits that the Rule 23(b)(3) Settlement Class Releasing Party might otherwise have in relation to the release by virtue of the provisions of California Civil Code Section 1542 or similar laws of any other state or jurisdiction. SECTION 1542 PROVIDES: “CERTAIN CLAIMS NOT AFFECTED BY GENERAL RELEASE. A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.” In addition, although each Rule 23(b)(3) Settlement Class Releasing Party may hereafter discover facts other than, different from, or in addition to those that it or he or she knows or believes to be true with respect to any claims released in the preceding Paragraphs 29-31, each Rule 23(b)(3) Settlement Class Releasing Party hereby expressly waives, and fully, finally, and forever settles, discharges, and releases, any known or

unknown, suspected or unsuspected, contingent or non-contingent claims within the scope of the preceding Paragraphs 29-31, whether or not concealed or hidden, and without regard to the subsequent discovery or existence of such other, different, or additional facts. Rule 23(b)(3) Class Plaintiffs acknowledge, and the members of the Rule 23(b)(3) Settlement Class shall be deemed by operation of the Rule 23(b)(3) Class Settlement Order and Final Judgment to have acknowledged, that the foregoing waiver was separately bargained for and is a key element of this Superseding and Amended Class Settlement Agreement.

33. The release in Paragraphs 29-32 above does not bar an investigation or action, whether denominated as *parens patriae*, law enforcement, or regulatory, by a state, quasi-state, or local governmental entity to vindicate sovereign or quasi-sovereign interests. The release shall bar a claim brought by a state, quasi-state, or local governmental entity to the extent that such claim is based on a state, quasi-state, or local government entity's proprietary interests as a member of the Rule 23(b)(3) Settlement Class that has received or is entitled to receive a financial recovery in this action. The release shall also bar a claim, whether denominated as seeking damages, restitution, unjust enrichment, or other monetary relief, brought by a state, quasi-state, or local governmental entity for monetary harm sustained by natural persons, businesses, other non-state, non-quasi-state, and non-local governmental entities or private parties who themselves are eligible to be members of the Rule 23(b)(3) Settlement Class.

34. Notwithstanding anything to the contrary in Paragraphs 29-33 above, the release in Paragraphs 29-33 above shall not release:

(a) A Rule 23(b)(3) Settlement Class Releasing Party's continued participation, as a named representative or non-representative class member, in *Barry's Cut Rate Stores, Inc., et al. v. Visa, Inc., et al.*, MDL No. 1720 Docket No. 05-md-01720-MKB-JO ("*Barry's*"), solely as to injunctive relief claims alleged in *Barry's*. As to all such claims for injunctive relief in *Barry's*, the Rule 23(b)(3) Settlement Class Releasing Parties retain all rights pursuant to Rule 23 of the Federal Rules of Civil Procedure which they have as a named representative plaintiff or absent class member in *Barry's* except the right to initiate a new separate action before five years after the Settlement Final Date. Nothing in this Paragraph shall be read to enlarge, restrict, conflict with, or affect the terms of any release or judgment to which any Rule 23(b)(3) Settlement Class Releasing Party may become bound in *Barry's*, and nothing in the release in Paragraphs 29-33 above shall be interpreted to enlarge, restrict, conflict with, or affect the request for injunctive relief that the plaintiffs in *Barry's* may seek or obtain in *Barry's*.

(b) Any claims asserted in *B&R Supermarket, Inc., et al. v. Visa, Inc., et al.*, No. 17-CV-02738 (E.D.N.Y.), as of the date of the parties' execution of this Superseding and Amended Class Settlement Agreement, that are based on allegations that payment card networks unlawfully agreed with one another to shift the liability of fraudulent payment card transactions from card-issuing financial institutions to merchants beginning in October 2015.

(c) Any claim of a Rule 23(b)(3) Settlement Class Releasing Party that is based on standard commercial disputes arising in the ordinary course of business under contracts or commercial relations regarding loans, lines of credit, or other related banking or credit relations, individual chargeback disputes, products liability, breach of warranty, misappropriation of cardholder data or invasion of privacy, compliance with technical specifications for a merchant's acceptance of Visa-Branded Credit Cards or Debit Cards, or Mastercard-Branded Credit Cards or Debit Cards, and any other dispute arising out of a breach of any contract between any of the Rule 23(b)(3) Settlement Class Releasing Parties and any of the Rule 23(b)(3) Settlement Class Released Parties; provided, however, that Paragraphs 29-33 above and not this Paragraph shall control in the event that any such claim challenges the legality of interchange rules, interchange rates, or interchange fees, or any other Rule, fee, charge, or other conduct covered by any of the claims released in Paragraphs 29-33 above.

(d) Claims based only on an injury suffered as (i) a payment card network competitor of the Visa Defendants or the Mastercard Defendants, or (ii) an ATM operator that is not owned by, or directly or indirectly controlled by, one or more of the Rule 23(b)(3) Settlement Class Released Parties.

35. Except as provided above in Paragraph 34, upon the Settlement Final Approval Date each of the Rule 23(b)(3) Settlement Class Releasing Parties agrees and covenants not to: (a) sue any of the Rule 23(b)(3) Settlement Class Released Parties on the basis of any claim released in Paragraphs 29-33 above; (b) assist any third party in commencing or maintaining any private civil lawsuit against any Rule 23(b)(3) Settlement Class Released Party related in any way to any claim released in Paragraphs 29-33 above; or (c) take any action or make any claim until five years after the Settlement Final Date that as of or after the Settlement Final Approval Date a Rule 23(b)(3) Settlement Class Released Party has continued to participate in, and failed to withdraw from, any alleged unlawful horizontal conspiracies or agreements relating to the claims released in Paragraphs 29-33 above, which allegedly arise from or relate to the pre-IPO structure or governance of any of the Visa Defendants or the pre-IPO structure or governance of any of the Mastercard Defendants, or any Bank Defendant's participation therein. For the avoidance of doubt, however, nothing in this Paragraph shall preclude a Rule 23(b)(3) Settlement Class Releasing Party from taking any action compelled by law or court order.

36. Each Rule 23(b)(3) Settlement Class Releasing Party further releases each of the Visa Defendants, Mastercard Defendants, and Bank Defendants, and their counsel and experts in this Action, from any claims relating to the defense and conduct of this Action, including the negotiation and terms of the Definitive Class Settlement Agreement or this Superseding and Amended Class Settlement Agreement, except for any claims relating to enforcement of this Superseding and Amended Class Settlement Agreement. Each Visa Defendant, Mastercard Defendant, and Bank Defendant releases the Rule 23(b)(3) Class Plaintiffs, the other plaintiffs in the Class Actions (except for the plaintiffs named in *Barry's*), Rule 23(b)(3) Class Counsel, Rule 23(b)(3) Class Plaintiffs' other counsel who have participated in any settlement conferences before the Court for a Class Plaintiff that executes this Superseding and Amended Class Settlement Agreement, and their respective experts in the Class Actions, from any claims relating to their institution or prosecution of the Class Actions, including the negotiation and terms of the Definitive Class Settlement Agreement or this Superseding and Amended Class Settlement Agreement, except for any claims relating to enforcement of this Superseding and Amended Class Settlement Agreement.

37. In the event that this Superseding and Amended Class Settlement Agreement is terminated pursuant to Paragraphs 61-64 below, or any condition for the Settlement Final Approval Date is not satisfied, the release and covenant not to sue provisions of Paragraphs 29-36 above shall be null and void and unenforceable.

Exhibit 2

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**IN RE PAYMENT CARD
INTERCHANGE FEE AND MERCHANT
DISCOUNT ANTITRUST LITIGATION**

No. 05-md-01720 (MKB) (JO)

This Document Relates to: All Cases.

Notice of Exclusion from Class Action Settlement

AUTHORIZED BY THE U.S. DISTRICT COURT, EASTERN DISTRICT OF NEW YORK

To merchants listed on the attached Appendix B and related merchants that have accepted any Visa or Mastercard cards

Si desea leer este aviso en español, llámenos o visite nuestro sitio web, www.PaymentCardSettlement.com.

A federal court directed this Notice. This is not a solicitation from a lawyer.

This notice is authorized by the Court to inform you that you have been identified as a “Dismissed Plaintiff” (defined below) in a \$5.54-\$6.24 billion settlement of a class action lawsuit, in *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, MDL 1720 (MKB) (JO). You therefore will be excluded from the class as defined in the settlement and will not be eligible to receive settlement funds, unless you also accepted Visa and Mastercard cards in a capacity other than as a Dismissed Plaintiff.

The lawsuit claims that merchants paid excessive interchange fees to accept Visa and Mastercard cards because Visa and Mastercard, individually and together with banks, adopted rules and engaged in conduct that violated the antitrust laws. The Court initially approved a settlement with a class of merchants in 2012, but that approval was reversed on appeal. The Court now has preliminarily approved a new settlement with a class of persons, businesses, and other entities that accepted Visa-Branded Cards and Mastercard-Branded Cards since January 1, 2004.

The class and the settlement exclude “Dismissed Plaintiffs” that filed their own individual lawsuits against any Defendant¹ and subsequently dismissed those lawsuits with prejudice. The

¹ Defendants in this action are Visa U.S.A. Inc.; Visa International Service Association (also known as Visa International); Visa Inc.; Mastercard International Incorporated; Mastercard Incorporated; Bank of America, N.A.; BA Merchant Services LLC (formerly known as National Processing, Inc.); Bank of America Corporation; Barclays Bank plc; Barclays Delaware Holdings, LLC (formerly known as Juniper Financial Corporation); Barclays Bank Delaware (formerly known as Juniper Bank); Barclays Financial Corp.; Capital One Bank (USA), N.A.; Capital One F.S.B.; Capital One Financial Corporation; Chase Bank USA, N.A. (and as successor to Chase Manhattan Bank USA, N.A. and Bank One, Delaware, N.A.); Paymentech, LLC (and as successor to Chase Paymentech Solutions, LLC); JPMorgan Chase & Co. (and as successor to Bank One Corporation); JPMorgan Chase Bank, N.A. (and as successor to Washington Mutual Bank); Citibank, N.A.; Citigroup Inc.; Citicorp; Fifth Third Bancorp; First National

“Dismissed Plaintiffs” also include stores, locations, brand names, businesses, and additional entities that those dismissing plaintiffs identified in their requests to be excluded from the prior class settlement in 2012.

You have been identified as a “Dismissed Plaintiff” because you are (1) a merchant listed on the attached Appendix B that dismissed its lawsuit with prejudice, or (2) were identified as a merchant related to one of those dismissing merchants on its request to be excluded from the prior class settlement in 2012. If you have questions about why you were identified as a “Dismissed Plaintiff,” or do not believe that you should be considered a “Dismissed Plaintiff,” you should contact the counsel identified below.

If you are a “Dismissed Plaintiff” that accepted Visa or Mastercard cards *only* as a merchant listed on Appendix B or because of your relationship to one of those merchants, you will not be eligible to make a claim or receive funds in the new class action settlement.

However, if you also accepted Visa or Mastercard cards in a different capacity, you may still be able to participate in the class settlement and make a claim for settlement funds to the extent that you accepted Visa or Mastercard cards in that different capacity. That would be the case, for example, if you had other businesses, brand names, or locations not related to a merchant listed on Appendix B at which you also accepted Visa or Mastercard cards. If so, you should follow the instructions on how to participate in the settlement or exclude yourself from the settlement in a separate notice that you should receive with information regarding the lawsuit and its settlement. That notice also can be found on the website identified below. You should carefully review that notice. If you have questions, you can contact the counsel listed below for further information.

QUESTIONS?

If you have any questions about this Notice or the settlement, or how you may be eligible to participate in the settlement and receive settlement funds, you should contact:

Michael J. Kane
Berger Montague PC
1818 Market Street, Suite 3600
Philadelphia, PA 19103
mkane@bm.net
215-875-3000

More information about the settlement is available at www.PaymentCardSettlement.com

Bank of Omaha; HSBC Finance Corporation; HSBC Bank USA, N.A.; HSBC North America Holdings Inc.; HSBC Holdings plc; HSBC Bank plc; The PNC Financial Services Group, Inc. (and as acquirer of National City Corporation); National City Corporation; National City Bank of Kentucky; SunTrust Banks, Inc.; SunTrust Bank; Texas Independent Bancshares, Inc.; and Wells Fargo & Company (and as successor to Wachovia Corporation).

APPENDIX B – Dismissed Plaintiffs

BI-LO, LLC; and Bruno's Supermarkets, Inc.

Hy-Vee, Inc.

The Kroger Co.

Albertson's Inc.

Safeway, Inc.

Ahold U.S.A., Inc.

Walgreen Co.

Maxi Drug, Inc. (and doing business as Brooks Pharmacy)

Eckerd Corporation

Delhaize America, Inc.

The Great Atlantic & Pacific Tea Company

H.E. Butt Grocery Company

Meijer, Inc.; and Meijer Stores Limited Partnership

Publix Supermarkets, Inc.

QVC, Inc.

Raley's

Rite Aid Corporation; and Pathmark Stores, Inc.

Supervalu Inc.

Wakefern Food Corporation

Delta Air Lines, Inc. (and as successor in interest to Northwest Airlines Corp.); Delta Private Jets, Inc.; and MLT, Inc.

Fiesta Restaurant Group, Inc.

Alfred H. Siegel as Trustee of the Circuit City Stores, Inc. Liquidating Trust

Curtis R. Smith as Trustee of the BGI Creditors' Liquidating Trust

Performance Food Group, Inc.

META Advisors LLC (f/k/a KDW Restructuring and Liquidation Services, LLC) as Trustee of the Deel Liquidating Trust

Dots, LLC

Hewlett-Packard Company

Manheim, Inc.; AutoTrader Group, Inc.; Cox Media Group, LLC; Cox Communications, Inc.; and Cox Enterprises, Inc.

G6 Hospitality, LLC (and as successor in interest to Accor North America, Inc.); and Motel 6 Operating LP

Live Nation Entertainment, Inc.

Air Canada

Air New Zealand Limited

Amway Corp. (f/k/a Quixtar, Inc.); and Alticor Inc.

Blue Nile, LLC

Callaway Golf Company; Callaway Golf Interactive, Inc.; Callaway Golf Sales Company; and uPlay, Inc.

CheapCarribbean.com, Inc.

Cinemark USA, Inc.; CNMK Texas Properties, LLC; Laredo Theater, Ltd.; Greeley, Ltd.; Cinemark Partners II, Ltd.; and Century Theaters, Inc.

City of Houston

ClubCorp USA, Inc. (both itself and as assignee of all affiliates listed in Exhibit 5 to the August 13, 2013 complaint in *Delta Air Lines, Inc. et al. v. Visa, Inc., et al.*, No. 13-CV-04766 (E.D.N.Y.))

CST Brands, Inc.; CST USA, Inc.; CST Services, LLC; Autotronic Systems, Inc.; Big Diamond, LLC; Big Diamond Number 1, LLC; CST Arkansas Stations, LLC; CST California Stations, Inc.; CST Diamond, LP; CST Marketing and Supply Company; CST Metro LLC; CST Security Services, Inc.; Diamond Shamrock Arizona, Inc.; Diamond Shamrock Stations, Inc.; Emerald Marketing, Inc.; National Convenience Stores Incorporated; Sigmor Beverage, Inc.; Sigmor Company, LLC; Sigmor Number 5, Inc.; Sigmor Number 43, Inc.; Sigmor Number 79, Inc.; Sigmor Number 80, Inc.; Sigmor Number 103, Inc.; Sigmor Number 105, Inc.; Sigmor Number 119, Inc.; Sigmor Number 178, Inc.; Sigmor Number 196, Inc.; Sigmor Number 238, Inc.; Sigmor Number 259, Inc.; Sigmor Number 422, Inc.; Skipper Beverage Company, LLC;

Sunshine Beverage Co.; TOC-DS Company; Valley Shamrock, Inc.; and VRG Diamond Holdings, LLC

Diamond Foods, LLC

Duke Energy Corporation; Cinergy Corporation; Duke Energy Business Services LLC; Duke Energy Carolinas LLC; Duke Energy Florida, Inc.; Duke Energy Ohio, Inc.; Duke Energy Indiana, Inc.; Duke Energy Kentucky, Inc.; Duke Energy Progress, Inc.; Progress Energy Services Company LLC; and Progress Energy, Inc.

El Al Israel Airlines Ltd.

Emerald Foods, Inc.

Etihad Airways

EVA Airways Corp.

Fastrac Markets, LLC

Group 1 Automotive, Inc. (both itself and as assignee of all affiliates listed in Exhibit 1 to the August 13, 2013 in *Delta Air Lines, Inc. et al. v. Visa, Inc., et al.*, No. 13-CV-04766 (E.D.N.Y.))

Harris County, Texas

Harris County Hospital District d/b/a Harris County Health System

J Hilburn, Inc.

K Partners Hospitality Group, LP (both itself and as assignee of all affiliates listed in Exhibit 2 to the August 13, 2013 complaint in *Delta Air Lines, Inc. et al. v. Visa, Inc., et al.*, No. 13-CV-04766 (E.D.N.Y.))

KEL, Inc. d/b/a Dimensions

LQ Management, L.L.C.; La Quinta Inns, Inc.

MAPCO Express, Inc.

The Mark Travel Corporation; The Mark Travel Corporation dba Lamacchia Enterprises, Inc.; The Mark Travel Corporation dba United Vacations Hawaii; MGM Resorts Vacations, LLC dba MGM Mirage Resorts Vacations; The Mark Travel Corporation dba Blue Sky Tours, Inc.; The Mark Travel Corporation dba Nevada Coaches, LLC; The Mark Travel Corporation dba Showtime Tours; Trans Global Tours, LLC; The Mark Travel Corporation dba Adventure Tours USA; The Mark Travel Corporation dba VAX Vacation Access; The Mark Travel Corporation dba Mark International; Bestway Limousine, Inc. dba Casino Holiday; Vacations Together, Inc.; Vacation Together, Inc. dba Sears Vacation; Tratterra; The Mark Travel Corporation dba Trisept Solutions; The Mark Travel Corporation dba Global Booking Solutions (G2 Switchworks); Bestway Limousine; and Hidden Glen at Bently Farms

Mary Kay Inc.

The Men's Wearhouse, Inc. (both itself and as assignee of all affiliates listed in Exhibit 3 to the August 13, 2013 complaint in *Delta Air Lines, Inc. et al. v. Visa, Inc., et al.*, No. 13-CV-04766 (E.D.N.Y.))

Murphy Oil USA, Inc.

The Neptune Society, Inc.

OnCue Marketing, LLC; Shaw's Gulf, LLC (formerly known as Shaw's Gulf, Inc.); and Jack Griffith's Gas-Up, LLC (formerly known as Jack Griffith's Gas-Up, Inc.)

Orbitz Worldwide, LLC; Orbitz, LLC ("Orbitz.com"); and Trip Network, Inc. ("Cheaptickets.com")

Pier 1 Imports (U.S.), Inc.

Qantas Airways Limited; and Jetstar Airways Limited

RadioShack Corporation; Kiosk Operations, Inc.; SCK, Inc. a/k/a SC Kiosks, Inc.; TE Electronics, LP; Atlantic Retail Ventures, Inc.; and ITC Service, Inc.

Red Roof Inns, Inc.; Red Roof Franchising, LLC; RRI Reservations, LLC; R-Roof I, LLC; R-Roof II, LLC; R-Roof III, LLC; R-Roof IV, LLC; R-Roof V, LLC; R-Roof VI, LLC; R-Roof Holdings I, LLC; R-Roof Holdings II, LLC; R-Roof Funds, LLC; R-Roof Assets, LLC; R-Roof Business Trust I; R-Roof Business Trust IV; R-Roof Business Trust VI; R-Roof Mezz I, LLC; R-Roof Mezz II, LLC; R-Roof Mezz III, LLC; R-Roof Mezz IV, LLC; R-Roof Mezz V, LLC; R-Roof Mezz VI, LLC; R-Roof Mezz VI A, LLC; and R-Roof Mezz VI B, LLC

Red Wing Brands of America, Inc.; and Red Wing Shoe Company, Inc.

Reliant Energy Retail Services LLC; NRG EV Services LLC d/b/a eVgo; US Retailers, LLC d/b/a Pennywise Power; and Everything Energy LLC d/b/a Independence Energy

Service Corporation International; SCI Funeral & Cemetery Purchasing Cooperative, Inc. (both itself and as assignee of all affiliates listed in Exhibit 4 to the August 13, 2013 complaint in *Delta Air Lines, Inc. et al. v. Visa, Inc., et al.*, No. 13-CV-04766 (E.D.N.Y.))

Singapore Airlines Limited

Societe Air France

Suit Mart, Inc.

Travelocity.com LP

United Supermarkets, LLC

Valero Energy Corporation; and Valero Marketing and Supply Company

WW Grainger, Inc.; Zoro Tools, Inc.; Imperial Supplies LLC ; and GHC Specialty Brands, LLC

Wesco, Inc.

T-Mobile USA, Inc.; Western PCS Corporation; VoiceStream Wireless Corporation; and MetroPCS Wireless Inc.

Hawaiian Holdings, Inc.; and Hawaiian Airlines, Inc.

JetBlue Airways Corporation; and Live TV, LLC

DSW Inc. (identified as in its complaint as DSW, Inc.)

Federal Express Corporation; FedEx Ground Package Systems, Inc.; FedEx Trade Networks, Inc.; FedEx Freight, Inc.; FedEx Office and Print Services, Inc.; and FedEx Tech Connect Services, Inc. f/k/a FedEx Customer Information Services, Inc.

Southwest Airlines Co.; and Airtran Airways, Inc.

Alaska Air Group, Inc.; Alaska Airlines, Inc.; and Horizon Air Industries, Inc.

Progressive Casualty Insurance Company

Avis Budget Group, Inc.; Avis Rent A Car System LLC; Budget Rent A Car System, Inc.; Budget Truck Rental LLC; Zipcar, Inc.; and LAS Rentals, LLC d/b/a Payless Car Rental

Bed Bath & Beyond Inc.; Buy Buy Baby, Inc.; Christmas Tree Shops, Inc.; Harmon Stores, Inc.; Cost Plus, Inc.; Harbor Linen, LLC; and T-Y Group, LLC

Brinker International, Inc.

Pepper Dining, Inc.

Burlington Coat Factory Warehouse Corporation

Forever 21 Retail, Inc.

Global Cash Access, Inc.\

Harris Teeter, Inc.

Landry's, Inc.

R.T.G. Furniture Corp.

Safe Auto Insurance Company

Spirit Airlines, Inc.

Toys “R” Us, Inc.; and Toys “R” Us-Delaware, Inc.

Wegmans Food Markets, Inc.

Winn-Dixie Stores, Inc.

Carnival Corporation; and Carnival PLC

O’Reilly Automotive Stores, Inc.; and O’Reilly Auto Enterprises, LLC f/k/a CSK Auto, Inc.

British Airways, Plc

Bloomin’ Brands, Inc.

Piggly Wiggly Midwest, LLC

Butera Finer Foods, Inc.

AutoZone, Inc.

Century 21 Department Stores LLC

Host Hotels and Resorts, L.P.; HST Lessee SLT LLC; HST Lessee Boston LLC; HST Lessee Keystone LLC; HST Lessee Needham LLC; HST Lessee SNYT LLC; HST Lessee CMBS LLC; HST Lessee San Diego LP; HST Lessee Tucson LLC; HST Lessee SR Houston LP; HST Lessee WNY LLC; HST Union Square LLC; CCSH Atlanta LLC; HST WRN LLC; HST Lessee Cincinnati LLC; HST Lessee Denver LLC; HST Lessee Indianapolis LLC; HST Kierland LLC; HST Lessee LAX LP; HST Lessee Mission Hills LP; HST Grand Central LLC; HST W. Seattle LLC ; HST Lessee S. Coast LP; and HST Lessee Waltham LLC

The Gymboree Corporation

Google Inc.; and Google Payment Corp.

1-800 CONTACTS, Inc. d/b/a South Valley Optical; and 1-800 CONTACTS, Inc. (identified in the complaint in *Bass Pro Group, LLC, et al. v. Visa, Inc., et al.*, No. 14-CV-07540 (E.D.N.Y.), as 1-800 CONTACTS, Inc. d/b/a Glasses.com but formerly and no longer doing business as Glasses.com)

Bass Pro Group, LLC; American Sportsman Holdings Co.; Bass Pro Outdoor World, LLC (individually and as successor in interest to World Wide Sportsman, LLC and World Wide Sportsman, Inc.); Bass Pro Shops White River Conference & Education Center, LLC; Big Cedar, LLC; BPIP, LLC; BPS Direct, LLC; Fryingpan River Ranch, LLC; Islamorada Fish Company, LLC; Islamorada Fish Company Kansas, LLC; Islamorada Fish Company Texas, LLC; Sportsman’s Distribution Co. of GA, LLC; Sportsman’s Specialty Group, LLC; TMBC Corp. of Canada (individually and as successor in interest to TMBC Corp. of Canada (Calgary)); TMBC, LLC; Tracker Marine Financial Services, LLC; Tracker Marine, LLC (individually and as successor in interest to Mako Marine International, LLC f/k/a Mako Marine International, Inc.);

Tracker Marine Retail, LLC (individually and as successor in interest to Flagship, LLC); and Travis Boats & Motors Baton Rouge, LLC

Board of Trustees of the University of Arkansas, acting for the University of Arkansas, Fayetteville

Charming Charlie LLC (as successor in interest to Charming Charlie, Inc.)

City of Scottsdale

Crocs, Inc.; Bite, Inc.; Crocs Retail, LLC (individually and as successor in interest to Crocs Online, Inc. and Crocs Retail, Inc.); Fury, Inc.; Jibbitz, LLC; and Ocean Minded, Inc.

Ethan Allen (Canada) Inc.; Ethan Allen Interiors, Inc.; Ethan Allen Miami, LLC; Ethan Allen Operations, Inc. (and as successor to Ethan Allen Manufacturing Corporation); Ethan Allen Realty, LLC; Ethan Allen Retail, Inc. (and as successor to Ethan Allen, Inc.); Ethanallen.com Inc. (identified in the complaint in *Bass Pro Group, LLC, et al. v. Visa, Inc., et al.*, No. 14-CV-07540 (E.D.N.Y.), as Ethan Allen.com, Inc.); Ethan Allen Global, Inc; Lake Avenue Associates, Inc.; and Manor House, Inc.

Ignite Restaurant Group, Inc.; BHTT Entertainment, Inc.; BHTT Private Club – Plano TX; Crab Addison, Inc.; Ignite Restaurants – New Jersey, Inc.; Joe’s Crab Shack – Abingdon MD, Inc.; Joe’s Crab Shack – Alabama Private Club, Inc.; Joe’s Crab Shack – Anne Arundel MD, Inc. (identified in the complaint as Joe’s Crab Shack – Anne Arundel MC, Inc.); Joe’s Crab Shack – Hunt Valley MD, Inc.; Joe’s Crab Shack – Kansas, Inc.; Joe’s Crab Shack – Maryland, Inc.; Joe’s Crab Shack – Redondo Beach, Inc.; Joe’s Crab Shack – San Diego, Inc.; Joe’s Crab Shack – Texas Inc.; and JCS Monmouth Mall – NJ, LLC

Love’s Travel Stops & Country Stores, Inc.

Lucky Brand Dungarees Stores, Inc.

Nine West Holdings (identified in the complaint in *Bass Pro Group, LLC, et al. v. Visa, Inc., et al.*, No. 14-CV-07540 (E.D.N.Y.), as successor in interest to The Jones Group Inc., Brian Atwood IP Company, LLC, JAG Footwear, Accessories and Retail Corporation, Jones Apparel Group Holdings, Inc., and Jones Apparel Group USA, Inc.); Jones Distribution Corporation; Nine West Jeanswear Holding LLC f/k/a Jones Holding Inc.; Jones Investment Co. Inc.; Jones Management Service Company; One Jeanswear Group, Inc. (and as successor in interest to Jones Jeanswear Group, Inc.); and Nine West Development LLC f/k/a Nine West Development Corporation

Ross Dress for Less, Inc.

Scandinavian Airlines of North America, Inc.; and Scandinavian Airlines System Denmark–Norway–Sweden

Sinclair Oil Corporation; Grand America Hotel Company; Little America Hotel Company; Sun Valley Company; Westgate Hotel Company; Little America Hotels and Resorts Inc.; and Snowbasin Resort Company

Starving Students, Inc.

Stuart Weitzman Holdings, LLC; Lizzy Mae, Inc.; Stuart Weitzman IP, LLC; Stuart Weitzman Retail Stores, LLC; and Stuart Weitzman, LLC

Tiffany and Company d/b/a Tiffany & Co.

Twin Liquors, LP

Waffle House, Inc.; East Coast Waffles, Inc.; Mid South Waffles, Inc.; Midwest Waffles, Inc.; and Ozark Waffles, L.L.C.

Williams-Sonoma, Inc.

TXU Energy Retail Company, LLC

Minnesota Twins, LLC; Twins Ballpark, LLC; Facets Fine Jewelry, LLC; Granite City Food & Brewery Ltd.; TCA Imports, LLC; Twin Cities Hyundai, LLC; Twin Cities VW, LLC; St. Cloud Hyundai, LLC; North Branch TCA Chevrolet, LLC; Star West TCA Chevrolet, LLC; Maplewood TCA A, LLC; Golden Valley TCA P, LLC; Maplewood TCA MP, LLC; Golden Valley TCA A, LLC; and Twin Cities CRA, LLC

Grayling Corporation (d/b/a Chili's Grill & Bar); Bluewater Grille, LLC (d/b/a Blue2O Seafood Bar + Grill); Grady's American Grill Restaurant Corporation (d/b/a Porterhouse Steaks & Seafood); Grady's American Grill, L.P. (d/b/a Grady's American Grill); Quality Dining, Inc.; Bravogrand, Inc. (d/b/a Burger King); Full Service Dining, Inc. (d/b/a Spageddies); Grady's American Grill Restaurant Corporation (d/b/a Grady's American Grill); Bravotampa, LLC (d/b/a Burger King); Bravokilo, Inc. (d/b/a Burger King); Southwest Dining, Inc. (d/b/a Chili's Grill & Bar); and Full Service Dining, Inc. (d/b/a Papa Vino's Italian Kitchen)

State of Arizona

Speedy Stop Food Stores, LLC; Thomas Petroleum LLC; Thomas Foods, LLC; and C.L. Thomas, Inc.

Shop Rite, Inc.; Tobacco Plus, Inc.; Rice Palace, Inc.; and Gielen Development, Inc. (replacing plaintiff Gielen Enterprises, Inc.)

Holiday Companies; Holiday Stationstores, Inc.; Gander Mountain Company; Consumers Marine Electronics, Inc.; GMTN Tall Tales, LLC; and Overton's, Inc.

Trans World Entertainment Corporation

Maverik, Inc. (formerly doing business as Maverik Country Stores, Inc. and Caribou Four Corners, Inc.)

Carmike Cinemas, Inc.

ABC Carpet Co., Inc.; ABC Home Furnishings, Inc.; ABC Oriental Carpets, Inc.; The ABC Outlet, Inc.; and ABC Carpet of New Jersey, LLC

Furniture Row BC, Inc.; and Furniture Row, LLC

Sheetz, Inc.

Giant Eagle, Inc.; Riser Foods Company; and The Tamarkin Company

Kum & Go, L.C.

Haverty Furniture Companies, Inc.

ADFP Management Inc.

Allsup's Convenience Stores, Inc.

Citi Trends, Inc.

Kwik Trip, Inc.

Quick Chek Corporation f/k/a Quick Chek Food Stores

QuikTrip Corporation; and QuikTrip West, Incorporated

Wawa, Inc.

American Airlines, Inc.; American Airlines Group Inc.; and US Airways Group, Inc.

Urban Outfitters, Inc.

Charles M. Forman as the Chapter 7 Trustee for the consolidated bankruptcy estates of Linens Holding Co.; Linens 'n Things, Inc.; Linens 'n Things Center, Inc.; Bloomington, MN., L.T., Inc.; Vendor Finance, LLC; LNT, Inc.; LNT Services, Inc.; LNT Leasing II, LLC; LNT West, Inc.; LNT Virginia LLC; LNT Merchandising Company LLC; LNT Leasing III, LLC; and Citadel LNT, LLC

J.Crew Group, Inc.

BSN SPORTS LLC f/k/a BSN SPORTS, Inc.

RaceTrac Petroleum, Inc.

Waffle House, Inc. (and as assignee on behalf of Ahrooo Waffles, LLC; Amarillo Waffles, LLC; Angelle Enterprises, Inc.; Bluegrass Waffle, LLC; Buckeye Waffles, Inc.; Cathia Inc.; Chesapeake Waffles; Choo Choo Waffles, LLC; D. Love's Restaurants, LLC; Derby City Waffles, LLC; Hillcrest Foods, Inc. ; Hilltop Foods, LLC; J. Thomas & Co. Inc.; JD's Wild West Waffles, Inc.; JKW Enterprises, Inc.; Just Us Waffles, LLC; Lakeland Foods, Inc.; Lehigh Valley Waffles, Inc.; Lewis Jones Enterprises, Inc.; Lexidan Foods, LLC; Longhorn Waffles,

Inc.; Look Out Waffles, LLC; M&M Waffles, LLC; Memphis Food Group/River Waffles; Mericle's, Inc.; Miller Properties, Inc.; Riverside Restaurant Group, LLC; Rocky Top Waffles, LLC; Texas Waffle Co., Ltd.; TW Odom Management Services; West Penn Waffles, LLC; Winning Waffles, LLC; Yellow Brick Foods, Inc.; and Yogi Hill Corp.)

Einstein Noah Restaurant Group, Inc.

Go-Mart, Inc.

ANN INC.; AnnTaylor, Inc.; AnnTaylor Retail, Inc.; ANN INC. d/b/a Ann Taylor Stores; ANN INC. d/b/a LOFT Stores; ANN INC. d/b/a Ann Taylor Factory Stores; ANN INC. d/b/a LOFT Outlet Stores; ANN INC. d/b/a www.anntaylor.com; and ANN INC. d/b/a www.LOFT.com

NPC International, Inc.

CVS Pharmacy, Inc.

Brown-Thompson General Partnership d/b/a 7-Eleven Stores

Cleveland State University

D & H Company; Dodge Brothers, Inc. (also known as Dodge Brothers); Dodge Oil Company; Dodge Oil Company of Arkansas; Dodge Oil Company of Mississippi; East Coast Oil Company; Giant Oil Company of Mississippi; Giant Oil Company of Kentucky; Go Oil Company, Inc.; H & D Oil Company, Inc. (identified in the complaint in *National Restaurants Management, Inc., et al. v. Visa Inc., et al.*, No. 15-CV-06827 (E.D.N.Y.) as H & D Oil Company); Henry Oil Company of Tennessee; North Mississippi Oil Company; Park Oil Company; Perfection Oil Company; Progressive Oil Company; Quality Oil Company; Royal Oil Company; Savings Carolina Division; Savings Oil Company; Savings, Alabama Division, Inc.; and Savings, Inc.

GES Inc., dba Food Giant

Kent State University

National Restaurants Management, Inc.

Ohio University

The University of Akron

The University of Toledo

Youngstown State University; and YSU Bookstore

Brookstone Company, Inc.; Brookstone Stores, Inc.; and Brookstone Holdings Corp.

Newegg Inc.; and Evolution Design Lab Inc.

New Prime Inc., d/b/a "PRIME INC."

Wal-Mart Stores, Inc.; Wal-Mart Stores Texas, LLC; Wal-Mart Stores East, LP; Wal-Mart Stores East, LLC; Wal-Mart Louisiana, LLC; Wal-Mart Stores Arkansas, LLC; Sam's West, Inc.; Sam's East, Inc.; Wal-Mart.com USA, LLC; Vudu, Inc.; Inkiru, Inc.; Ozark Spirits, LLC; Green River Spirits, LLC; and Quality Licensing Corp.

State of New Mexico