

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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In re PAYMENT CARD INTERCHANGE	:	MDL No. 1720(MKB)(JO)
FEE AND MERCHANT DISCOUNT	:	
ANTITRUST LITIGATION	:	Civil No. 05-5075(MKB)(JO)
_____	:	
This Document Relates To:	:	DECLARATION OF ALEXANDRA S.
	:	BERNAY IN SUPPORT OF RULE 23(b)(3)
	:	CLASS PLAINTIFFS' REPLY
ALL ACTIONS.	:	MEMORANDUM IN FURTHER SUPPORT
	:	OF SETTLEMENT FINAL APPROVAL
_____	X	

I, ALEXANDRA S. BERNAY, declare as follows:

1. I am an attorney duly licensed to practice before all of the courts of the State of California. I am admitted to practice *pro hac vice* in this Court. I am a member of the law firm of Robbins Geller Rudman & Dowd LLP, one of three firms the Court has appointed to serve as Rule 23(b)(3) Class Counsel (“Class Counsel”). I have personal knowledge of the matters stated herein and, if called upon, I could and would competently testify thereto.

2. Under the terms of the Superseding and Amended Definitive Class Settlement Agreement of the Rule 23(b)(3) Class Plaintiffs and the Defendants, I was designated as the representative for Class Counsel to receive all written objections from class members.

3. Beginning on April 9, 2019, the date that the first objection was posted via ECF and continuing to the present, I personally opened each piece of mail received and worked with support staff to develop a process to catalog, identify and review each document received.<sup>1</sup> Some documents were also received via ECF. Every document received, including the envelope, was scanned. Additionally, information from each document received was entered into a continually updated database. This information includes the postmark date (where available), or the date the document was posted via ECF, contact information and other identifying details.

4. From April 9, 2019, until the present, my office received a total of more than 150 distinct pieces of mail, not counting exclusion requests that were misdirected. Some of these documents were both postmarked and received after the deadline of July 23, 2019 contained in the Settlement Class Notice. Class Counsel has counted all objections received, regardless of timing for purposes of this declaration.

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<sup>1</sup> The first mailed objection was received by my office on April 16, 2019.

5. The Settlement Class Notice required copies of objections to be sent to the Court, Class Counsels' designee and to a designee of Defendants. Additionally, those class members that determined to exclude themselves from the Rule 23(b)(3) Settlement Class were required to submit their exclusion request to the Class Administrator, Epiq Class Action Services, Inc. ("Epiq"). I am aware that some class members may not have sent their objections to all of the parties listed in the Settlement Class Notice. Because my office may not have received every objection, and because some class members filed duplicate objections, the numbers reported here can only be approximate.

6. Many other documents, such as requests for a change of address or letters requesting information regarding the settlement, but not objecting to the settlement, were also received. A careful review, by myself and others, was undertaken to try to exclude these non-objections from the total number of objections received.

7. Also, over the course of the past several months, I received some documents which appeared to be requests for exclusion, rather than objections. Those documents were forwarded to Epiq for processing and were not included on the list of objections. I also received some documents which appeared to be requests to be included in the settlement, without objection.

8. Based on a review conducted by myself, other attorneys in my office and support staff, it has been determined that many of the objections received were submitted using certain boilerplate forms. We were unable to determine the source of these forms.

9. In total, Class Counsel received approximately 176 objections.

10. Of the 205 total documents received, 142 were comprised of form objections, which accounted for more than 69% of the documents received.

11. In some cases, class members filed form objections listing incorrect information, including statements that they did not receive a Settlement Class Notice when a review by Epiq revealed that a Settlement Class Notice had been sent.

12. Class Counsel also received other objections to the settlement that were not “form” objections. Some of these objections contained citations to authority and/or made specific legal arguments.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 30th day of August, 2019, at San Diego, California.

A handwritten signature in black ink, appearing to read "Alex Bernay", is written over a horizontal line.

ALEXANDRA S. BERNAY