

1 Hassan A. Zavareei (CA Bar No. 181547)  
hzavareei@tzlegal.com  
2 Andrea R. Gold\*  
agold@tzlegal.com  
3 TYCKO & ZAVAREEI LLP  
2000 Pennsylvania Avenue, Northwest, Suite 1010  
4 Washington, District of Columbia 20006  
Telephone: (202) 973-0900  
5 Facsimile: (202) 973-0950

6 Jonathan M. Streisfeld\*  
streisfeld@kolawyers.com  
7 KOPELOWITZ OSTROW  
FERGUSON WEISELBERG GILBERT  
8 One West Las Olas Boulevard, Suite 500  
Fort Lauderdale, Florida 33301  
9 Telephone: (954) 525-4100  
Facsimile: (954) 525-4300

10 \*pro hac vice

11 *Attorneys for Plaintiff Maureen Harrold*

12  
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

15 MAUREEN HARROLD, individually and on  
behalf of all others similarly situated,

16 Plaintiff,

17 v.

18 MUFG UNION BANK, N.A.,

19 Defendant.

Case No. BC680214

**(Assigned for All Purpose to the Honorable  
Yvette M. Palazuelos, Dept. 9)**

**PLAINTIFF'S NOTICE OF MOTION  
AND UNOPPOSED MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

Date: April 26, 2023  
Time: 10:00 a.m.

Action Filed: October 19, 2017

Amended Complaint Filed: July 29, 2020  
Trial Date: None Set

24  
25  
26  
27  
28

1 **TO THE COURT AND DEFENDANT MUFG UNION BANK, N.A. AND ITS ATTORNEYS**  
2 **OF RECORD:**

3 PLEASE TAKE NOTICE that on April 26, 2023 at 10:00 a.m. or as soon thereafter as  
4 counsel may be heard by the above-titled Court, located at Superior Court of the State of California,  
5 County of Los Angeles, located at Spring Street Courthouse 312 North Spring Street, Los Angeles,  
6 CA 90012, Plaintiff Maureen Harrold will and hereby does move for an order:

- 7 1. granting preliminary approval of the class action as set forth in the Settlement Agreement  
8 and Releases attached as *Exhibit A* to the Memorandum of Points and Authorities in Support  
9 of Unopposed Motion for Preliminary Approval of Class Action Settlement (“Memorandum  
10 of Points and Authorities”) filed herewith;
- 11 2. certifying, for settlement purposes only, the Settlement Class defined as:  
12 All MUFG Union Bank, N.A. consumer checking Account holders in California  
13 who were assessed one or more APSN Fees during the Class Period.  
14 Excluded from the Class is Defendant, its parents, subsidiaries, affiliates,  
15 officers, and directors; and all judges and judicial referees assigned to these  
16 proceedings and their immediate family members.
- 17 3. directing dissemination of notice in the form and manner set forth in the Settlement  
18 Agreement and Releases; and
- 19 4. setting a date for a final approval hearing.

20 A copy of the [Proposed] Order Granting Preliminary Approval of Class Settlement is being  
21 filed concurrently with this motion.

22 This motion is based on this Notice of Motion and Motion; the Memorandum of Points and  
23 Authorities filed herewith; the concurrently filed Joint Declaration of Proposed Class Counsel,  
24 which is *Exhibit B* to the Memorandum of Points and Authorities; the concurrently filed Declaration  
25 of Maureen Harrold, which is *Exhibit C* to the Memorandum of Points and Authorities; the  
26 concurrently filed Declaration of Scott M. Fenwick, which is *Exhibit D* to the Memorandum of  
27 Points and Authorities; ; and upon such other evidence, information, or material as may be presented  
28 to the Court.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

DATED: January 30, 2023

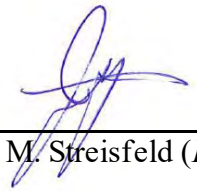
TYCKO & ZAVAREEI LLP

By:   
Andrea Gold (*Pro Hac Vice*)

*Attorneys for Plaintiff Maureen Harrold*

DATED: January 30, 2023

KOPELOWITZ OSTROW P.A.

By:   
Jonathan M. Streisfeld (*Pro Hac Vice*)

*Attorneys for Plaintiff Maureen Harrold*

1 Hassan A. Zavareei (CA Bar No. 181547)  
hzavareei@tzlegal.com  
2 Andrea R. Gold\*  
agold@tzlegal.com  
3 TYCKO & ZAVAREEI LLP  
2000 Pennsylvania Avenue, Northwest, Suite 1010  
4 Washington, District of Columbia 20006  
Telephone: (202) 973-0900  
5 Facsimile: (202) 973-0950

6 Jonathan M. Streisfeld\*  
streisfeld@kolawyers.com  
7 KOPELOWITZ OSTROW  
FERGUSON WEISELBERG GILBERT  
8 One West Las Olas Boulevard, Suite 500  
Fort Lauderdale, Florida 33301  
9 Telephone: (954) 525-4100  
Facsimile: (954) 525-4300

10 \*pro hac vice

11 *Attorneys for Plaintiff Maureen Harrold*

12

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

14

15 MAUREEN HARROLD, individually and on  
behalf of all others similarly situated,

15

16 Plaintiff,

16

17 v.

17

18

18 MUFG UNION BANK, N.A.,

19

19 Defendant.

20

21

22

23

24

25

26

27

28

Case No. BC680214

**Assigned for All Purpose to the Honorable  
Yvette M. Palazuelos, Dept. 9)**

**PLAINTIFF’S MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF UNOPPOSED MOTION  
FOR PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT**

Date: April 26, 2023

Time: 10:00 a.m.

Action Filed: October 19, 2017

Amended Complaint Filed: July 29, 2020

Trial Date: None Set

**TABLE OF CONTENTS**

1

2 I. INTRODUCTION..... 7

3 II. SUMMARY OF THE LITIGATION..... 8

4 A. Plaintiff’s Claims and Defendant’s Defenses..... 8

5 B. Procedural History; Summary of Investigation and Discovery Conducted ..... 8

6 III. SUMMARY OF SETTLEMENT ..... 10

7 A. Summary of Settlement Negotiations ..... 10

8 B. Summary of Risks, Expenses, Complexity, and Duration of Further Litigation ..... 11

9 C. The Proposed Settlement..... 12

10 1. Class Certification..... 12

11 2. Class Benefits..... 12

12 a. Settlement Fund..... 12

13 b. Settlement Release..... 13

14 c. Notice Program..... 15

15 d. Incentive Award for Named Plaintiff and Attorneys’ Fees and Costs ..... 16

16 e. Secondary Distribution and *Cy Pres* Payment..... 16

17 D. Settlement Administration, Opt-Outs, Objections, and Termination ..... 16

18 IV. ARGUMENT IN FAVOR OF PRELIMINARY SETTLEMENT APPROVAL ..... 17

19 A. The Settlement Should be Preliminarily Approved ..... 17

20 1. The Proposed Settlement Was Reached After Formal and Informal Discovery, and

21 Arms’-Length Negotiations Between Experienced Counsel..... 18

22 2. There are No Grounds to Doubt the Fairness of the Settlement..... 19

23 3. The Settlement Is Well Within the Range of Approval..... 20

24 4. The Settlement Provides an Immediate Benefit to the Settlement Class. .... 21

25 5. Plaintiff and Class Members Face Risks in the Absence of Settlement..... 21

26

27

28

1 B. Certification of the Settlement Class Is Appropriate..... 22

2 1. The Proposed Class is Ascertainable and Numerous. .... 22

3 2. The Community of Interest Requirements Are Met..... 22

4 a. Common Questions Predominate..... 22

5 b. The Named Plaintiff’s Claims Are Typical..... 23

6 3. The Settlement Class is Adequately Represented ..... 23

7 4. Class Action Is the Superior Vehicle for Adjudication ..... 24

8 5. The Court Should Approve the Notice Program..... 25

9

10 V. PROPOSED SCHEDULE OF EVENTS ..... 25

11

12 VI. CONCLUSION ..... 26

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

**TABLE OF AUTHORITIES**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

<b><u>Cases</u></b>	<b><u>Page(s)</u></b>
<i>7-Eleven Owners for Fair Franchising v. Southland Corp.</i> , (2000) 85 Cal.App.4th 1135.....	25
<i>Amchem Prod., Inc. v. Windsor</i> , 521 U.S. 591 (1997).....	25
<i>Arce v. Kaiser Found. Health Plan, Inc.</i> , (2010) 181 Cal.4th 471 .....	23
<i>B.W.I. Custom Kitchen v. Owens-Illinois, Inc.</i> , (1987) 191 Cal.App.3d 1341 .....	23
<i>Blue Chip Stamps v. Superior Court</i> , (1976) 18 Cal.3d 381, 556 P.2d 755.....	24
<i>Bodnar v. Bank of Am., N.A.</i> , 2016 WL 4582084 (E.D. Pa. Aug. 4, 2016).....	21
<i>Bufile v. Dollar Fin. Group, Inc.</i> , (2008) 162 Cal.App.4th, 1193 .....	22, 24
<i>Cellphone Termination Fee Cases</i> , (2009) 180 Cal.App.4th 1110 .....	17
<i>City of San Jose v. Superior Court</i> , (1974) 12 Cal.3d 447, 525 P.2d 701.....	25
<i>Classen v. Weller</i> , (1983) 145 Cal.App.3d 27.....	23
<i>Dean Witter Reynolds, Inc. v. Superior Court</i> , (1989) 211 Cal.App.3d 758 .....	25
<i>Dunk v. Ford Motor Co.</i> , (1996) 48 Cal.App.4th 1794.....	17, 24
<i>Fireside Bank v. Superior Court</i> , (2007) 40 Cal.5th 1069 .....	23
<i>Hawthorne v. Umpqua Bank</i> , 2015 WL 1927342 (N.D. Cal. Apr. 28, 2015) .....	21
<i>Hernandez v. Vitamin Shoppe Indus., Inc.</i> , (2009) 174 Cal.App.4th 1441 .....	22

1 *In re Checking Account Overdraft Litig.*,  
2 2013 WL 11319242 (S.D. Fla. Aug. 2, 2013)..... 21

3 *In re Checking Account Overdraft Litig.*,  
4 No. 1:09-MD-02036-JLK, 2015 WL 12541970 (S.D. Fla. May 22, 2015)..... 21

5 *Jones v. Farmers Ins. Exchange*,  
6 (2013) 221 Cal.App.4th 986..... 24

7 *Kelly v. Cmty. Bank, N.A.*,  
8 No. 8:19-CV-919, 2020 WL 777463 (N.D.N.Y. Feb. 18, 2020)..... 18

9 *Kullar v. Foot Locker Retail, Inc.*,  
10 (2008) 168 Cal. App. 4th 116..... 18, 19, 20

11 *La Sala v. Am. Sav. & Loan Assn*,  
12 (1971) 5 Cal.3d 864..... 17

13 *Linder v. Thrifty Oil Co.*,  
14 (2000) 23 Cal.4th 429 ..... 22

15 *Lloyd v. Navy Fed. Cred. Union*,  
16 No. 17-cv-1280-BAS-RBB, 2018 WL 1757609 (S.D. Cal. Apr. 12, 2018)..... 18

17 *Lloyd v. Navy Fed. Cred. Union*,  
18 No. 17-CV-1280, 2019 WL 2269958 (S.D. Cal. May 28, 2019),  
19 *reconsideration denied in part* 2019 WL 2603616 (S.D. Cal. June 26, 2019)..... 18

20 *Lussoro v. Ocean Fin. Fed. Cred. Union*,  
21 456 F. Supp. 3d 474 (E.D.N.Y. 2020)..... 18

22 *Malibu Outrigger Bd. of Governors v. Superior Court*,  
23 (1980) 103 Cal.App.3d 573 ..... 17

24 *McGhee v. Bank of Am.*,  
25 (1976) 60 Cal.App.3d 442..... 24

26 *Mosser v. TD Bank, N.A.*,  
27 2013 U.S. Dist. LEXIS 187627, at \*83-84 (S.D. Fla. Mar. 18, 2013)..... 21

28 *Noel v. Thrifty Payless, Inc.*,  
(2019) 7 Cal.5th 955 ..... 22

*Richmond v. Dart Indus., Inc.*,  
(1981) 29 Cal. 3d 462 ..... 22

*Roberts v. Capital One, N.A.*,  
719 Fed. App'x 33 (2d Cir. 2017)..... 18, 21



1 *Schulte v. Fifth Third Bank,*  
2 805 F. Supp. 2d 560 (N.D. Ill. 2011)..... 21

3 *Soderstedt v. CBIZ Southern Calif., LLC,*  
4 (2011) 197 Cal.App.4th 133..... 24

5 *Torres v. Bank of Am.,*  
6 830 F. Supp. 2d 1330 (S.D. Fla. 2011)..... 21

7 *Trombley v. Nat’l City Bank,*  
8 826 F. Supp. 2d 179 (D.D.C. 2011) ..... 21

9 *Varga v. American Airlines Credit Union,*  
10 No. CV 20-4380, 2020 WL 8881747 (C.D. Cal. Dec. 1, 2020) ..... 18

11 *Vasquez v. Superior Court,*  
12 (1971) 4 Cal.3d 800 ..... 23

13 *Wershba v. Apple Computer, Inc.,*  
14 (2001) 91 Cal.App.4th 224..... 21

15 *Woods v. Am. Film Inst.,*  
16 (2021) 72 Cal.App.5th 1022.....22, 23

14 **Statutes**

15 Bus. & Prof. Code § 17200..... 8

16 California Civil Code Section 1542 .....13, 14

17 Civ. Code § 1781(b) .....22, 24

18 Civil Code § 638 ..... 9

19 Civil Code § 1281.2..... 8

20 Civil Code § 1750..... 8

21 Code Civ. Proc. § 382..... 22

23 **Rules**

24 Cal. Ct. R. 3.769..... 17

25 **Other Authorities**

26 2 Newberg et al., *Newberg on Class Actions* § 11.41 (3d ed. 1992)..... 19

27

28

1           **I.       INTRODUCTION**

2           Plaintiff Maureen Harrold respectfully moves for preliminary approval of a proposed class  
3 action settlement with Defendant MUFG Union Bank, N.A., the terms and conditions of which are  
4 set forth in the Settlement Agreement and Releases attached as *Exhibit A*.

5           Plaintiff<sup>1</sup> is a California resident and had a checking account with Defendant at all material  
6 times. Defendant is headquartered in San Francisco, California, providing retail banking services to  
7 consumers, including debit card services used in conjunction with checking accounts.

8           Plaintiff’s First Amended Class Action Complaint alleges putative class claims that  
9 Defendant improperly charged Overdraft Fees on Debit Card Transactions that authorized against a  
10 positive balance but settled against a negative balance due to intervening charges. Joint Declaration  
11 of Andrea Gold and Jonathan Streisfeld (“Joint Decl.”), attached as *Exhibit B*, ¶ 3. She alleges  
12 claims of breach of contract including the covenant of good faith and fair dealing and violations of  
13 California consumer protection laws. *Id.* Defendant denies liability. Given the risks, uncertainties,  
14 and burdens of litigation, the Parties have agreed to settle according to the terms of the Agreement.

15           The proposed class Settlement provides for a \$5,000,000.00 Settlement Fund from which  
16 will be deducted a court-approved Incentive Award to Plaintiff as Class Representative, Class  
17 Counsel’s attorneys’ fees of no more than 33.33% of the Settlement Fund; and Class Counsel’s costs  
18 in prosecuting this Action to arrive at the Net Settlement Fund to be distributed to Settlement Class  
19 Members. Agreement ¶¶ 52, 76, 116. Thereafter, Residual Funds following the first distribution will  
20 be distributed pro rata to Settlement Class Members if a second distribution is feasible and  
21 practicable and/or to a *cypres* recipient. *Id.* ¶ 108. Defendant has agreed to separately pay Settlement  
22 Administration Costs. *Id.* ¶ 76. The Notice Program includes a robust direct notice plan designed to  
23 afford all Accountholders in the Settlement Class due process and advises them of their rights under  
24 the Agreement, including the ability to opt-out of or object to the Settlement. *Id.* ¶¶ 86-98.

25           The Agreement meets all preliminary approval requirements. Therefore, Plaintiff  
26 respectfully requests that the Court grant Preliminary Approval; appoint Plaintiff as the Class  
27 \_\_\_\_\_

28 <sup>1</sup> The capitalized terms used herein are defined and have the same meaning as used in the Agreement unless otherwise stated.

1 Representative for the Settlement Class; appoint Jonathan M. Streisfeld and Andrea R. Gold as Class  
2 Counsel; approve the Notice Program and order dissemination of the proposed Notices; and  
3 schedule the Final Approval Hearing.

## 4 **II. SUMMARY OF THE LITIGATION**

### 5 **A. Plaintiff's Claims and Defendant's Defenses**

6 As introduced above, the First Amended Class Action Complaint alleges Defendant charged  
7 Plaintiff and other similarly situated California Accountholders APSN Fees on Debit Card  
8 Transactions. An APSN Fee is an Overdraft Fee that Defendant charged and did not refund on Debit  
9 Card Transactions, during the Class Period, where there was a positive available balance at the time  
10 the transaction was authorized, but an insufficient balance at the time the transaction was presented  
11 to Defendant for payment and posted to an Accountholder's Account. Agreement ¶ 35. As such,  
12 she claims Defendant breached the Account Agreement and violated the California Unfair  
13 Competition Law ("UCL"), Bus. & Prof. Code § 17200, *et seq.*, the California Consumer Legal  
14 Remedies Act ("CLRA"), Civil Code § 1750 *et seq.*, and statutory fraud pursuant to Civil Code §  
15 1281.2. Plaintiff sought relief including damages and/or restitution for all APSN Fees; an injunction  
16 against Union Bank barring it from continuing to misrepresent its Overdraft Fee policies in its  
17 publicly available account documents, continuing to charge Overdraft Fees on transactions that do  
18 not actually overdraw accounts, and conducting business via the complained-of unlawful and unfair  
19 business practices; pre-judgment interest; and attorney's fees and costs. Joint Decl. ¶ 3. Defendant  
20 denies all allegations and claims including based on its view that the Account Agreement permitted  
21 the challenged APSN Fees and that all Accountholders in the Settlement Class are subject to an  
22 arbitration provision preventing suits in court or participation in a class action. Agreement ¶ 130.

### 23 **B. Procedural History; Summary of Investigation and Discovery Conducted**

24 Plaintiff filed the Complaint on October 19, 2017. Agreement ¶ 1. On March 2, 2018,  
25 Defendant filed a Motion to Compel Arbitration claiming the Account Agreement mandated  
26 individual arbitration of Plaintiff's claims. *Id.* ¶ 4. Arbitration-related discovery occurred with the  
27 production of several Account Agreements, fee schedules, change of terms notices, and policy  
28 documents. *Id.* ¶ 4. Plaintiff took Defendant's deposition. *Id.* On May 30, 2018, following a hearing

1 the Court ruled the Account Agreement delegated authority to determine the enforceability of the  
2 arbitration provision to the arbitrator. *Id.* ¶ 5.

3 On October 16, 2018, the Honorable Candace Cooper (ret.) was appointed as the Arbitrator.  
4 *Id.* ¶ 6. On March 7, 2019, Plaintiff submitted her Amended Demand for Arbitration in the  
5 Arbitration, attaching her First Amended Class Action Complaint, and her Motion to Declare  
6 Arbitration Agreement Unenforceable. *Id.* ¶ 7. After briefing, on May 21, 2019, Arbitrator Cooper  
7 heard that motion, the parties submitted supplemental authority, and on August 19, 2019, she denied  
8 it. *Id.* ¶ 8.

9 However, on September 4, 2019, during a status conference, Plaintiff sought permission to  
10 file a supplemental brief on the “poison pill” issue raised in her motion. *Id.* ¶ 9. With approval, both  
11 Parties submitted supplemental briefing. *Id.* On December 15, 2019, Arbitrator Cooper issued her  
12 Supplemental Order re Arbitrability, ruling that because the waiver of public injunctive relief in the  
13 arbitration provision was unenforceable, the “poison pill” provision rendered the entire arbitration  
14 provision null and void. *Id.* ¶ 10. Arbitrator Cooper thus rescinded portions of her prior order and  
15 dismissed the arbitration. *Id.* The Action then moved back to this Court. *Id.*

16 On March 24, 2020, Defendant filed a Motion to Vacate the Arbitration Award, which the  
17 Court denied on July 27, 2020. *Id.* ¶ 11. The Court lifted the stay of the proceedings and ordered  
18 Plaintiff’s First Amended Complaint be filed and served, which Plaintiff filed and served on July  
19 28, 2020. *Id.* On September 14, 2020, Defendant filed its Answer to the First Amended Complaint,  
20 which included a general denial of the allegations and affirmative defenses. *Id.* ¶ 12.

21 Defendant notified Plaintiff of its intent to move to reassign the case to a judicial referee  
22 under Civil Code § 638, which Plaintiff opposed. *Id.* ¶ 13. The Parties submitted briefing on  
23 Defendant’s Motion to Compel Judicial Reference. *Id.* On February 4, 2021, the Court issued its  
24 tentative ruling granting that motion, which became the Order of the Court on February 8, 2021. *Id.*  
25 On April 13, 2021, the Joint Status Report indicated agreement to proceed in judicial reference  
26 before the Honorable Rita “Sunny” Miller (Ret.), who was appointed on April 21, 2021. *Id.* ¶ 14.

27 The possibility of settlement was raised but settlement talks did not progress. *Id.* ¶ 15. On  
28 November 18, 2021, the Parties submitted a Joint Status Report asking to move forward with the

1 judicial reference proceedings. *Id.* Plaintiff served interrogatories and document requests to which  
2 Defendant responded. *Id.* On January 25, 2022, Defendant filed a Motion for Judgment on the  
3 Pleadings, arguing the Account Agreement permitted the challenged APSN Fees. *Id.* ¶ 16.

4 On February 14, 2022, the Parties filed a stipulation to stay the case pending mediation,  
5 which Judicial Referee Miller granted on March 21, 2022. *Id.* ¶ 17. In addition to arbitration-related  
6 discovery resulting in production of all relevant Account agreements that allowed them to evaluate  
7 changes Defendant made to its contractual provisions regarding its overdraft fee practices and/or  
8 policies, the Parties engaged in informal discovery regarding an estimate of the aggregate relevant  
9 APSN Fees assessed during the Class Period, as well as analyzed and estimated damages  
10 recoverable by Plaintiff and the Settlement Class should they succeed on their claims. *Id.* ¶ 18.

11 Following a full-day mediation on April 22, 2022, with JAMS mediator Robert Meyer, Esq.,  
12 the Parties agreed in principle to settle, with the material terms memorialized in a May 4, 2022 Term  
13 Sheet. *Id.* ¶ 19. The Parties' May 5, 2022 Joint Status Report confirmed the agreement in principle  
14 and requested the Court continue the stay of all deadlines. *Id.* ¶ 20. To gather full Account-level  
15 transaction data sufficient for Plaintiff's expert to determine membership in the Settlement Class,  
16 the Court extended the deadline to file this Motion multiple times. *Id.* ¶ 21. Plaintiff's expert has  
17 completed the work necessary to identify Accountholders in the Settlement Class and their APSN  
18 Fees. *Id.* The Parties signed the Agreement effective January 25, 2023. *Id.* ¶ 22.

### 19 **III. SUMMARY OF SETTLEMENT**

#### 20 **A. Summary of Settlement Negotiations**

21 As noted above, the Settlement was negotiated with Mr. Meyer, a well-respected mediator  
22 who presided over an arms-length mediation between capable and experienced class action counsel  
23 on both sides. Joint Decl. ¶ 33. Armed with the formal and informal discovery described above,  
24 including the estimated value of the class claims, the Parties negotiated the Settlement Fund and  
25 Defendant's agreement to separately pay Settlement Administration Costs. The Parties did not  
26 discuss attorneys' fees and costs or any potential Incentive Award until first agreeing to the material  
27 Settlement terms, including the Settlement Class definition, Notice, Settlement Class benefits, and  
28 Releases. *Id.* ¶ 33.

1           **B. Summary of Risks, Expenses, Complexity, and Duration of Further Litigation**

2           Any settlement requires the parties to balance the merits of the claims and defenses asserted  
3 and the attendant risks of continued litigation and delay. Plaintiff and Class Counsel are confident  
4 in the strength of this case and that she would ultimately prevail at trial. *Id.* ¶ 45. If the Settlement  
5 does not occur, Plaintiff will need to persuade the Court to deny the Motion for Judgment on the  
6 Pleadings, chiefly that her interpretation of the material Account Agreement provisions is reasonable  
7 or that the terms are ambiguous. Thereafter, she would need to complete further costly formal  
8 discovery, brief and prevail at class certification (including, but not limited to, defeat likely  
9 arguments by Defendant as to the application of the arbitration provision as to absent class  
10 members), incur costs to notice the litigation class, defeat at least one likely motion for summary  
11 judgment, and prevail at trial. Any potential recovery could be significantly delayed by appellate  
12 proceedings at multiple stages. *Id.* ¶ 46. Thus, Plaintiff faces significant risk. What is certain is that  
13 if the Action continues, class members will wait much longer before receiving any recovery. Thus,  
14 in Class Counsel’s experience and informed judgment, the Settlement represents an excellent  
15 recovery for the Settlement Class, and the benefits of settling under the proposed terms outweigh  
16 the risks and uncertainties of continued litigation.

17           Based on Plaintiff’s expert’s analysis, the Settlement Class would collectively be entitled to  
18 approximately \$13.3 million. Joint Decl. ¶ 47. Each Settlement Class Member’s maximum realistic  
19 recovery depends on the number of APSN Fees assessed during the Class Period. For some, only  
20 one APSN Fee was assessed. *Id.* An expert is required to evaluate complicated account-level  
21 transaction data on the days that Overdraft Fees were assessed and to identify which Debit Card  
22 Transactions were authorized against a positive available balance, something the average  
23 Accountholder would not recognize from her Account statements. *Id.* The \$5,000.000.00 Settlement  
24 Fund is an excellent result, providing a substantial percentage of recovery (approximately 37%)  
25 against the risk Defendant would prevail. *Id.* Defendant assessed \$33.00 Overdraft Fees, and the  
26 Parties estimate that for each APSN Fee the payment to a Settlement Class Member will be \$8.14.<sup>2</sup>

27 \_\_\_\_\_  
28 <sup>2</sup> The \$8.14 is calculated by multiplying \$33.00 by 37% (estimated percentage of recovery from the

1 Agreement, ¶104.

2 **C. The Proposed Settlement**

3 The Agreement completely resolves this Action and includes the following material terms:

4 **1. Class Certification**

5 For Settlement purposes, the Parties have agreed to certify a Settlement Class defined as:  
6 “all MUFG Union Bank, N.A. consumer checking Accountholders in California who were assessed  
7 one or more APSN Fee during the Class Period,” which is October 19, 2013 through February 28,  
8 2019. *See* Agreement ¶¶ 37, 69. The Class Period closes as of that date because it is the date when  
9 Defendant stopped assessing APSN Fees. Joint Decl. ¶ 53. Excluded from the Class are Defendant,  
10 its parents, subsidiaries, affiliates, officers, and directors; all Accountholders in the Class who make  
11 a timely election to be excluded by opting-out; and all judges and judicial referees assigned to these  
12 proceedings and their immediate family members. Agreement ¶ 69.

13 **2. Class Benefits**

14 Class Counsel believes the Settlement benefits fairly and reasonably compensate Settlement  
15 Class Members, and in light of the risks of litigation, represents an excellent result. Joint Decl. ¶52.  
16 According to Defendant’s records, approximately 81,251 unique Accounts make up the Settlement  
17 Class. *Id.* ¶ 54. Since it is possible that some Settlement Class Members have more than one  
18 Account, the total number Accountholders in the Settlement Class will be determined once  
19 Defendant matches Account numbers from Plaintiff’s expert’s analysis with Accountholder names.  
20 *Id.* Notably, Settlement Class Members need not file claims; instead, Current Accountholders will  
21 automatically receive direct Account credits and Past Accountholders will be directly paid by check.  
22 Agreement ¶ 106.

23 **a. Settlement Fund**

24 After Preliminary Approval, Defendant shall pay the \$5,000,000.00 Settlement Fund into an  
25 escrow account established by the Settlement Administrator. Agreement ¶¶ 46, 76-77. That fund  
26 will be used to pay (a) Settlement Class Member Payments; (b) any Incentive Award to the Class

27 \_\_\_\_\_  
28 Settlement) and then reducing that amount by 33.33% (the maximum amount that Class Counsel  
are entitled to seek for attorneys’ fees). Agreement ¶ 104.

1 Representative; (c) attorneys' fees and costs to Class Counsel; and (d) any *cy pres* payment. *Id.* ¶  
2 76. Defendant shall separately pay Settlement Administration Costs, *id.*, estimated to be \$93,816.00.  
3 Joint Decl. ¶ 39. The Settlement Fund alone represents approximately 37% of Settlement Class  
4 damages. *Id.* ¶ 47.

5 The Net Settlement Fund is the Settlement Fund minus Court-approved attorneys' fees and  
6 costs and Incentive Award. Agreement ¶ 52. The Net Settlement Fund shall be disbursed *pro rata*  
7 using the equitable formula that divides the Net Settlement Fund by the total number of APSN Fees  
8 for the Settlement Class to yield a per-fee amount, following which the per-fee amount is multiplied  
9 by each Settlement Class Member's total number of APSN Fees. *Id.* ¶ 102. Within 15 days after the  
10 Effective Date, applying the formula, the Settlement Administrator shall identify to Defendant the  
11 full amount of Settlement Class Member Payments, and the amount of each Settlement Class  
12 Member Payment to be credited to Current Accountholders' Accounts. *Id.* ¶ 105. No later than 60  
13 days from the Effective Date, Defendant and the Settlement Administrator shall distribute the Net  
14 Settlement Fund. *Id.* ¶ 106. Current Accountholders will receive Account credits, and Past  
15 Accountholders will be mailed a check. *Id.* If by the deadline for Defendant to apply credits, it is  
16 unable to complete certain credits, Defendant shall deliver the total amount of such unsuccessful  
17 Settlement Class Member Payments to the Settlement Administrator to issue checks. *Id.* ¶ 106.a.  
18 The Agreement includes a process for remailing checks returned undeliverable. *Id.* ¶ 106.b.

19 **b. Settlement Release**

20 As detailed in Section XII of the Agreement, there are Releases from Plaintiff and Settlement  
21 Class Members related to the challenged APSN Fees, and a separate a waiver of California Civil  
22 Code Section 1542 and general release from Plaintiff only. *Id.* ¶¶ 109-115.

23 109. As of the Effective Date, the Releasing Parties shall automatically  
24 be deemed to have fully and irrevocably released and forever discharged the  
25 Released Parties of and from any and all liabilities, rights, claims, actions, causes  
26 of action, demands, damages, costs, attorneys' fees, losses and remedies, whether  
27 known or unknown, existing or potential, suspected or unsuspected, liquidated or  
28 unliquidated, legal, statutory, or equitable, based on contract, tort or any other  
theory, that result from, arise out of, are based upon, or relate to the conduct,  
omissions, duties or matters during the Class Period that were or could have been  
alleged in the Action relating to the assessment of APSN Fees by Defendant  
("Released Claims").

110. Each Settlement Class Member is barred and permanently enjoined



1 from bringing on behalf of themselves, or through any person purporting to act on  
2 their behalf or purporting to assert a claim under or through them, any of the  
Released Claims against Defendant in any forum, action, or proceeding of any kind.

3 111. With respect to all Released Claims, Plaintiff agrees that she is  
4 expressly waiving and relinquishing to the fullest extent permitted by law (a) the  
provisions, rights and benefits conferred by Section 1542 of the California Civil  
Code, which provides:

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

12 and (b) any law of any state or territory of the United States, federal law or  
13 principle of common law, or of international or foreign law, that is similar,  
14 comparable or equivalent to Section 1542 of the California Civil Code.

15 112. Plaintiff or any Settlement Class Member may hereafter discover  
16 facts other than or different from those that he/she knows or believes to be true with  
17 respect to the subject matter of the claims released herein, or the law applicable to  
18 such claims may change. Nonetheless, each of those individuals expressly agrees  
19 that, as of the Effective Date, he/she shall have automatically and irrevocably  
20 waived and fully, finally, and forever settled and released any known or unknown,  
21 suspected or unsuspected, asserted or unasserted, liquidated or unliquidated, and  
22 contingent or non-contingent claims with respect to all of the matters described in  
or subsumed by herein. Further, each of those individuals agrees and acknowledges  
that he/she shall be bound by this Agreement, including by the release herein and  
that all of their claims in the Action shall be released, whether or not such claims  
are concealed or hidden; without regard to subsequent discovery of different or  
additional facts and subsequent changes in the law; and even if he/she never  
receives actual notice of the Settlement and/or never receives a distribution of funds  
or credits from the Settlement.

23 113. In addition to the releases made by Plaintiff and Settlement Class  
24 Members above, Plaintiff, including each and every one of her agents,  
25 representatives, attorneys, heirs, assigns, or any other person acting on her behalf  
26 or for her benefit, and any person claiming through her, makes the additional  
27 following general release of all claims, known or unknown, in exchange and  
28 consideration of the Settlement set forth in this Agreement. This named Plaintiff  
agrees to a general release of the Released Parties from all claims, demands, rights,  
liabilities, grievances, demands for arbitration, and causes of action of every nature  
and description whatsoever, known or unknown, pending or threatened, asserted or  
that might have been asserted, whether brought in tort or in contract, whether under  
state or federal or local law.

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



1 Defendant’s counsel; opt-out and objection instructions; a description of the attorneys’ fees and  
2 costs and Incentive Award for the Class Representative; Final Approval Hearing information; and  
3 instructions to obtain a copy of the Agreement. *Id.*, Ex. 2. That Notice will be translated to Spanish,  
4 and the Email Notice and Postcard Notice will note its availability in Spanish. *Id.* ¶ 86, Ex. 1.

5 **d. Incentive Award for Named Plaintiff and Attorneys’ Fees and Costs**

6 The Class Representative will request a \$10,000 Incentive Award and an award of Class  
7 Counsel’s attorneys’ fees of up to 33.33% of the Settlement Fund (\$1,666,650.00) and  
8 reimbursement of litigation costs, currently totaling \$60,458.10, will be sought. *Id.* ¶¶ 116-122; Joint  
9 Decl. ¶41. The following law firms have an agreement to split attorneys’ fees: Tycko & Zavareei  
10 LLP, Kopelowitz Ostrow P.A., The Kick Law Firm, McCune Law Group, and KalielGold PLLP.  
11 Joint Decl. ¶ 63. Plaintiff has provided written approval to that agreement. *See* Declaration of  
12 Maureen Harrold (“Harrold Decl.”), submitted herewith as **Exhibit C**, at ¶ 6. The Court’s failure to  
13 approve an award of attorneys’ fees and costs to Class Counsel and/or the Incentive Award, in whole  
14 or in part, shall not prevent the Settlement Agreement from becoming effective. Agreement ¶¶116,  
15 121.

16 **e. Secondary Distribution and *Cy Pres* Payment**

17 The Agreement provides for a distribution of Residual Funds to the Settlement Class  
18 Members who received payments from the first distribution, to the extent feasible and practical  
19 in light of the costs of administering such subsequent payments. First, any Residual Funds shall  
20 reimburse Defendant for the amount it paid in Settlement Administration Costs. *Id.* ¶ 108.a. Second,  
21 following the secondary distribution, or if a secondary distribution is not feasible, the total amount  
22 of uncashed checks and residual amounts held by the Settlement Administrator at the time of the  
23 Settlement Administrator’s Final Report is to be distributed to a *cy pres* recipient approved by the  
24 Court. *Id.* ¶ 108.b-c. The Parties propose California Council on Economic Education, a 501(c)(3)  
25 nonprofit organization that promotes financial literacy in California (<https://ccee.org/>). *Id.* ¶ 108.c.

26 **D. Settlement Administration, Opt-Outs, Objections, and Termination**

27 Consistent with the Court’s requirement to competitively bid the services of qualified firms  
28 for notice and settlement administration, the Parties obtained three bids. Joint Decl. ¶ 65. After doing

1 so, the Parties request the Court’s approval of Kroll Settlement Administration LLC (“Kroll”) as the  
2 Settlement Administrator, to effectuate the Notice Program and distribute the Settlement Fund,  
3 performing the tasks identified in the Agreement to administer the Settlement. Agreement ¶ 84.  
4 Kroll submitted a competitive bid and is highly experienced in administering account fee settlements  
5 of this nature. The Declaration of Scott M. Fenwick on behalf of the Settlement Administrator is  
6 attached as *Exhibit D*.

7 The Agreement specifies that Accountholders in the Settlement Class may opt-out by  
8 submitting an opt-out notice by the last day of the Opt-Out Period. Agreement ¶ 87. The Settlement  
9 Administrator shall process all opt-out requests. *Id.* ¶ 83.f. Settlement Class Members who wish to  
10 object to the Settlement should submit an objection to the Settlement Administrator by the last day  
11 of the Opt-Out Period. *Id.* ¶ 88. Objections may be raised at the Final Approval Hearing.

12 The Settlement may be terminated if notice is given within 15 days after the events identified  
13 in the Agreement, most notably the Court’s denial of Preliminary Approval or Final Approval; an  
14 appellate court vacating or reversing the Final Approval Order; the Effective Date does not occur;  
15 or Defendant’s election to terminate the Agreement because timely opt-outs equal or exceed 5% of  
16 the total Accountholders in the Settlement Class. *See id.* ¶¶ 123-124.

17 **IV. ARGUMENT IN FAVOR OF PRELIMINARY SETTLEMENT APPROVAL**

18 **A. The Settlement Should be Preliminarily Approved.**

19 A class action settlement requires court approval, after notice to the class members. *Malibu*  
20 *Outrigger Bd. of Governors v. Superior Court* (1980) 103 Cal.App.3d 573, 578-79 (citing *La Sala*  
21 *v. Am. Sav. & Loan Assn* (1971) 5 Cal.3d 864, 871). Under Rule of Court 3.769, any party may file  
22 a motion for preliminary approval of a settlement. *See* Cal. Ct. R. 3.769(c). Court approval is  
23 required “[t]o prevent fraud, collusion or unfairness to the class,” and the court must determine  
24 whether “the settlement is fair, adequate, and reasonable.” *Dunk v. Ford Motor Co.* (1996) 48  
25 Cal.App.4th 1794, 1800-01 (internal quotation marks omitted). “Public policy generally favors the  
26 compromise of complex class action litigation.” *Cellphone Termination Fee Cases* (2009) 180  
27 Cal.App.4th 1110 (internal quotation marks omitted).

28 Plaintiff and the Settlement Class faced significant legal risks, including Defendant’s claim

1 that all Accountholders were required to arbitrate and Defendant’s motion for judgment on the  
2 pleadings. Though plaintiffs around the country have frequently survived motions to dismiss or  
3 summary judgment under the theory of liability pursued in this Action, to date Class Counsel, who  
4 regularly litigate these cases, are unaware of any case that has proceeded to trial. *See, e.g., Roberts*  
5 *v. Capital One, N.A.*, 719 Fed. App’x 33, 35-36 (2d Cir. 2017); *Varga v. American Airlines Credit*  
6 *Union*, No. CV 20-4380, 2020 WL 8881747 (C.D. Cal. Dec. 1, 2020); *Lloyd v. Navy Fed. Cred.*  
7 *Union*, No. 17-cv-1280-BAS-RBB, 2018 WL 1757609, \*4 (S.D. Cal. Apr. 12, 2018); *Lloyd v. Navy*  
8 *Fed. Cred. Union*, No. 17-CV-1280, 2019 WL 2269958, \*1 (S.D. Cal. May 28,  
9 2019), *reconsideration denied in part*, 2019 WL 2603616 (S.D. Cal. June 26, 2019) (granting final  
10 approval to \$24.5 million class action settlement); *Precision Roofing of N. Florida, Inc.*  
11 *v. CenterState Bank*, Case No. 3:20-cv-352 (M.D. Fla. Feb. 22, 2021); *Kelly v. Cmty. Bank, N.A.*,  
12 No. 8:19-CV-919, 2020 WL 777463 (N.D.N.Y. Feb. 18, 2020); *Lussoro v. Ocean Fin. Fed. Cred.*  
13 *Union*, 456 F. Supp. 3d 474 (E.D.N.Y. 2020); *Hinton v. Atlantic Union Bank*, No. 3:20-cv-00651  
14 (E.D. Va. Nov. 2, 2020); *see also Darty v. Scott Credit Union* No. 19L0793 (St. Clair Cnty. Ill. Cir.  
15 Ct. June 24, 2020); *Vocaty v. Great Lakes Credit Union*, No. 19-L-729 (Lake Cnty. Ill. Cir. Ct. June  
16 3, 2020); *Davidson v. First Fin. Bank*, No. 2019 CV 2633 (Mont. Cnty. Ohio. June 5, 2020); *Glass*  
17 *v. Delta Cmty. Credit Union*, No. 2019CV318322 (Fulton Cnty., Ga. Dec. 8, 2020); *Dominique v.*  
18 *Desert Fin. Cred. Union*, No. CV 2020-053959 (Super. Ct. Maricopa Cnty. Ariz. Jan. 27, 2021).  
19 Genuine risks exist that Plaintiff might not prevail on the motion for judgment on the pleadings, at  
20 class certification, at trial, or on appeal. Joint Decl. ¶44. Given these risks, a settlement that provides  
21 Accountholders in the Settlement Class with approximately 37% of the most probable damages falls  
22 within the range of possible approval.

23 **1. The Proposed Settlement Was Reached After Formal and Informal**  
24 **Discovery, and Arms’-Length Negotiations Between Experienced Counsel.**

25 There is a presumption of fairness that a proposed settlement is fair and reasonable when it  
26 is the result of arms’ length negotiations, there has been sufficient investigation and discovery to  
27 permit counsel and the Court to act intelligently, and counsel are experienced in similar litigation.  
28 *See Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal. App. 4th 116, 128; 2 Newberg *et al.*, *Newberg*

1 *on Class Actions* § 11.41 at 11-88 (3d ed. 1992). This Settlement was reached only after a full-day  
2 mediation session with a well-respected and highly experienced class action mediator, Mr. Meyer.

3 In addition, Defendant provided to Plaintiff, and Plaintiff and Class Counsel are providing  
4 to the Court, information about the available damages in the Action, allowing the Court to  
5 “independently and objectively analyze the evidence and circumstances before it in order to  
6 determine whether the settlement is in the best interests of those whose claims will be extinguished.”  
7 *Kullar*, 168 Cal. App. 4th at 130. Specifically, Arthur Olsen of Cassis Technology, a preeminent  
8 expert in evaluating and analyzing bank data necessary to identify APSN Fees was retained by  
9 Plaintiff’s counsel. Joint Decl. ¶ 30. Mr. Olsen spoke with Defendant’s representatives to confirm  
10 availability of necessary data. *Id.* Mr. Olsen has completed the necessary work to identify the APSN  
11 Fees assessed to Accountholders in the Settlement Class, allowing the Parties to deliver a class list  
12 to the Settlement Administrator for the Notice Program and ultimate distribution of the Net  
13 Settlement Fund. *Id.*

14 Finally, Plaintiff is represented by experienced Class Counsel. Class Counsel collectively  
15 has decades of experience in class action litigation and has successfully handled national, regional,  
16 and statewide class actions throughout the United States, in both state and federal courts. For over  
17 a decade, Class Counsel have focused a substantial portion of their class action practices on cases  
18 challenging Overdraft Fees and other bank fees assessed by financial institutions. *See* Joint Decl.,  
19 ¶¶ 23, 58-61 and Ex. 1-2 thereto.<sup>3</sup> The Joint Declaration supporting this Motion identifies prior cases  
20 in which each named Class Counsel has been approved by a court to act as lead, co-counsel,  
21 settlement class counsel, and/or class counsel.

## 22 **2. There are No Grounds to Doubt the Fairness of the Settlement.**

23 No grounds exist to doubt the fairness of the Agreement at this preliminary approval stage.  
24 Considering the costs and risks of continued litigation, the Agreement is in the Settlement Class’s  
25 best interests. Joint Decl. ¶ 37. Plaintiff’s best-case scenario would be full reimbursement of all  
26

---

27 <sup>3</sup> Class Counsel has further been aided during the litigation by the support of the other firms sharing  
28 in the attorneys’ fees requested in the Action, who also dedicate a substantial portion of their class  
action practices to Overdraft Fee and other bank fee challenges. Joint Decl. ¶62, Ex. 3-5.

1 APSN Fees. *Id.* ¶ 51. However, Defendant disputes the APSN Fees breach the contract or violate  
2 consumer protection laws. *Id.* Cases pursuing this legal theory have yet to be successfully tried to  
3 judgment. *Id.* Thus, the Settlement Fund amount to be distributed pro rata to Settlement Class  
4 Members based on the number of APSN Fees assessed to each of them is an excellent recovery. *Id.*

5 The Agreement provides no preferential treatment for Plaintiff or other Settlement Class  
6 Members. Although it allows Plaintiff to request up to a \$10,000.00 Incentive Award from the  
7 Settlement Fund, subject to the Court’s approval, that payment is designed to separately compensate  
8 Plaintiff for (1) granting a release of *all* her claims, (2) having incurred substantial risks in  
9 undertaking this litigation beginning in 2017, including potential liability for costs of suit, while  
10 exposing her to reputational risk by filing the Action which identifies her financial difficulties  
11 associated with Overdraft Fees, and (3) having expended resources in prosecuting this Action by  
12 providing information and documents to Class Counsel regarding her bank account relationship with  
13 Defendant and the challenged Overdraft Fees that were assessed by Defendant to assist in their  
14 investigation of her claims; reviewing and approving the complaints; approving her participation in  
15 the arbitration proceeding that occurred in this Action; and consulting with Class Counsel regarding  
16 the litigation leading up to the completion of the negotiations of the Agreement that he approved  
17 and signed. *See* Harrold. Dec. ¶ 4. She regularly communicated with and supervised Class Counsel  
18 and will continue to do so as needed to serve her role as the Class Representative. *Id.* ¶ 3.

19 Subject to Court approval, the Agreement also provides for an award of up to 33.33% of the  
20 Settlement Fund for attorneys’ fees plus reimbursement of costs to be paid from the Settlement  
21 Fund. Plaintiff’s forthcoming application for attorneys’ fees and costs will justify this award.

22 **3. The Settlement Is Well Within the Range of Approval.**

23 The Agreement is a considerable recovery, especially when evaluated in the context of the  
24 number of procedural hurdles between Plaintiff and a final judgment. The consideration being  
25 received for the Releases from the Settlement Class is reasonable. *Kullar*, 168 Cal.App.4th at 129.  
26 As noted above, the Settlement Fund represents 37% of the most probable recoverable classwide  
27 damages. This is on par with other account fee class actions challenging APSN Fees. *See, e.g., Fallis*  
28 *v. Gate City Bank*, No. 09-2019-CV-04007 (N.D., Cass Cty. Dist Ct. Sept. 9, 2022) (approving

1 settlement for 31% of recoverable damages) *Roberts v. Capital One, N.A.*, No. 1:16-cv-04841-LGS  
2 (S.D.N.Y. Dec. 1, 2020) (35% of damages); *Bodnar v. Bank of Am., N.A.*, 2016 WL 4582084, at \*4  
3 (E.D. Pa. Aug. 4, 2016) (13% and 48% of damages, and describing such a result as a “significant  
4 achievement” and outstanding”). It is also on par with settlements in other Overdraft Fee cases. *In*  
5 *re Checking Account Overdraft Litig.*, No. 1:09-MD-02036-JLK, 2015 WL 12541970 (S.D. Fla.  
6 May 22, 2015) (35% of damages); *Hawthorne v. Umpqua Bank*, 2015 WL 1927342, at \*3 (N.D.  
7 Cal. Apr. 28, 2015) (38% of damages); *In re Checking Account Overdraft Litig.*, 2013 WL  
8 11319242, at \*3-4 (S.D. Fla. Aug. 2, 2013) (25% of damages); *Mosser v. TD Bank, N.A.*, 2013 U.S.  
9 Dist. LEXIS 187627, at \*83-84 (S.D. Fla. Mar. 18, 2013) (42% of damages, praised as an  
10 “outstanding result”); *Torres v. Bank of Am.*, 830 F. Supp. 2d 1330, 1346 (S.D. Fla. 2011) (between  
11 9% and 45% of damages); *Trombley v. Nat’l City Bank*, 826 F. Supp. 2d 179, 198 (D.D.C. 2011)  
12 (settlement within range of 12% to 30% percent as “within the realm of reasonableness”); *Schulte*  
13 *v. Fifth Third Bank*, 805 F. Supp. 2d 560, 583 (N.D. Ill. 2011) (settlement representing 10% of  
14 potential recovery). Thus, the Settlement provides Settlement Class Members with substantial relief,  
15 well within the range of reasonable recovery in light of the litigation risks. *See Wershba v. Apple*  
16 *Computer, Inc.* (2001) 91 Cal.App.4th 224, 250 (settlement need not obtain 100% of damages, as  
17 compromise is inherent and necessary, and that settlement providing relief substantially narrower  
18 than if case were successfully litigated can be in public interest).

19 **4. The Settlement Provides an Immediate Benefit to the Settlement Class.**

20 Settlement of Plaintiff’s and the Settlement Class’s claims now assures an immediate  
21 monetary benefit in the form of an Account credit for Current Accountholders or a check for Past  
22 Accountholders. Conversely, continuing to litigate would mean no recovery for several years. This  
23 case has been in arbitration and referred to a Judicial Referee, has the motion for judgment on the  
24 pleadings pending, discovery still ongoing, and no class certification or summary judgment yet.

25 **5. Plaintiff and the Settlement Class Face Risks in the Absence of Settlement.**

26 The strength of this recovery comes into even sharper focus when the risks of further  
27 litigation are considered. Plaintiff would have had to prevail as to each of her claims on Defendant’s  
28 pending motion for judgment on the pleadings, certify the class, prevail on a likely defense motion



1 for summary judgment, present the case at trial and in a judgment, and prevail on any appeals. While  
2 Plaintiff and Class Counsel believe she could have ultimately prevailed on all these hurdles, the  
3 Settlement allows Plaintiff and the Settlement Class to avoid material risks.

4 **B. Certification of the Settlement Class Is Appropriate.**

5 Plaintiff requests that the Court certify the Settlement Class for settlement purposes under  
6 Code Civ. Proc. § 382; e.g., *Hernandez v. Vitamin Shoppe Indus., Inc.* (2009) 174 Cal.App.4th 1441,  
7 1457. Defendant does not stipulate that certification is otherwise warranted and would vigorously  
8 oppose class certification for any purpose other than Settlement. Certification requires an  
9 ascertainable and sufficiently numerous class, a “well-defined community of interest,” and  
10 substantial benefits from certification that render proceeding as a class superior to the alternatives.  
11 *Woods v. Am. Film Inst.* (2021) 72 Cal.App.5th 1022, 1029.

12 **1. The Proposed Class Is Ascertainable and Numerous.**

13 Civil Code § 1781(b) requires the class to be so numerous that joinder is impractical. *See*  
14 *Richmond v. Dart Indus., Inc.* (1981) 29 Cal. 3d 462, 470. Defendant’s records indicate that  
15 approximately 81,251 Accounts were assessed APSN Fees during the Class Period (the number of  
16 Accountholders in the Settlement Class to be refined before Notice is sent). *See* Joint Decl. ¶ 54.  
17 The Class is sufficiently numerous such that joinder is impractical.

18 “A class [i]s ascertainable when it is defined in terms of objective characteristics and  
19 common transactional facts that make the ultimate identification of class members possible when  
20 that identification becomes necessary.” *Noel v. Thrifty Payless, Inc.* (2019) 7 Cal.5th 955, 967  
21 (internal quotation marks omitted). Here, Settlement Class Members are ascertainable from  
22 Defendant’s account-level transaction records from which APSN Fees are identified. *Bufile v. Dollar*  
23 *Fin. Group, Inc.* (2008) 162 Cal.App.4th, 1193, 1208 (ascertaining class from defendant’s records).

24 **2. The Community of Interest Requirements Are Met.**

25 **a. Common Questions Predominate.**

26 “To obtain certification, a party must establish the existence of . . . a well-defined community  
27 of interest among the class members.” *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435. Civil  
28 Code § 1781(b)(2) requires “questions of law or fact common to the class [be] substantially similar

1 and predominate over the questions affecting the individual members.” Common issues predominate  
2 when they would be “the principal issues in any individual action, both in terms of time to be  
3 expended in their proof and of their importance.” *Vasquez v. Superior Court*, (1971) 4 Cal.3d 800,  
4 810. For predominance, the “trial court must determine whether the issues which may be jointly  
5 tried, when compared with those requiring separate adjudication, are so numerous or substantial that  
6 the maintenance of a class action would be advantageous to the judicial process and to the litigants.”  
7 *Woods*, 72 Cal.App.5th at 1029 (internal quotation marks omitted).

8         Either common legal questions *or* fact questions are sufficient to establish commonality, *see*  
9 *Arce v. Kaiser Found. Health Plan, Inc.* (2010) 181 Cal.4th 471, 488-89. Here, both are present.  
10 The class claims arise from a common nucleus of facts. Accountholder maintained Accounts  
11 assessed APSN Fees based on uniform Account Agreements and promises. Joint Decl. ¶ 55.  
12 Common legal issues that unite the Settlement Class include (1) the elements of Plaintiff’s claims  
13 and Defendant’s defenses (including the arbitration defense), (2) whether Defendant breached its  
14 contracts and the covenant of good faith and fair dealing by assessing APSN Fees, (3) whether  
15 Defendant violated the UCL or CLRA or committed statutory fraud when assessing APSN Fees, (4)  
16 whether Plaintiff and the Class Members have sustained damages, and (5) the measure of damages  
17 or restitution. *Id.* No legal issues affect only individual Accountholders in the Settlement Class. *Id.*

18                                   **b. The Named Plaintiff’s Claims Are Typical.**

19         Typicality requires Plaintiff’s interests be similar to those of other Settlement Class  
20 Members. *See Fireside Bank v. Superior Court* (2007) 40 Cal.5th 1069, 1090. The class  
21 representative need not have interests identical to those of the other class members. *B.W.I. Custom*  
22 *Kitchen v. Owens-Illinois, Inc.* (1987) 191 Cal.App.3d 1341, 1347. Rather, a class representative’s  
23 claims are “typical” if they arise from the same fact pattern giving rise to the claims of other class  
24 members and are based on the same legal theories. *See Classen v. Weller* (1983) 145 Cal.App.3d  
25 27, 46. Here, Plaintiff’s claims are typical. Joint Decl. ¶ 56. They are based on the same facts and  
26 underlying legal theories as other Accountholders in the Settlement Class. *Id.* Like them, she was  
27 assessed APSN Fees. *Id.*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**3. The Settlement Class Is Adequately Represented.**

Class Counsel also have extensive background in litigating complex litigation and consumer class actions, have been appointed class counsel in prior and similar cases, and have the resources necessary to prosecute this Action to its conclusion. *See id.* ¶¶ 58-61, Ex. 1-2. They and their law firms have recovered hundreds of millions of dollars for classes they represented. *Id.* ¶ 59. Class Counsel are qualified to represent the Settlement Class and will, along with Plaintiff, continue to vigorously protect the interests of the Settlement Class. *See Dunk*, 48 Cal.App.4th at 1802.

The class representative must adequately protect the class’s interests. Civ. Code § 1781(b)(4). There can be no disabling conflicts of interest between the class representative and the class, and class counsel must be competent and experienced. *McGhee v. Bank of Am.* (1976) 60 Cal.App.3d 442, 450. Since 2017, Plaintiff has agreed to act as Class Representative and understands her responsibilities. Harrold Decl. ¶¶ 2, 5. Her claims are not antagonistic to or in conflict with other Accountholders’ claims. Joint Decl. ¶ 57. She pursues the same legal theories challenging the same course of Defendant’s conduct. Plaintiff’s and the Settlement Class’s claims turn on the same alleged promises, misrepresentations, and omissions, and she seeks remedies equally applicable and beneficial to her fellow Accountholders. *See id.* *See also Soderstedt v. CBIZ Southern Calif., LLC* (2011) 197 Cal.App.4th 133, 155-56; *Jones v. Farmers Ins. Exchange* (2013) 221 Cal.App.4th 986, 998-99.

**4. Class Action Is the Superior Vehicle for Adjudication.**

A class action is a superior method of adjudicating this Action since her and the Settlement Class’s claims are based on Defendant’s uniform account disclosures and involve common evidence. *See Blue Chip Stamps v. Superior Court* (1976) 18 Cal.3d 381, 385, 556 P.2d 755. It would be inefficient to resolve these individual claims at separate trials. *Bufile v. Dollar Financial Group, Inc.* (2008) 162 Cal.App.4th 1193, 1208. The alternative is for each class member to file a separate case, but here, it would be impracticable to bring each Settlement Class member’s claim individually and such small claims would not be economically feasible or practical to litigate individually. Thus, absent certification, most Accountholders in the Settlement Class might never seek redress. That would be unjust. “The class action is a product of the court of equity. It . . . [was]

1 adopted to prevent a failure of justice.” *City of San Jose v. Superior Court* (1974) 12 Cal.3d 447,  
2 458, 525 P.2d 701. Class certification best “achieve[s] economies of time, effort and expense, and  
3 promote uniformity of decision as to persons similarly situated, without sacrificing procedural  
4 fairness.” *Amchem Prod., Inc. v. Windsor*, 521 U.S. 591, 615 (1997).

5 In sum, Plaintiff contends that the proposed Settlement Class meets all certification criteria  
6 and should be certified for purposes of effectuating the Settlement. *Dean Witter Reynolds, Inc. v.*  
7 *Superior Court* (1989) 211 Cal.App.3d 758, 765 (if the necessary factors are found, “a trial court is  
8 under a duty to certify the class and is vested with no discretion to deny certification based upon  
9 other considerations”).

#### 10 **5. The Court Should Approve the Notice Program.**

11 The Notice Program is designed to provide the best practicable direct notice to the Settlement  
12 Class, consistent with due process. Joint Decl. ¶65; Admin. Decl. ¶ 14. The proposed Email Notice,  
13 Postcard Notice, and Long Form Notice are accurate, informative, neutral, and readable by the  
14 average person. Agreement, Exs. 1-2. They are written in plain, simple language, providing key  
15 information about the Agreement so the Settlement Class can evaluate the Settlement and exercise  
16 their rights, including by explaining: the Settlement benefits; the fact that the judgment will bind  
17 Settlement Class Members; the right to opt out or object and the deadline for doing so; and the Final  
18 Approval Hearing information. Moreover, the Notices will be directly delivered via mail or email  
19 to each Accountholder in the Settlement Class. The Notices are “adequate to fairly apprise the  
20 prospective members of the class of the terms of the proposed settlement and of the options that are  
21 open to them in connection with [the] proceedings.” *7-Eleven Owners for Fair Franchising v.*  
22 *Southland Corp.* (2000) 85 Cal.App.4th 1135, 1164 (internal citation omitted). The Notices, along  
23 with the Settlement Website and toll-free telephone line maintained by the Settlement  
24 Administrator, from which the Settlement Class can obtain answers to frequently asked questions,  
25 will protect the interests of the Settlement Class.

#### 26 **V. PROPOSED SCHEDULE OF EVENTS**

27 Entry of the Preliminary Approval Order will, among other things, (1) certify the Action as  
28 a class action for purposes of Settlement; (2) direct Notice of the Settlement to all Accountholders

1 in the Settlement Class; and (3) schedule a hearing to consider whether the Settlement should be  
2 approved as being fair, reasonable, and adequate. The Parties respectfully request the following  
3 deadlines and date for the Final Approval Hearing:

4 <b>Deadline for Plaintiff and Class Counsel to file Motion for Attorneys' Fees, Costs, and Incentive Award</b>	75 days before Final Approval Hearing
5	
6 <b>Deadline to Complete Notice Program</b>	60 days before Final Approval Hearing
7 <b>Deadline for Plaintiff to file Motion for Final Approval</b>	45 days before Final Approval Hearing
8 <b>Deadline for Settlement Class members to Opt-Out of the Settlement</b>	30 days before Final Approval Hearing
9 <b>Deadline for Settlement Class Members to make Objections to the Settlement</b>	30 days before Final Approval Hearing
10 <b>Deadline for to file written response to Objections</b>	15 days prior to Final Approval Hearing
11	
12 <b>Final Approval Hearing</b>	_____, 2023 at ____:00 a.m./p.m. (no earlier than the week of October 23, 2023)

13 **VI. CONCLUSION**

14 Plaintiff respectfully requests that the Court grant preliminary approval of the Agreement  
15 and enter the contemporaneously filed proposed Preliminary Approval Order. In accordance with  
16 the Los Angeles Superior Court Class Action Settlement Checklist, Plaintiff also attaches a proposed  
17 Final Judgment as *Exhibit E*.

18 DATED: January 30, 2023

TYCKO & ZAVAREEI LLP

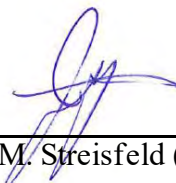
19 By: 

20 Andrea Gold (*Pro Hac Vice*)

21 *Attorneys for Plaintiff Maureen Harrold*

22 DATED: January 30, 2023

KOPELOWITZ OSTROW P.A.

23  
24 By: 

25 Jonathan M. Streisfeld (*Pro Hac Vice*)

26 *Attorneys for Plaintiff Maureen Harrold*

# EXHIBIT A

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
**COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

MAUREEN HARROLD, on behalf of herself  
and all others similarly situated,

Plaintiff,

vs.

MUFG UNION BANK, N.A.,

Defendant.

CASE NO. BC680214

**SETTLEMENT AGREEMENT AND RELEASES**

This Settlement Agreement and Releases (“Settlement” or “Agreement”)<sup>1</sup>, dated as of January 25, 2023, is entered into by Plaintiff, Maureen Harrold, individually and on behalf of the Settlement Class, and Defendant, MUFG Union Bank, N.A. The Parties hereby agree to the following terms in full settlement of the Action, subject to Final Approval by the Superior Court for the State of California.

**I. Recitals**

1. On October 19, 2017, Plaintiff filed the Action and alleged that Defendant charged Overdraft Fees on Debit Card Transactions that authorized against a positive balance but settled against a negative balance due to intervening charges. Plaintiff alleged that this practice is prohibited by the terms of Defendant’s standardized “All About Personal Account & Services Disclosure and Agreement” (hereinafter “Account Agreement”).

2. On February 13, 2018, Plaintiff served her First Set of Requests for Production and First Set of Special Interrogatories on Defendant, which were directed as issues regarding the

---

<sup>1</sup> All capitalized terms herein have the meanings ascribed to them in Section II or various places in the Agreement.

arbitration provision and enforceability thereof. Defendant served its responses on March 23, 2018. This led to the production of copies of the relevant versions of the Account Agreement and production of other documents pertaining to Plaintiff's Account relationship.

3. On March 2, 2018, Defendant filed a Motion to Compel Arbitration on the basis that the Account Agreement included an arbitration provision mandating individual arbitration of Plaintiff's claims. On April 30, 2018, Plaintiff filed a Response in Opposition to the Motion to Compel Arbitration. On May 14, 2018, Defendant filed its Reply in support of its Motion to Compel Arbitration.

4. On May 30, 2018, the Court heard oral argument on the Motion to Compel Arbitration and granted the Motion, ruling that the Parties agreed in the Account Agreement to delegate the authority to determine the enforceability of the arbitration provision to the arbitrator.

5. On August 15, 2018, Plaintiff submitted her Demand for Arbitration, wherein she incorporated her Complaint. On September 4, 2018, Defendant submitted its Response to Plaintiff's Demand for Arbitration. On October 16, 2018, the Honorable Candace Cooper was appointed as the Arbitrator in the matter.

6. On February 5, 2019, the Superior Court action was transferred from Judge John Shepard Wiley to Judge Yvette M. Palazuelos.

7. On March 7, 2019, Plaintiff submitted her Amended Demand for Arbitration in the Arbitration, attached to which was Plaintiff's First Amended Class Action Complaint, and her Motion to Declare Arbitration Agreement Unenforceable before Arbitrator Cooper. On April 29, 2019, Defendant submitted its Opposition to the Motion to Declare Arbitration Agreement Unenforceable. On May 13, 2019, Plaintiff submitted her Reply in support of the Motion to Declare Arbitration Agreement Unenforceable.

8. On May 21, 2019, Arbitrator Cooper held a hearing on the Motion to Declare



Arbitration Agreement Unenforceable.

9. On June 12, 2019, Plaintiff filed a Notice of Supplemental Authority in support of her Motion to Declare Arbitration Agreement Unenforceable. On June 21, 2019, Defendant filed its Response to the Notice of Supplemental Authority.

10. On July 2, 2019, Plaintiff filed a Second Notice of Supplemental Authority in support of her Motion to Declare Arbitration Agreement Unenforceable. On July 19, 2019, Defendant filed its Response to the Second Notice of Supplemental Authority.

11. On August 19, 2019, Arbitrator Cooper entered an Order denying Plaintiff's Motion to Declare Arbitration Agreement Unenforceable.

12. On September 4, 2019, Arbitrator Cooper held a status conference in the matter, wherein counsel for Plaintiff sought permission to file a supplemental brief on the "poison pill" issue raised in her Motion to Declare Arbitration Clause Unenforceable. The Arbitrator permitted further briefing and both Parties submitted supplemental briefing. That briefing concluded on September 20, 2019.

13. On December 15, 2019, Arbitrator Cooper issued her Supplemental Order re Arbitrability, wherein she ruled that because the waiver of public injunctive relief in the arbitration agreement was unenforceable, the "poison pill" provision rendered the entire arbitration provision null and void. Arbitrator Cooper thus rescinded portions of her prior Order regarding Arbitrability and dismissed the Arbitration.

14. On March 3, 2020, counsel for Plaintiff submitted a declaration in Superior Court regarding the status of the case, including the arbitration rulings made, and sought a lift of the stay of proceedings. On March 6, 2020, counsel for Defendant submitted a Response and Objection to the Declaration of Plaintiff's counsel. On March 10, 2020, Counsel for Plaintiff submitted her Reply.

15. On March 24, 2020, Defendant filed a Motion to Vacate the Arbitration Award and, on April 9, 2020, Plaintiff filed her Opposition. Defendant filed its Reply on June 4, 2020. On July 23, Plaintiff filed a Notice of Supplemental Authority.

16. On July 27, 2020, the Court denied Defendant's Motion to Vacate Arbitration Award. The Court lifted the stay of the proceedings and ordered that Plaintiff's First Amended Complaint be filed and served within 5 court days.

17. Plaintiff filed with the Court and served her First Amended Complaint on July 28, 2020.

18. On September 14, 2020, Defendant filed its Answer to the First Amended Complaint, which included a general denial of the allegations and affirmative defenses.

19. Defendant notified Plaintiff of its intent to move to reassign the case to a judicial referee under California Code of Civil Procedure Section 638, which Plaintiff opposed. The Parties submitted briefing on Defendant's Motion to Compel Judicial Reference, which was fully briefed as of February 1, 2021. The Court issued its tentative ruling on the Motion for Judicial Reference on February 4, 2021, to which the Parties submitted. That tentative ruling became the Order of the Court on February 8, 2021. The Court granted the Motion to Compel Judicial Reference.

20. The Parties met and conferred at length as to the identification and appointment of a Judicial Referee and, on April 13, 2021, submitted a Joint Status Report wherein they agreed to proceed in judicial reference before the Honorable Rita "Sunny" Miller (Ret.). Judge Miller was appointed as the Judicial Referee on April 21, 2021.

21. The Parties began exploring settlement and, thus, delayed starting the judicial reference proceedings on the merits of Plaintiff's claims. Those settlement talks did not progress, and, on November 18, 2021, the Parties submitted a Joint Status Report asked to move forward with the judicial reference proceedings.

22. On November 12, 2021, Plaintiff served her Second Set of Interrogatories and Second Set of Requests for Production, to which Defendant responded on January 19, 2022.

23. On November 30, 2021, the Parties had a case management conference with Judge Miller, during which Defendant raised its intent to move for judgment on the pleadings. Thereafter, on December 10, 2021, the Parties submitted a Stipulation Regarding the Case Schedule to Judge Miller and, on December 13, 2021, Judge Miller entered an Order approving the proposed schedule.

24. On January 25, 2022, Defendant filed its Motion for Judgment on the Pleadings.

25. On February 14, 2022, the Parties submitted a joint stipulation to stay the case pending mediation. The Parties had re-engaged in settlement discussion and agreed to a private mediation.

26. Judge Miller entered an Order staying the case pending mediation on March 21, 2022, which Order stayed the time for Plaintiff to respond to the Motion for Judgment on the Pleadings.

27. In addition to arbitration-related discovery, which resulted in the production of all relevant Account agreements for the Class Period, the Parties engaged in informal discovery regarding an estimate of the aggregate amount of relevant overdraft fees assessed during the Class Period as well as analyzed and estimated the most probable calculation of damages recoverable by Plaintiff and the Class.

28. The Parties participated in a full-day mediation on April 22, 2022, with mediator Robert Meyer, Esq. of JAMS. The Parties reached an agreement in principle to settle the matter, with the material terms memorialized in a Term Sheet dated May 4, 2022.

29. The Parties filed a Joint Status Report on May 5, 2022, confirming their agreement in principle and requesting that the Court continue the stay of all deadlines in the Action.

30. Following the stay of all deadlines in the Action, the Parties worked together to obtain the necessary Account-level transaction data for Plaintiff's expert to analyze to identify Accountholders in the Settlement Class and their respective APSN Fees. Plaintiff's expert has completed that analysis.

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

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

## **II. Definitions**

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

32. "Account" means any consumer checking account maintained by Defendant in California.

33. "Accountholder" means any person who has or had any interest, whether legal or equitable, in an Account during the Class Period, and includes Current Accountholders and Past Accountholders.

34. "Action" means *Harrold v. Union Bank, N.A.*, Superior Court of California, Case No. BC680214.

35. "APSN Fees" means Overdraft Fees that Defendant charged and did not refund on Debit Card Transactions, during the Class Period, where there was a positive available balance at the time the transaction was authorized, but an insufficient balance at the time the transaction was presented to Defendant for payment and posted to an Accountholder's Account.

36. “Class Counsel” means:

KOPELOWITZ OSTROW P.A.

Jonathan M. Streisfeld, Esq.  
1 West Las Olas Blvd.  
Suite 500  
Fort Lauderdale, FL 33301

TYCKO & ZAVAREEI, LLP

Andrea R. Gold, Esq.  
1828 L Street NW  
Suite 1000  
Washington, DC 20036

and such other counsel as are identified in Class Counsel’s request for attorneys’ fees and costs.

37. “Class Period” means the period from October 19, 2013 through February 28, 2019.

38. “Class Representative” means Maureen Harrold.

39. “Court” means the Superior Court for the State of California.

40. “Current Accountholder” means a Settlement Class Member who is an Accountholder as of the date of Preliminary Approval or the Effective Date as specified herein.

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

42. “Debit Card Transaction” means a Point of Sale or ATM transaction using a Debit Card.

43. “Defendant” means MUFG Union Bank, N.A.

44. “Effective Date” shall be the later of: (1) 10 days after the time period has expired to appeal the judgment entered after the entry of the Final Approval Order without any appeal or motion to vacate judgment being filed; or (2) if an appeal of the judgment entered after the entry of Final Approval Order is taken, then the earlier of 10 days after the entry of an order dismissing the appeal or 10 days after the appeal has been finally resolved in the appellate court of last resort without any right to appeal or seek further review from another appellate court.

45. “Email Notice” means a short form of notice that shall be sent by email to

Accountholders in the Settlement Class who agreed to receive account statements by email in the form attached as *Exhibit 1*.

46. “Escrow Account” means the interest-bearing account to be established by the Settlement Administrator consistent with the terms and conditions described in Section IV below.

47. “Final Approval” means the date that the Court enters the Final Approval Order granting final approval to the Settlement and determines the amount of attorneys’ fees and costs awarded to Class Counsel and the amount of any Incentive Award to the Class Representative.

48. “Final Approval Hearing” is the hearing held before the Court wherein the Court will consider granting Final Approval to the Settlement and further determine the amount of attorneys’ fees and costs awarded to Class Counsel and the amount of any Incentive Award to the Class Representative.

49. “Final Approval Order” means the final order that the Court enters granting Final Approval to the Settlement. The proposed Final Approval Order shall be in a form agreed upon by the Parties and shall be substantially in the form attached as an exhibit to the motion for Final Approval. Final Approval Order also includes the orders, which may be entered separately, determining the amount of attorneys’ fees and costs awarded to Class Counsel and the amount of any Incentive Award to the Class Representative.

50. “Incentive Award” means any Court ordered payment to Plaintiff for serving as Class Representative, which is in addition to any payment due Plaintiff as a Settlement Class Member.

51. “Long Form Notice” means the form of notice that shall be posted on the Settlement Website and shall be available to the Settlement Class by mail on request made to the Settlement Administrator in the form attached as *Exhibit 2*.

52. “Net Settlement Fund” means the Settlement Fund, minus Court approved

attorneys' fees and costs to Class Counsel and any Court approved Incentive Award to Plaintiff.

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

54. "Notice Program" means the methods provided for in this Agreement for giving the Notice and consists of Postcard Notice, Email Notice, and Long Form Notice, which shall be substantially in the forms as the exhibits attached to the motion for Preliminary Approval.

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

56. "Overdraft Fee" means any fee assessed to an Accountholder for items paid when the Account has insufficient funds.

57. "Party" means each of Plaintiff or Defendant, and "Parties" collectively means Plaintiff and Defendant.

58. "Past Accountholder" means a Settlement Class Member who is not an Accountholder as of the date of Preliminary Approval or the Effective Date as specified herein.

59. "Plaintiff" means Maureen Harrold.

60. "Postcard Notice" shall mean the short form of notice that shall be sent by mail to Accountholders in the Settlement Class who did not agree to receive notices by email, or for whom the Settlement Administrator is unable to send Email Notice using the email address provided by Defendant, in the form attached as *Exhibit 1*.

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

62. "Preliminary Approval Order" means the order granting Preliminary Approval of

this Settlement.

63. “Releases” means all the releases contained in Section XII.

64. “Released Claims” means all claims to be released as specified in Section XII.

65. “Released Parties” means Defendant and each of its present and former parents, subsidiaries, divisions, affiliates, predecessors, successors and assigns, and the present and former directors, officers, employees, agents, insurers, members, attorneys, advisors, consultants, representatives, partners, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, predecessors, successors, including, but not limited to, U.S. Bank National Association, and assigns of each of them.

66. “Releasing Parties” means Plaintiff and all Settlement Class Members, and each of their respective executors, representatives, heirs, predecessors, assigns, beneficiaries, successors, bankruptcy trustees, guardians, joint tenants, tenants in common, tenants by entireties, agents, attorneys, and all those who claim through them or on their behalf.

67. “Settlement Administrator” means Kroll Settlement Administration LLC. Settlement Class Counsel and Defendant may, by agreement, substitute a different organization as Settlement Administrator, subject to approval by the Court if the Court has previously approved the Settlement preliminarily or finally. In the absence of agreement, either Settlement Class Counsel or Defendant may move the Court to substitute a different organization as Settlement Administrator, upon a showing that the responsibilities of Settlement Administrator have not been adequately executed by the incumbent.

68. “Settlement Administration Costs” means all costs and fees of the Settlement Administrator regarding notice and settlement administration.

69. “Settlement Class” means all MUFG Union Bank, N.A. consumer checking Accountholders in California who were assessed one or more APSN Fee during the Class Period.



Excluded from the Settlement Class is Defendant, its parents, subsidiaries, affiliates, officers, and directors; all Accountholders in the Settlement Class who make a timely election to be excluded by opting-out; and all judges and judicial referees assigned to these proceedings and their immediate family members.

70. “Settlement Class Member” means any member of the Settlement Class who has not opted-out of the Settlement and who is entitled to the benefits of the Settlement, including a Settlement Class Member Payment.

71. “Settlement Class Member Payment” means the cash distribution that will be made from the Net Settlement Fund to each Settlement Class Member, pursuant to the payment allocation terms of the Settlement.

72. “Settlement Fund” means the \$5,000,000.00 common cash fund Defendant is obligated to pay under the Settlement. The Settlement Fund will be funded into an escrow account established by the Settlement Administrator within 10 days of the Court’s entry of the Preliminary Approval Order.

73. “Settlement Website” means the website that the Settlement Administrator will establish as a means for the Settlement Class to obtain notice of and information about the Settlement, through and including hyperlinked access to this Agreement, the Long Form Notice, Preliminary Approval Order, Final Approval Order, final judgment, and such other documents as the Parties agree to post or that the Court orders posted on the website. These documents shall remain on the Settlement Website at least until Final Approval. The URL of the Settlement Website shall be [www.harroldunionbankoverdraftlitigation.com](http://www.harroldunionbankoverdraftlitigation.com), or such other URL as Class Counsel and Defendant agree upon in writing. The Settlement Website shall not include any advertising and shall not bear or include the Defendant’s logo or Defendant’s trademarks.

74. “Union Bank” means MUFG Union Bank, N.A.

### **III. Certification of the Settlement Class**

75. For Settlement purposes only, Plaintiff will file, and Defendant will not oppose, a motion consistent with this Agreement to certify the Settlement Class under CAL. R. CT. 3.769(d).

### **IV. Settlement Consideration and Escrow Account**

76. Subject to approval by the Court, Defendant shall establish a cash Settlement Fund of \$5,000,000.00 and separately further pay the Settlement Administration Costs. The Settlement Fund shall be used to pay Settlement Class Members their respective Settlement Class Member Payments; any and all attorneys' fees and costs awarded to Class Counsel; any Incentive Award to the Class Representative; and any *cy pres* payment required under this Agreement. Defendant shall not be responsible for any other payments under this Agreement.

77. The Settlement Fund shall be paid by Defendant into the Escrow Account within 10 days of Preliminary Approval.

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

79. Plaintiff agrees that all of her Accounts (including any Accounts she holds jointly with others) with Defendant will be closed within 60 calendar days of the date of the execution of this Agreement.

**V. Settlement Approval**

80. Upon execution of this Agreement by all Parties, Class Counsel shall promptly move the Court for an order granting Preliminary Approval of this Settlement. The proposed Preliminary Approval Order that will be attached to the motion shall be in a form agreed upon by Class Counsel and Defendant. The motion for Preliminary Approval shall, among other things, request that the Court: (1) approve the terms of the Settlement as within the range of fair, adequate, and reasonable; (2) provisionally certify the Settlement Class pursuant to CAL. R. CT. 3.769(d) for settlement purposes only; (3) approve the Notice Program set forth herein and approve the form and content of the Notices of the Settlement; (4) approve the procedures set forth herein below for Accountholders in the Settlement Class to opt-out from the Settlement Class or to object to the Settlement; (5) stay the Action pending Final Approval of the Settlement; and (6) schedule a Final Approval Hearing for a time and date mutually convenient for the Court, Class Counsel, and counsel for Defendant, at which the Court will conduct an inquiry into the fairness of the Settlement, determine whether it was made in good faith, and determine whether to approve the Settlement and Class Counsel's application for attorneys' fees and costs and for an Incentive Award to the Class Representative.

**VI. Discovery and Settlement Data**

81. Class Counsel and Defendant have engaged in certain informal discovery related to liability and damages. Additionally, for purposes of effectuating the Settlement, Defendant made available to Class Counsel and its expert, certain data for the entirety of the Class Period that allowed Plaintiff's expert to determine the Accountholders in the Settlement Class and ultimately

the amount of alleged Settlement Class Member damages. Because Plaintiff's expert will not have access to Accountholders in the Settlement Class names or Account numbers, Plaintiff's expert will provide his results to Defendant, which will then create a list of Accountholders in the Settlement Class and their electronic mail and postal addresses, which will be provided to the Settlement Administrator to provide Notice and for use in distributing Settlement Class Member Payments.

## **VII. Settlement Administrator**

82. The Settlement Administrator shall administer various aspects of the Settlement as described in the next paragraph hereafter and perform such other functions as are specified for the Settlement Administrator elsewhere in this Agreement, including, but not limited to, effectuating the Notice Program and distributing the Settlement Fund as provided herein.

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

a. Use the name and address information for Accountholders in the Settlement Class provided by Defendant in connection with the Notice Program approved by the Court, for the purpose of distributing the Postcard Notice and sending the Email Notice, and later mailing distribution checks to Past Accountholder Settlement Class Members, and to Current Accountholder Settlement Class Members where it is not feasible or reasonable for Defendant to make the payment by a credit to the Settlement Class Members' Accounts;

b. Establish and maintain a post office box for requests to opt-out from the Settlement Class;

c. Establish and maintain the Settlement Website;

d. Establish and maintain an automated toll-free telephone line for Accountholders in the Settlement Class to call with Settlement-related inquiries, and answer the frequently asked

questions of the Settlement Class who call with or otherwise communicate such inquiries;

e. Respond to any mailed Settlement Class inquiries;

f. Process all opt-out requests from the Settlement Class;

g. Provide weekly reports to Class Counsel and Defendant that summarizes the number of opt-out requests received that week, the total number of opt-out requests received to date, and other pertinent information;

h. In advance of the Final Approval Hearing, prepare an affidavit to submit to the Court confirming that the Notice Program was completed, describing how the Notice Program was completed, providing the names of each Accountholder in the Settlement Class who timely and properly opted-out from the Settlement Class, and other information as may be necessary to allow the Parties to seek and obtain Final Approval.

i. Distribute Settlement Class Member Payments by check to Past Accountholder Settlement Class Members;

j. Provide to Defendant the amount of the Settlement Class Member Payments to Current Accountholder Settlement Class Members from the Settlement Fund and instruct Defendant to initiate the credits by direct deposit of Settlement Class Member Payments to Current Accountholder Settlement Class Members.

k. If residual funds exist after the first distribution, repay Defendant for the amount of Settlement Administration Costs it paid;

l. Pay invoices, expenses, and costs upon approval by Class Counsel and Defendant, as provided in this Agreement; and

m. Any other Settlement-administration-related function at the instruction of Class Counsel and Defendant, including, but not limited to, verifying that the Settlement Funds has been distributed.

84. The Settlement Administrator provided a reasonable estimated bid to administer the Notice Program and otherwise perform the duties of Settlement Administrator required by this Agreement (see <https://www.kroll.com/en/services/settlement-administration>). The reasonableness of the bid accounts for the direct costs associated with the Notice Program and the later distribution of Settlement Class Member Payments following entry of the Final Approval Order, and the hourly rates for the work of the Settlement Administrator to perform the tasks required by this Agreement are competitively priced. The Settlement Administrator has procedures in place to protect the security of class data and adequate insurance in the event of a data breach or defalcation of funds.

85. Defendant shall pay the Settlement Administration Costs. Residual Funds, if any, shall be paid first to Defendant to reimburse it for these costs as indicated in Section XI.

#### **VIII. Notice to Settlement Class**

86. As soon as practicable after Preliminary Approval of the Settlement, at the direction of Class Counsel and Defendant's Counsel, the Settlement Administrator shall implement the Notice Program provided herein, using the forms of Notice approved by the Court. The Notice shall include, among other information: a description of the material terms of the Settlement; a date by which Accountholders in the Settlement Class may exclude themselves from or "opt-out" of the Settlement Class; a date by which Settlement Class Members may object to the Settlement; the location and date of the Final Approval Hearing; and the address of the Settlement Website at which Accountholders in the Settlement Class may access this Agreement and other related documents and information. Class Counsel and Defendant shall insert the correct dates and deadlines in the Notice before the Notice Program commences, based upon those dates and deadlines set by the Court in the Preliminary Approval Order. Notices provided under or as part of the Notice Program shall not bear or include the Defendant's logo or trademarks or the return

address of Defendant, or otherwise be styled to appear to originate from Defendant. The Long Form Notice will be translated to Spanish language and a Spanish language notation will be made on the Postcard Notice and Email Notice regarding the available translated Long Form Notice.

87. The Notice also shall include a procedure for members of the Settlement Class to opt-out of the Settlement Class. An Accountholder in the Settlement Class may opt-out of the Settlement Class at any time during the Opt-Out Period, provided the opt-out notice is postmarked no later than the last day of the Opt-Out Period. Requests to opt-out of the Settlement must be mailed to the Settlement Administrator. Any Accountholder in the Settlement Class who does not timely and validly request to opt-out shall be bound by the terms of this Agreement. If an Account has more than one Accountholder, and if one Accountholder opts-out himself or herself from the Settlement Class, then all Accountholders on that Account shall be deemed to have opted-out of the Settlement with respect to that Account, and no Accountholder shall be entitled to a payment under the Settlement.

88. The Notice also shall include a procedure for Settlement Class Members to make a written objection to the Settlement and/or to Class Counsel's application for attorneys' fees and costs and/or Incentive Award for the Class Representative. Written objections to the Settlement, to the application for fees and costs, and/or to the Incentive Award must be mailed to the Settlement Administrator and not filed with the Court. For a written objection to be considered by the Court, the objection must be submitted no later than the last day of the Opt-Out Period, as specified in the Notice. If submitted by mail, a written objection shall be deemed to have been submitted when posted if received with a postmark date indicated on the envelope if mailed first-class postage prepaid and addressed in accordance with the instructions. If submitted by private courier (*e.g.*, Federal Express), an objection shall be deemed to have been submitted on the shipping date reflected on the shipping label.

89. Written objections should include the following:
- a. the name of the Action;
  - b. the objector's full name, address, and telephone number;
  - c. all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel;
  - d. a statement confirming whether the objector or any counsel for the objector intends to personally appear and/or testify at the Final Approval Hearing; and
  - e. the objector's signature (an attorney's signature is not sufficient).

90. Notice shall be provided to Accountholders in the Settlement Class in three different ways: (a) Email Notice to Accountholders for whom Defendant has email addresses; (b) Postcard Notice to those Accountholders for whom Defendant does not have email addresses; and (c) Long Form Notice with greater detail than the Email Notice and Postcard Notice, which shall be available on the Settlement Website and/or via mail upon request by an Accountholder in the Settlement Class. Not all Accountholders in the Settlement Class will receive all three forms of Notice, as detailed herein.

91. The Email Notice, Postcard Notice, and Long Form Notice shall be in forms approved by the Court, and substantially similar to the notice forms attached hereto as *Exhibits 1* and *2*. The Parties may by mutual written consent make non-substantive changes to the Notices without Court approval.

92. Defendant has made available the necessary data to Class Counsel's expert to determine the Accountholders in the Settlement Class. Defendant will bear the expense of extracting the necessary data made available to Class Counsel's expert for analysis, and Class Counsel shall be responsible for paying Class Counsel's expert, who analyzed the data provided to determine the Accountholders in the Settlement Class and the amount of the Settlement Class's



alleged damages.

93. Once the Settlement Administrator has the list for Accountholders in the Settlement Class, the Settlement Administrator shall send out Email Notice to all Accountholders in the Settlement Class receiving Notice by that method. For those Accountholders in the Settlement Class for whom Defendant does not have email addresses, the Settlement Administrator shall run the physical addresses provided by Defendant through the National Change of Address Database and shall mail to all such Accountholders in the Settlement Class Postcard Notice. The initial Mailed Postcard and Email Notice shall be referred to as “Initial Mailed Notice.”

94. The Settlement Administrator shall perform reasonable address traces for Initial Mailed Notice postcards that are returned as undeliverable. By way of example, a “reasonable” tracing procedure would be to run addresses of returned postcards through the Lexis/Nexis database that can be utilized for such purpose. No later than 60 days before the Final Approval Hearing, the Settlement Administrator shall complete the re-mailing of Postcard Notice to those Accountholders in the Settlement Class whose new addresses were identified as of that time through address traces (“Notice Re-mailing Process”). The Settlement Administrator shall also send Postcard Notice to all Accountholders in the Settlement Class whose emails were returned as undeliverable and complete such Notice pursuant to the deadlines described herein as they relate to the Notice Re-mailing Process. The Opt-Out Period shall be extended for a period of 15 days for any Accountholder in the Settlement Class that is sent a Postcard Notice as part of the Notice Re-mailing Process.

95. The Notice Program shall be completed no later than 60 days before the Final Approval Hearing.

96. The Settlement Administrator shall maintain a database showing mail and email addresses to which each Notice was sent and any Notices that were not delivered by mail and/or

email. In addition to weekly updates to the Parties regarding the progress of the Notice Program and the declaration or affidavit by the Settlement Administrator in advance of the Final Approval Hearing and in support of the motion for Final Approval, a summary report of the Notice Program shall be provided to the Parties three days prior to the Final Approval Hearing. The database maintained by the Settlement Administrator regarding the Notices shall be available to the Court upon request. It shall otherwise be confidential and shall not be disclosed to any third party as it contains bank account information for each member of the Settlement Class. Protecting bank account information is in the best interest of the Settlement Class.

97. Costs related to the Notice Program shall be paid by Defendant. Residual Funds, if any, shall be paid first to Defendant to reimburse it for these costs, as indicated in Section XI.

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

#### **IX. Final Approval Order and Judgment**

99. Plaintiff's motion for Preliminary Approval of the Settlement will include a request to the Court for a scheduled Final Approval Hearing date and location. Plaintiff shall file her motion for Final Approval of the Settlement no later than 45 days before the Final Approval Hearing. At the Final Approval Hearing, the Court will hear argument on Plaintiff's motion for Final Approval of the Settlement, and on Class Counsel's application for attorneys' fees and costs and for the Incentive Award for the Class Representative. In the Court's discretion, the Court also will hear argument at the Final Approval Hearing from any Settlement Class Members (or their counsel) who object to the Settlement or to Class Counsel's application for attorneys' fees and costs or the Incentive Award application. If the date or location of the Final Approval Hearing changes, that information will be included on the Settlement Website for the Settlement Class's benefit. Notice to Settlement Class Members of final judgment will be posted on the Settlement

Website.

100. At or following the Final Approval Hearing, the Court will determine whether to enter the Final Approval Order granting Final Approval of the Settlement and final judgment thereon, and whether to approve Class Counsel's application for attorneys' fees and costs and Incentive Award for the Class Representative. Such proposed Final Approval Order shall, among other things:

- a. Determine that the Settlement is fair, adequate, and reasonable;
- b. Finally certify the Settlement Class for settlement purposes only;
- c. Determine that the Notice provided satisfies Due Process requirements;
- d. Bar and enjoin all Releasing Parties from asserting any of the Released Claims; bar and enjoin all Releasing Parties from pursuing any Released Claims against Defendant or its affiliates at any time, including during any appeal from the Final Approval Order; and retain jurisdiction over the enforcement of the Court's injunctions;
- e. Release Defendant and the other Released Parties from the Released Claims; and
- f. Reserve the Court's continuing and exclusive jurisdiction over the Parties to this Agreement, including Defendant, all Settlement Class Members, and all objectors, to administer, supervise, construe, and enforce this Agreement in accordance with its terms.

**X. Calculation and Disbursement of Settlement Class Member Payments**

101. The calculation and implementation of payment allocations of the Settlement Fund shall be done by Class Counsel and its expert for the purpose of compensating Settlement Class Members. The methodology provided for herein will be applied to the data as consistently, sensibly, and conscientiously as reasonably possible, recognizing and taking into consideration the nature and completeness of the data and the purpose of the computations. Consistent with its contractual, statutory, and regulatory obligations to maintain the security of and protect its

customers' private financial information, Defendant shall make available such data and information as may reasonably be needed by Class Counsel and its expert to confirm and/or effectuate the calculations and payment allocations contemplated by this Agreement. Class Counsel shall confer with Defendant's counsel concerning any such data and information.

102. The Net Settlement Fund shall be paid *pro rata* to the Settlement Class Members using the following calculation:

- a. The dollar amount of the Net Settlement Fund divided by the total number of APSN Fees paid by all members of the Settlement Class, which yields a per-fee amount;
- b. Multiply the per-fee amount by the total number of APSN Fees for each Settlement Class Member; and
- c. This results in the individual Settlement Class Member Payment amount.

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

104. To estimate the dollar amount that Settlement Class Members will receive, the Parties agree that the best estimate of the per-fee amount is \$8.14, which is calculated by multiplying \$33.00 (OD Fee amount charged throughout the Class Period) by 37% (estimated percentage of recovery from the settlement) and then reducing that amount by 33.33% (the maximum amount that Class Counsel are entitled to seek for attorneys' fees). The actual per-fee amount that will be included in the Settlement Class Member Payments will be slightly reduced by the additional award of Class Counsel's litigation costs and the Incentive Award to the Class Representative.

105. Within 15 days after the Effective Date, the Settlement Administrator shall identify to Defendant the full amount of Settlement Class Member Payments, along with the amount of each Settlement Class Member Payment to be credited to Current Accountholders' Accounts.

106. As soon as practicable but no later than 60 days from the Effective Date, Defendant and the Settlement Administrator shall distribute the Net Settlement Fund to Settlement Class Members, as follows:

a. Settlement Class Member Payments to Current Accountholders shall be made by a credit to those Accountholders' Accounts maintained individually at the time of the credit. The Settlement Administrator shall transfer the funds necessary for Defendant to make these credits at least 10 days before Defendant's deadline to make the credits. Defendant shall notify Current Accountholders of any such credit on the Account statement on which the credit is reflected by stating "APSN Fee Refund" or something similar. Defendant will bear any costs associated with implementing the credits and notification required by this paragraph. If by the deadline for Defendant to apply credits of Settlement Class Member Payments to Accounts Defendant is unable to complete certain credits, or it is not feasible or reasonable to make the payment by a credit, Defendant shall deliver the total amount of such unsuccessful Settlement Class Member Payment credits to the Settlement Administrator to be paid by check in accordance with subparagraph b. below.

b. Settlement Fund Payments to Past Accountholders will be made by check with an appropriate legend, in a form approved by Class Counsel and Defendant Counsel, to indicate that it is from the Settlement Fund. Checks will be cut and mailed by the Settlement Administrator and will be sent to the addresses that the Settlement Administrator identifies as valid. Checks shall be valid for 180 days. For jointly held Accounts, checks will be payable to all Accountholders, and will be mailed to the first Accountholder listed on the Account. The Settlement Administrator will

make reasonable efforts to locate the proper address for any intended recipient of Settlement Funds whose check is returned by the Postal Service as undeliverable (such as by running addresses of returned checks through the Lexis/Nexis database that can be utilized for such purpose), and will re-mail it once to the updated address, or, in the case of a jointly held Account, and in the Settlement Administrator's discretion, to an Accountholder other than the one listed first. In the event of any complications arising in connection with the issuance or cashing of a check, the Settlement Administrator shall provide written notice to Class Counsel and Defendant's Counsel. Absent specific instructions from Class Counsel and Defendant's Counsel, the Settlement Administrator shall proceed to resolve the dispute using its best practices and procedures to ensure that the funds are fairly and properly distributed to the person or persons who are entitled to receive them. All costs associated with the process of printing and mailing the checks and any accompanying communication to Past Accountholders shall be borne by Defendant.

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

#### **XI. Disposition of Residual Funds**

108. Within one year after the date the Settlement Administrator mails the first Settlement Class Member Payment, any remaining amounts resulting from uncashed checks

(“Residual Funds”) shall be distributed as follows:

a. First, any Residual Funds shall be payable to Defendant for the amount that it paid for Settlement Administration Costs.

b. Second, any Residual Funds remaining after distribution shall be distributed on a *pro rata* basis to participating Settlement Class Members who received Settlement Class Member Payments, to the extent feasible and practical in light of the costs of administering such subsequent payments, unless the amounts involved are too small to make individual distributions economically feasible or other specific reasons exist that would make such further distributions impossible or unfair. Should such a second distribution be made, Current Accountholders shall receive an Account credit and Past Accountholders will receive a check. Any second distribution checks shall be valid for 90 days.

c. Third, in the event the costs of preparing, transmitting and administering such subsequent payments to Settlement Class Members do not make individual distributions economically feasible or practical or other specific reasons exist that would make such further distributions impossible or unfair, or if such a second distribution is made and Residual Funds still remain, Class Counsel and Defendant shall seek the Court’s approval to distribute the Residual Funds to a *cy pres* recipient in accordance with California Code of Civil Procedure Section 384. The Parties shall propose California Council on Economic Education as the *cy pres* recipient, an entity that is a nonprofit organization or foundation to support projects that will benefit the Settlement Class or similarly situated persons and works to promote financial literacy in California. The Parties counsel shall identify their lack of interest or involvement in the governance or work of the *cy pres* recipient in a declaration supporting the request to approve the *cy pres* recipient.

d. Within 30 days after the date on which checks issued from the first distribution are

no longer valid, the Parties shall submit a report to the Court identifying the total amount that was actually paid to Settlement Class and whether the Parties request approval of a second distribution or whether instead the *cy pres* payment should be made. The report will also request Court-approval of the *cy pres* recipient(s) for any residual funds that remain following the second distribution or that should immediately be paid in the event that there will be no second distribution. The final judgment shall be amended for that purpose pursuant to California Code of Civil Procedure Section 384.

e. All costs of any second distribution, including Defendant's internal costs of crediting Settlement Class Member Accounts, shall come from the Residual Funds, and Defendant is not required to pay these costs as Settlement Administration Costs. Costs for delivery of Residual Funds to a *cy pres* recipient shall also come from the Residual Funds.

## **XII. Releases**

109. As of the Effective Date, the Releasing Parties shall automatically be deemed to have fully and irrevocably released and forever discharged the Released Parties of and from any and all liabilities, rights, claims, actions, causes of action, demands, damages, costs, attorneys' fees, losses and remedies, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, based on contract, tort or any other theory, that result from, arise out of, are based upon, or relate to the conduct, omissions, duties or matters during the Class Period that were or could have been alleged in the Action relating to the assessment of APSN Fees by Defendant ("Released Claims").

110. Each Settlement Class Member is barred and permanently enjoined from bringing on behalf of themselves, or through any person purporting to act on their behalf or purporting to assert a claim under or through them, any of the Released Claims against Defendant in any forum, action, or proceeding of any kind.



111. With respect to all Released Claims, Plaintiff agrees that she is expressly waiving and relinquishing to the fullest extent permitted by law (a) the provisions, rights and benefits conferred by Section 1542 of the California Civil Code, which provides:

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

and (b) any law of any state or territory of the United States, federal law or principle of common law, or of international or foreign law, that is similar, comparable or equivalent to Section 1542 of the California Civil Code.

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

113. In addition to the releases made by Plaintiff and Settlement Class Members above,

Plaintiff, including each and every one of her agents, representatives, attorneys, heirs, assigns, or any other person acting on her behalf or for her benefit, and any person claiming through her, makes the additional following general release of all claims, known or unknown, in exchange and consideration of the Settlement set forth in this Agreement. This named Plaintiff agrees to a general release of the Released Parties from all claims, demands, rights, liabilities, grievances, demands for arbitration, and causes of action of every nature and description whatsoever, known or unknown, pending or threatened, asserted or that might have been asserted, whether brought in tort or in contract, whether under state or federal or local law.

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

115. The Parties agree that it is in the best interests of the Settlement Class Members that the above releases will be effective before Settlement Class Member Payments are received because the releases are limited to the Released Claims and payments will be automatic and made within 60 days of the Effective Date.

### **XIII. Payment of Attorneys' Fees and Costs and Incentive Award**

116. Defendant agrees that Class Counsel shall be entitled to request an award of

reasonable attorneys' fee of up to 33.33% of the Settlement Fund and request reimbursement of reasonable costs, to be determined by the Court. Any award of attorneys' fees and costs to Class Counsel shall be payable solely out of the Settlement Fund. The Parties agree that the Court's failure to approve, in whole or in part, any award for attorneys' fees shall not prevent the Settlement Agreement from becoming effective, nor shall it be grounds for termination.

117. The application for attorneys' fees and costs to be awarded to Class Counsel and for an Incentive Award for the Class Representative shall be filed not later than 75 days before the Final Approval Hearing.

118. Within seven days of the Court's entry of the Final Approval Order, the Settlement Administrator shall pay Class Counsel all Court-approved attorneys' fees and costs from the Settlement Fund. In the event the award of attorneys' fees is reduced on appeal, or if the Effective Date does not occur (either because approval of the Settlement is overturned or the Agreement is terminated for any reason), Class Counsel shall reimburse the Settlement Fund, within 10 business days of the entry of the order reducing the fees, overturning the approval of the Settlement on appeal, or the termination of the Agreement, the difference between the amount distributed and the reduced amount (in the event of a reduction) or the entirety of the amount (in the event approval is overturned or the Agreement is terminated).

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

120. In the event the Effective Date does not occur, or the attorneys' fees or cost award

is reduced following an appeal, each counsel and their law firms who have received any payment of such fees or costs shall be jointly and severally liable for the entirety. Further, each counsel and their law firms consent to the jurisdiction of the Court for the enforcement of this provision.

121. Defendant agrees that Class Counsel shall be entitled to request the Court to approve an Incentive Award to the Plaintiff as the Class Representative in an amount up to \$10,000.00, to be approved by the Court. The Incentive Award is to be paid by the Settlement Administrator to the Class Representative within 10 days of the Effective Date. The Incentive Award shall be paid to the Class Representative in addition to Class Representative's Settlement Class Member Payment. The Parties agree that the Court's failure to approve an Incentive Award, in whole or in part, shall not prevent the Settlement Agreement from becoming effective, nor shall it be grounds for termination.

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

#### **XIV. Termination of Settlement**

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

- a. Class Counsel and Defendant agree to termination;
- b. the Court rejects, materially modifies, materially amends, or changes, or declines to grant Preliminary Approval or Final Approval;
- c. an appellate court vacates or reverses the Final Approval Order, and the Settlement is not reinstated and finally approved without material change by the Court on remand within 360

days after such reversal;

- d. any court incorporates into, or deletes or strikes from, or modifies, amends, or changes, the Preliminary Approval Order, Final Approval Order, or the Settlement in a way that Class Counsel or Defendant seeking to terminate the Settlement reasonably considers material;
- e. the Effective Date does not occur; or
- f. any other ground for termination provided for elsewhere in this Agreement.

124. Defendant also shall have the right to terminate the Settlement by serving on Class Counsel and filing with the Court a notice of termination within 15 days after its receipt from the Settlement Administrator of any report indicating that the number of Accountholders in the Settlement Class who timely opt-out from the Settlement Class equals or exceeds 5% of the total Accountholders in the Settlement Class.

#### **XV. Effect of a Termination**

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

126. In the event of termination, Defendant shall have no right to seek reimbursement from Plaintiff's Class Counsel, or the Settlement Administrator, for Settlement Administration Costs paid by Defendant. After payment of any invoices or other fees or costs mentioned in this Agreement that have been incurred and are due to be paid from the Settlement Fund, to the extent any such fees or costs have been incurred given Defendant's obligation to directly pay Settlement Administration Costs, the Settlement Administrator shall return the balance of the Settlement Fund

to Defendant within seven calendar days of termination.

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

128. Certification of the Settlement Class shall have no bearing in deciding whether the claims asserted in the Action are or were appropriate for class treatment in the absence of settlement. If this Agreement terminates or is nullified, the provisional class certification shall be vacated by its terms, and the Action shall revert to the status that existed before execution of this Agreement. Thereafter, Plaintiff shall be free to pursue any claims available to her, and Defendant shall be free to assert any defenses available to it, including but not limited to, denying the suitability of this case for class treatment. Nothing in this Agreement shall be argued or deemed to estop any Party from the assertion of such claims and defenses.

129. In the event the Settlement is terminated in accordance with the provisions of this Agreement, any discussions, offers, or negotiations associated with this Settlement shall not be discoverable or offered into evidence or used in the Action or any other action or proceeding for any purpose. In such event, all Parties to the Action shall stand in the same position as if this Agreement had not been negotiated, made, or filed with the Court.

**XVI. No Admission of Liability**

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

the Action.

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

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

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

134. In addition to any other defenses Defendant may have at law, in equity, or otherwise, to the extent permitted by law, this Agreement may be pleaded as a full and complete

defense to, and may be used as the basis for an injunction against, any action, suit or other proceeding that may be instituted, prosecuted, or attempted in breach of this Agreement or the Releases contained herein.

**XIX. Miscellaneous Provisions**

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

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

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

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

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

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

141. Governing Law. Except as otherwise provided herein, the Agreement shall be construed in accordance with, and be governed by, the laws of the State of California, without



regard to the principles thereof regarding choice of law.

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

143. Jurisdiction. The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation, and enforcement of the Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice Program and the Settlement Administrator. As part of their agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose. The Court shall retain jurisdiction over the enforcement of the Court's injunction barring and enjoining all Releasing Parties from asserting any of the Released Claims and from pursuing any Released Claims against Defendant or its affiliates at any time, including during any appeal from the Final Approval Order.

144. Notices. All notices to Class Counsel and Defendant's counsel provided for herein, shall be sent by email with a hard copy sent by overnight mail to:

KOPELOWITZ OSTROW P.A.  
Jonathan M. Streisfeld, Esq.  
1 West Las Olas Blvd., Suite 500  
Fort Lauderdale, Florida 33301  
Email: streisfeld@kolawyers.com  
*Class Counsel*

TYCKO & ZAVAREEI, LLP  
Andrea Gold, Esq.  
1828 L Street Northwest  
Suite 1000  
Washington, DC 20036  
Email: agold@tzlegal.com  
*Class Counsel*

MORRISON & FOERSTER LLP  
Nancy R. Thomas, Esq.  
707 Wilshire Boulevard  
Los Angeles, CA 90017-3543  
*Counsel for Defendant*

The notice recipients and addresses designated above may be changed by written notice.

Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filings received as a result of the Notice program.

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

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

147. Authority. Class Counsel (for the Plaintiff and the Settlement Class Members), and counsel for Defendant (for Defendant), represent and warrant that the persons signing this Agreement on their behalf have full power and authority to bind every person, partnership, corporation, or entity included within the definitions of Plaintiff and Defendant to all terms of this Agreement. Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.

148. Agreement Mutually Prepared. Neither Defendant nor Plaintiff, nor any of them,

shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

149. Independent Investigation and Decision to Settle. The Parties understand and acknowledge that they: (a) have performed an independent investigation of the allegations of fact and law made in connection with this Action; and (b) that even if they may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Action as reflected in this Agreement, that will not affect or in any respect limit the binding nature of this Agreement. Defendant has provided and is providing information that Plaintiff reasonably requests to identify Accountholders in the Settlement Class and the alleged damages they incurred. The Parties agree that this Settlement is reasonable and will not attempt to renegotiate or otherwise void or invalidate or terminate the Settlement irrespective of what any unexamined data later shows. It is the Parties' intention to resolve their disputes in connection with this Action pursuant to the terms of this Agreement now and thus, in furtherance of their intentions, the Agreement shall remain in full force and effect notwithstanding the discovery of any additional facts or law, or changes in law, and this Agreement shall not be subject to rescission or modification by reason of any changes or differences in facts or law, subsequently occurring or otherwise.

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

*Signature Page Follows*

Dated: 01/25/2023

*maureen harrold*  
maureen harrold (Jan 25, 2023 18:25 PST)

MAUREEN HARROLD  
*Plaintiff*

Dated: 01/25/2023

*Jonathan Streisfeld*  
Jonathan Streisfeld (Jan 26, 2023 08:38 EST)

Jonathan M. Streisfeld, Esq.  
KOPELOWITZ OSTROW P.A.  
*Class Counsel*

Dated: 01/25/2023

*Andrea Gold*

Andrea Gold, Esq.  
TYCKO & ZAVAREEI LLP  
*Class Counsel*

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

\_\_\_\_\_  
MUFG UNION BANK, N.A.

By: \_\_\_\_\_  
ITS \_\_\_\_\_

Dated: January 30, 2023

*Nancy R. Thomas*

Nancy R. Thomas, Esq.  
MORRISON & FOERSTER LLP  
*Counsel for Defendant*

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

\_\_\_\_\_  
MAUREEN HARROLD  
*Plaintiff*

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

\_\_\_\_\_  
Jonathan M. Streisfeld, Esq.  
KOPELOWITZ OSTROW P.A.  
*Class Counsel*

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

\_\_\_\_\_  
Andrea Gold, Esq.  
TYCKO & ZAVAREEI LLP  
*Class Counsel*

Dated: January 30, 2023

DocuSigned by:  
  
6793C1F84BA3417  
\_\_\_\_\_  
MUFG UNION BANK, N.A.

By: Ellen Mepham  
ITS: Managing Director

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

\_\_\_\_\_  
Nancy R. Thomas, Esq.  
MORRISON & FOERSTER LLP  
*Counsel for Defendant*

## Exhibit 1 – Email and Postcard Notice

*Maureen Harrold v MUFUG Union Bank, N.A.*

Case No. BC680214

### NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT

#### **IF YOU WERE CHARGED CERTAIN OVERDRAFT FEES ON A UNION BANK CONSUMER CHECKING ACCOUNT FROM OCTOBER 19, 2013 THROUGH FEBRUARY 28, 2019, THEN YOU MAY BE ENTITLED TO A PAYMENT OR CREDIT FROM A CLASS ACTION SETTLEMENT**

Para una notificación en español, visite nuestro sitio de web: [INSERT WEBSITE ADDRESS]

This is not a solicitation from a lawyer.

The Superior Court for the State of California, County of Los Angeles has authorized this Notice.

You may be a member of the Settlement Class in *Maureen Harrold v. MUFUG Union Bank, N.A.*, in which the Plaintiff, Maureen Harrold, alleges that Defendant MUFUG Union Bank, N.A. (“Union Bank”) improperly assessed and collected APSN Fees on certain debit card transactions. Union Bank maintains it did nothing wrong, but has agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of litigation. The Court has not decided which side is right.

If you are a member of the Settlement Class and the Settlement is approved, you may be entitled to receive a cash payment from a \$5,000,000.00 Settlement Fund. The Court has preliminarily approved this Settlement. It will hold a Final Approval Hearing on [INSERT DATE]. At that hearing, the Court will consider whether to grant Final Approval to the Settlement, and whether to approve payment from the Settlement Fund of up to \$10,000.00 as an Incentive Award to the Class Representative; up to 33.33%, or \$1,666,650.00, of the Settlement Fund as attorneys’ fees; and reimbursement of litigation costs. If the Court grants Final Approval of the Settlement and you do not opt-out from the Settlement, you will release your right to bring any claim covered by the Settlement. In exchange, Union Bank has agreed to issue a credit to your Account or a cash payment to you if you are no longer a customer.

**To obtain a Long Form class notice and other important documents, please visit [INSERT WEBSITE ADDRESS]. Alternatively, you may call [INSERT PHONE #].**

*If you do not want to participate in this Settlement—you do not want to receive a credit or cash payment and you do not want to be bound by any judgment entered in this case—you may exclude yourself by submitting an opt-out request postmarked no later than [PARTIES TO INSERT DATE]. If you want to object to this Settlement because you think it is not fair, adequate, or reasonable, you may object by submitting a written objection postmarked no later than [PARTIES TO INSERT DATE]. You may learn more about the opt-out and objection procedures by visiting [PARTIES TO PROVIDE WEBSITE ADDRESS] or by calling [Insert Phone #].*

**If you do not take any action, you will be legally bound by the Settlement and any orders or judgment entered in the Action, and will fully, finally, and forever give up any rights to prosecute certain claims against Union Bank.**

## Exhibit 2 – Long Form Notice

*Maureen Harrold v MUFG Union Bank, N.A.  
Case No. BC680214*

### NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT

**READ THIS NOTICE FULLY AND CAREFULLY; THE PROPOSED  
SETTLEMENT MAY AFFECT YOUR RIGHTS!**

**IF YOU WERE CHARGED CERTAIN OVERDRAFT FEES ON A UNION  
BANK CONSUMER CHECKING ACCOUNT FROM OCTOBER 19, 2013  
THROUGH FEBRUARY 28, 2019, THEN YOU MAY BE ENTITLED TO A  
PAYMENT OR CREDIT FROM A CLASS ACTION SETTLEMENT**

This is not a solicitation from a lawyer.

The Superior Court for the State of California, County of Los Angeles has authorized this Notice.

A Settlement has been reached in a class action lawsuit claiming that MUFG Union Bank, N.A. (“Union Bank”) breached its contract with Accountholders and improperly assessed and collected APSN Fees on certain debit card transactions. Union Bank maintains it did nothing wrong; however, it has agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of litigation. The Court has not decided which side is right.

A cash Settlement Fund of \$5,000,000.00 has been established to pay Settlement Class Member Payments and any attorneys’ fees and costs and Incentive Award ordered by the Court. Current Accountholders who have and Past Accountholders who had a Union Bank consumer checking account(s) may be eligible for a Settlement Class Member Payment from the Settlement Fund.

Your legal rights are affected whether you act or don’t act. Read this notice carefully.

<b>SUMMARY OF YOUR OPTIONS AND THE LEGAL EFFECT OF EACH OPTION</b>	
<b>DO NOTHING AND RECEIVE A PAYMENT OR ACCOUNT CREDIT</b>	If you don’t do anything and the Settlement is approved, you will receive a payment or account credit from the Settlement Fund so long as you do not opt-out of or exclude yourself from the Settlement (described in the next box).
<b>OPT-OUT FROM THE SETTLEMENT; RECEIVE NO PAYMENT BUT RELEASE NO CLAIMS</b>	You can choose to exclude yourself from the Settlement or “opt-out.” This means you choose not to participate in the Settlement. You will keep your individual claims against Union Bank, but you will not receive a payment or account credit. If you opt-out of the Settlement, but want to recover against Union Bank, you will have to file a separate lawsuit or claim.

<b>OBJECT TO THE SETTLEMENT</b>	You may mail an objection to the Settlement Administrator explaining why you believe the Court should reject the Settlement. If the Settlement is approved and your objection is overruled by the Court, then you may receive a payment or account credit, and you will not be able to sue Union Bank for the claims asserted in this Action. If the Court agrees with your objection, then the Settlement may not be approved.
---------------------------------	---

These rights and options – *and the deadlines to exercise them* – along with the material terms of the Settlement are explained in this Notice.

The Court in charge of this Action still has to decide whether to approve the Settlement. Payments and account credits will be provided if the Court approves the Settlement and after any appeals, if filed, are resolved. Please be patient.

**BASIC INFORMATION**

**1. What is this lawsuit about?**

The lawsuit that is being settled is entitled *Maureen Harrold v. MUFJ Union Bank, N.A.* It is pending in the Superior Court for the State of California, County of Los Angeles, Case No. BC680214. The case is a class action. That means that the Class Representative, Maureen Harrold, is an individual who is acting on behalf of current and past Union Bank Accountholders who were assessed certain Overdraft Fees called “APSN Fees” from October 19, 2013, through February 28, 2019. APSN Fees means Overdraft Fees that Union Bank charged and did not refund on debit card transactions, during the Class Period, where there was a positive available balance at the time the transaction was authorized, but an insufficient balance at the time the transaction was presented to Union Bank for payment and posted to an Accountholder’s account. The Class Representative has asserted claims for breach of the Account Agreement, violations of the California Unfair Competition Law and California Consumer Legal Remedies Act, and statutory fraud.

The First Amended Complaint in this lawsuit is posted on the Settlement Website and contains all of the allegations and claims asserted against Union Bank. Union Bank maintains that it did nothing wrong, but has agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of litigation. The Court has not decided which side is right.

**2. Why did I receive this Notice of this lawsuit?**

You received this Notice because Union Bank’s records indicate that you were charged one or more APSN Fees that are the subject of this Action. You may be a member of the Settlement Class. The Court directed that Notice be sent to all Accountholders in the Settlement Class because each such Accountholder has a right to know about the proposed Settlement and the options available to him or her before the Court decides whether to approve the Settlement.

**3. Why did the Parties settle?**



In any lawsuit, there are risks and potential benefits that come with a trial versus settling at an earlier stage. It is the Class Representative's and her lawyers' job to identify when a proposed settlement offer is good enough that it justifies recommending settling the case instead of continuing to trial. In a class action, the Class Representative's lawyers, known as Class Counsel, make this recommendation to the Class Representative. The Class Representative has the duty to act in the best interests of the class as a whole and, in this case, it is her belief, as well as Class Counsel's opinion, that this Settlement is in the best interest of all Accountholders in the Settlement Class.

In Class Counsel's opinion, there is legal uncertainty about whether a judge or a jury will find that Union Bank was contractually and otherwise legally obligated not to assess the APSN Fees at issue. Even if it was contractually wrong to assess these fees or Union Bank misrepresented the practice, there is uncertainty about whether the Class Representative's claims are subject to other defenses that might result in no or less recovery to Accountholders in the Settlement Class. Even if the Class Representative was to win at trial, there is no assurance that the Accountholders in the Settlement Class would be awarded more than the current Settlement amount and it may take years of litigation before any payments would be made. By settling, and based on Class Counsel's experience, the Accountholders in the Settlement Class will avoid these and other risks and the delays associated with continued litigation.

While Union Bank disputes the allegations in the lawsuit and denies any liability or wrongdoing, it enters into the Settlement solely to avoid the cost, delay, and uncertainty of further proceedings in the litigation.

### **WHO IS IN THE SETTLEMENT**

#### **4. How do I know if I am part of the Settlement?**

If you received Email Notice or Postcard Notice, then Union Bank's records indicate that you may be a member of the Settlement Class and entitled to receive a payment or credit to your Account.

### **YOUR OPTIONS**

#### **5. What options do I have with respect to the Settlement?**

You have three options: (1) do nothing and you will receive a payment or account credit according to the terms of this Settlement; (2) opt-out of the Settlement; or (3) participate in the Settlement, but object to it. Each of these options is described in a separate section below.

#### **6. What are the critical deadlines?**

There is no deadline to receive a Settlement payment or account credit. If you do nothing and the Settlement is approved, then you will get a payment or credit.

The deadline for sending a letter to the Settlement Administrator to opt-out of the Settlement is           .

The deadline to send a written objection to the Settlement Administrator to object to the Settlement is also [REDACTED].

**7. How do I decide which option to choose?**

If you do not wish to participate in the Settlement and be sent a payment or account credit and be bound by the release, then you should opt-out. Likewise, if you believe that you could receive more money by pursuing your claims on your own (with or without an attorney that you could hire) and you are comfortable with the risk that you might lose your case or get less than you would in this Settlement, then you may want to consider opting out.

If you believe the settlement is unreasonable, unfair, or inadequate, you can object to the Settlement terms. The Court will consider timely objections. The Court will decide whether to approve the Settlement and the award of attorneys' fees, litigation costs, an Incentive Award, and Settlement Administration Costs. If the Court decides not to approve the Settlement, then the Settlement will be void and no payments or account credits will be issued pursuant to its terms. If the Court approves the Settlement, whether or not it grants the requests for attorneys' fees, litigation costs, an Incentive Award, or Settlement Administration Costs in full, then you will still be sent a payment or receive an account credit and will be bound by the Settlement, including the release of claims.

If you want to participate in the Settlement, then you do not have to do anything; you will be sent a payment or account credit if the Settlement is approved by the Court.

**8. What has to happen for the Settlement to be approved?**

The Court has to decide that the Settlement is fair, reasonable, and adequate before it will approve it. The Court already has granted Preliminary Approval of the Settlement, which is why you received a Notice. The Court will make a final decision regarding the Settlement at the Final Approval Hearing, which is currently scheduled for [REDACTED], 20[REDACTED]. The location of the hearing is set forth below.

**THE SETTLEMENT PAYMENT**

**9. How much is the Settlement?**

Union Bank has agreed to create a Settlement Fund of \$5,000,000.00.

As discussed separately below, attorneys' fees (estimated to be \$1,666,650.00), litigation costs (estimated to be \$ [REDACTED]), and the Incentive Award of \$10,000.00 to the Class Representative will be paid out of the Settlement Fund. Assuming all of those requested disbursements are approved in full by the Court, the Net Settlement Fund of \$ [REDACTED] will be divided among all Settlement Class Members entitled to Settlement Class Member Payments based on a formula described in the Settlement and stated in response to Question 12 below.

**10. How much of the Settlement Fund will be used to pay for attorneys' fees and costs?**

Class Counsel will request the Court to approve attorneys' fees of up to \$1,666,650.00 or 33.33% of the Settlement Fund, and will request reimbursement for litigation costs incurred in filing and litigating the Action. Class Counsel will file an application to make this request no later than [REDACTED], 2022. You will be able to access this application on the Settlement Website or by reviewing it by inserting the case number BC680214 on the Court's online docket at <https://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>. The Court will decide the amount of the attorneys' fees and costs based on a number of factors, including the risk associated with bringing the case on a contingency basis, the amount of time spent on the case, the amount of costs incurred to prosecute the case, the quality of the work, and the outcome of the case.

**11. How much of the Settlement Fund will be used to pay the Class Representatives an Incentive Award?**

Class Counsel will request that the Class Representative be paid an Incentive Award in the amount of up to \$10,000.00 for her filing and pursuit of the Action. The Incentive Award must be approved by the Court. Class Counsel will file the application for this request with the Court no later than [REDACTED], 2022. You will be able to access this application on the Settlement Website or by reviewing it by inserting the case number BC680214 on the Court's online docket at <https://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>.

**12. How much will my payment be?**

The balance of the Settlement Fund after attorneys' fees and costs and the Incentive Award, also known as the Net Settlement Fund, will be divided among all Settlement Class Members entitled to Settlement Class Member Payments in accordance with the formula outlined in the Settlement and summarized below:

Assuming all requested disbursements from the Settlement Fund described above are approved in full, there will be a Net Settlement Fund of \$ [REDACTED] that shall be paid *pro rata* to the Settlement Class Members using the following calculation: The dollar amount of the Net Settlement Fund divided by the total number of APSN Fees paid by all members of the Settlement Class, which yields a per-fee amount; multiply the per-fee amount by the total number of APSN Fees for each Settlement Class Member; and this results in the individual Settlement Class Member Payment. The estimated average Settlement Class Member Payment for each Settlement Class Member is \$ [REDACTED]. It is important to note that this is an estimate and the actual number may be different once the number of opt-outs are considered and if disbursements from the Settlement Fund are approved in different amounts.

Current Accountholders at the time the Settlement is effective and who are entitled to a Settlement Class Member Payment will receive a credit to their Accounts for the amount they are entitled to receive. Past Accountholders at the time the Settlement is effective and who are entitled to receive a Settlement Class Member Payment shall receive a check from the Settlement Administrator.

**13. What am I giving up to stay in the Settlement Class?**

If you stay in the Settlement Class, all of the decisions by the Court will bind you, and you give

Union Bank a “release.” A release means you cannot sue, continue to sue, or be part of any other lawsuit against Union Bank about the legal issues in this case. As of the Effective Date, you shall automatically be deemed to have fully and irrevocably released and forever discharged Union Bank of and from any and all liabilities, rights, claims, actions, causes of action, demands, damages, costs, attorneys’ fees, losses and remedies, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, based on contract, tort or any other theory, that result from, arise out of, are based upon, or relate to the conduct, omissions, duties or matters during the Class Period that were or could have been alleged in the Action relating to the assessment of APSN Fees.

Additional details, including a more extensive list of the parties related to Union Bank who will be released as part of the Settlement and regarding the scope of the release can be found in Section XII of the Settlement Agreement. The Settlement Agreement is available at [www.\[insertaddress\].com](http://www.[insertaddress].com).

**14. Do I have to do anything if I want to participate in the Settlement?**

No. If you are an Accountholder in the Settlement Class, then you may be entitled to receive a payment or credit for APSN Fees without having to make a claim, unless you choose to opt-out of the Settlement.

**15. When will I receive my payment or account credit?**

The Court will hold a Final Approval Hearing on [REDACTED], 202\_, at [REDACTED] a.m/p.m. to consider whether the Settlement should be approved. If the Court approves the Settlement, then payments should be made or credits should be issued within 60 days of the Effective Date. However, if someone objects to the Settlement, and the objection is sustained, then there may be no Settlement. Even if all objections are overruled and the Court approves the Settlement, an objector could appeal, and it might take months or even years to have the appeal resolved, which would delay any payment.

Any Residual Funds from uncashed checks remaining after the initial payments to Settlement Class Members, after reimbursing Union Bank for the amount it paid for Settlement Administration Costs, will be distributed on a *pro rata* basis to participating Settlement Class Members who received Settlement Class Member Payments, to the extent feasible and practical in light of the costs of administering such subsequent payments, unless the amounts involved are too small to make individual distributions economically feasible or other specific reasons exist that would make such further distributions impossible or unfair.

Subject to Court approval, in the event the costs of preparing, transmitting and administering such subsequent payments to Settlement Class Members do not make individual distributions economically feasible or practical or other specific reasons exist that would make such further distributions impossible or unfair, or if such a second distribution is made and Residual Funds still remain, the total amount of uncashed checks will create a residual amount held by the Settlement Administrator which shall be paid to an appropriate *cy pres* recipient agreed to by the Parties and approved by the Court.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

<b>16. How do I opt-out of the Settlement?</b>
--

If you do not wish to participate in the Settlement and be bound by the release, and you do not want to receive a payment or credit, or if you want to keep any right you may have to sue Union Bank for the claims alleged in this lawsuit, then you must opt-out of the Settlement.

To opt-out, you **must** send a letter to the Settlement Administrator that you want to be excluded. Your letter can simply say “I hereby elect to be excluded from the settlement in the *Maureen Harrold v. MUFJ Union Bank* class action.” Be sure to include your name, the last four digits of your account number(s) or former account number(s), address, telephone number, and email address. Your exclusion or opt-out request must be postmarked by [REDACTED], and sent to:

Maureen Harrold v. Union Bank Settlement Administrator  
ADDRESS OF THE SETTLEMENT ADMINISTRATOR

<b>17. What happens if I opt-out of the Settlement?</b>
---

If you opt-out of the Settlement, you will preserve and not give up any of your rights to sue Union Bank for the claims alleged in this case. However, you will not be entitled to receive a payment or credit from the Settlement.

In the event an account has multiple Accountholders and one such individual opts-out of the Settlement, all of the Accountholders will be deemed to have opted-out of the Settlement.

## OBJECTING TO THE SETTLEMENT

<b>18. How do I notify the Court that I do not like the Settlement?</b>
---

You can object to the Settlement or any part of it that you do not like **IF** you do not opt-out of the Settlement. (Accountholders in the Settlement Class who opt-out have no right to object to how other Accountholders in the Settlement Class are treated.) To object, you may send a written document by mail or private courier (e.g., Federal Express) to the Settlement Administrator at the address below. Do not send your objection to the Court. Your written objection should include the following information:

- a. the name of the Action;
- b. the objector’s full name, address, and telephone number;
- c. all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector’s counsel;
- d. a statement confirming whether the objector or any counsel for the objector intends to personally appear and/or testify at the Final Approval Hearing (see Question 23 below);

and

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

All written objections must be post-marked no later than [REDACTED], 2022, and must be mailed to the Settlement Administrator as follows:

**ADDRESS OF THE SETTLEMENT ADMINISTRATOR**

**19. What is the difference between objecting and requesting to opt-out of the Settlement?**

Objecting is telling the Court that you do not believe the Settlement is fair, reasonable, and adequate for the Settlement Class, and asking the Court to reject it. You can object only if you do not opt-out of the Settlement. If you object to the Settlement and do not opt-out, then you are entitled to a payment or credit from Net Settlement Fund if the Settlement is approved, but you will be bound by the release of claims you might have against Union Bank.

Opting-out is telling the Court that you do not want to be part of the Settlement, and do not want to receive a payment or credit for APSN Fees or release claims you might have against Union Bank for the claims alleged in this lawsuit.

**20. What happens if I object to the Settlement?**

The Court will consider the objection. If the Court sustains your objection, or the objection of any other member of the Settlement Class, then there may be no Settlement; provided, however, that an objection to Class Counsel's requested attorneys' fees and costs or to the requested Incentive Award amount, may result in approval of the Settlement but the award of a lower attorneys' fee and cost amount or lower Incentive Award. If you object, but the Court overrules your objection and any other objection(s), then you will be part of the Settlement. If the Court approves the Settlement, then the objector will participate in the Settlement. If the Court does not approve the settlement, then there is no Settlement.

**THE COURT'S FINAL APPROVAL HEARING**

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

The Court will hold a Final Approval Hearing at [REDACTED] a.m./p.m. on [REDACTED], 202[REDACTED] at the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse, which is located at 312 N. Spring Street, Los Angeles, California 90012, unless otherwise noticed by the Court. At this hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. If there are objections, the Court will consider them. The Court may also decide how much to award Class Counsel for attorneys' fees and litigation costs and the amount of the Incentive Award to the Class Representative. The hearing may be virtual, in which case the instructions to participate shall be posted on the Settlement Website at [www.\[REDACTED\]](http://www.[REDACTED]). Also, if the date and/or location of the Final Approval Hearing changes, that information will be posted on the same website. If the hearing is in-person, participants will be required to adhere to any Court-imposed social distancing

requirements, including wearing a mask, if the Court has such a policy in effect on the date of the hearing. Notice of the final judgment entered by the Court will be given on the Settlement Website.

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

No. Class Counsel will answer any questions the Court may have. You may attend if you desire to do so. If you have submitted an objection, then you may want to attend.

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

If you have objected, you may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must include with your written objection, described in Question 17 above, a statement like, “I hereby give notice that I intend to appear at the Final Approval Hearing.” The Court will consider your objection even if you do not appear.

**THE LAWYERS REPRESENTING YOU**

**24. Do I have a lawyer in this case?**

The Court ordered that the lawyers and their law firms referred to in this Notice as Class Counsel will represent you and the other members of the Settlement Class. However, you may retain a lawyer to represent you at your own expense.

**25. Do I have to pay the lawyer for accomplishing this result?**

No. Class Counsel will be paid directly from the Settlement Fund for the legal services provided to accomplish the Settlement for Settlement Class Members’ benefit. Class Counsels’ award of attorneys’ fees and costs is deducted from the Settlement Fund, reducing that amount in calculating the Net Settlement Fund that Settlement Class Members will be paid.

**26. Who determines what the attorneys’ fees and costs will be?**

The Court will be asked to approve the amount of attorneys’ fees at the Final Approval Hearing. Class Counsel will file an application for attorneys’ fees and costs before the Final Approval Hearing, which will specify the amounts being sought as discussed above. You may review a copy of the attorneys’ fee and cost application at the Settlement Website, [WEBSITE], or by inserting the case number BC680214 on the Court’s online docket at <https://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>.

**GETTING MORE INFORMATION**

This Notice only summarizes the proposed Settlement. More details are contained in the Settlement Agreement, which can be viewed/obtained online at the Settlement Website, [WEBSITE]; in person at the Clerk of the Superior Court of the State of California, County of Los Angeles, which is located at Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012; by contacting the Settlement Administrator (details below) and requesting a copy; or by

inserting the case number BC680214 on the Court's online docket at <https://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>.

For additional information about the Settlement and/or to obtain a copy of the Settlement Agreement, or to change your address for purposes of receiving a payment, you should contact the Settlement Administrator as follows:

**Maureen Harrold v. Union Bank Settlement Administrator**

For more information, you also can contact the Class Counsel as follows:

Jonathan M. Streisfeld  
KOPELOWITZ OSTROW P.A.  
One West Las Olas Boulevard, Suite 500  
Fort Lauderdale, Florida 33301  
954-525-4100  
*streisfeld@kolawyers.com*

Andrea Gold  
TYCKO & ZAVAREEI LLP  
1828 L Street NW, Suite 1000  
Washington, DC 20036  
202-973-0900  
*agold@tzlegal.com*

***PLEASE DO NOT CONTACT THE COURT OR ANY REPRESENTATIVE OF UNION BANK CONCERNING THIS NOTICE OR THE SETTLEMENT.***



# **EXHIBIT B**

1 Hassan A. Zavareei (CA Bar No. 181547)  
hzavareei@tzlegal.com  
2 Andrea R. Gold\*  
agold@tzlegal.com  
3 TYCKO & ZAVAREEI LLP  
2000 Pennsylvania Avenue, Northwest, Suite 1010  
4 Washington, District of Columbia 20006  
Telephone: (202) 973-0900  
5 Facsimile: (202) 973-0950

6 Jonathan M. Streisfeld\*  
streisfeld@kolawyers.com  
7 KOPELOWITZ OSTROW  
FERGUSON WEISELBERG GILBERT  
8 One West Las Olas Boulevard, Suite 500  
Fort Lauderdale, Florida 33301  
9 Telephone: (954) 525-4100  
Facsimile: (954) 525-4300

10 \*pro hac vice

11 *Attorneys for Plaintiff Maureen Harrold*

12  
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**  
15

16 MAUREEN HARROLD, individually and on  
behalf of all others similarly situated,

17 Plaintiff,

18 v.

19 MUFG UNION BANK, N.A.,

20 Defendant.  
21  
22  
23  
24

Case No. BC680214

**JOINT DECLARATION OF PROPOSED  
CLASS COUNSEL IN SUPPORT OF  
UNOPPOSED MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

Date: April 26, 2023

Time: 10:00 a.m.

Department: 9

Action Filed: October 19, 2017

Amended Complaint Filed: July 29, 2020

Trial Date: None Set

Jonathan M. Streisfeld and Andrea R. Gold hereby declare as follows:

1. We are proposed Class Counsel<sup>1</sup> under the Settlement with MUFG Union Bank, N.A. (“Defendant”) being presented to the court for Preliminary Approval. We submit this declaration in support of Plaintiff’s Unopposed Motion for Preliminary Approval of Class Settlement. We have personal knowledge of the facts set forth in this declaration and could testify competently as to them if called upon to do so.

**Background and Procedural History**

2. This Action seeking classwide relief for the assessment of APSN Fees has been litigated for over 5 years.

3. Plaintiff filed her initial Complaint on October 19, 2017. She submitted her First Amended Complaint on March 7, 2019. Plaintiff’s First Amended Class Action Complaint alleges putative class claims that Defendant improperly charged Overdraft Fees on Debit Card Transactions that authorized against a positive balance but settled against a negative balance due to intervening charges. These challenged fees are also referred to as “authorize positive settle negative” or APSN Fees. She alleges claims of breach of contract including the covenant of good faith and fair dealing and violations of California consumer protection laws. Plaintiff sought relief including damages and/or restitution for all APSN Fees; an injunction against Defendant barring it from continuing to misrepresent its Overdraft Fee policies in its publicly available account documents, continuing to charge Overdraft Fees on transactions that do not actually overdraw accounts, and conducting business via the complained-of unlawful and unfair business practices; pre-judgment interest; attorney’s fees and costs.

4. On March 2, 2018, Defendant filed a Motion to Compel Arbitration claiming the Account Agreement mandated individual arbitration of Plaintiff’s claims. Arbitration-related discovery occurred with the production of several Account Agreements, fee schedules, change of

---

<sup>1</sup> The capitalized terms used herein are defined and have the same meaning as used in the Settlement Agreement and Releases unless otherwise stated.

1 terms notices, and policy documents. Plaintiff took Defendant’s deposition regarding arbitration  
2 issues.

3 5. On May 30, 2018, following a hearing, the Court ruled the Account Agreement  
4 delegated authority to determine the enforceability of the arbitration provision to the arbitrator.

5 6. On October 16, 2018, the Honorable Candace Cooper was appointed as the  
6 Arbitrator.

7 7. On March 7, 2019, Plaintiff submitted her Amended Demand for Arbitration in the  
8 Arbitration, attaching her First Amended Class Action Complaint, and her Motion to Declare  
9 Arbitration Agreement Unenforceable.

10 8. On May 21, 2019, Arbitrator Cooper heard that motion, the parties submitted  
11 supplemental authority, and on August 19, 2019, she denied it.

12 9. However, on September 4, 2019, during a status conference, Plaintiff sought  
13 permission to file a supplemental brief on the “poison pill” issue raised in her motion. With approval,  
14 both Parties submitted supplemental briefing.

15 10. On December 15, 2019, Arbitrator Cooper issued her Supplemental Order re  
16 Arbitrability, ruling that because the waiver of public injunctive relief in the arbitration provision  
17 was unenforceable, the “poison pill” provision rendered the entire arbitration provision null and  
18 void. Arbitrator Cooper thus rescinded portions of her prior order and dismissed the arbitration. The  
19 Action then moved back to this Court.

20 11. On March 24, 2020, Defendant filed a Motion to Vacate the Arbitration Award,  
21 which the Court denied on July 27, 2020. The Court lifted the stay of the proceedings and ordered  
22 Plaintiff’s First Amended Complaint be filed and served, which Plaintiff filed and served on July  
23 28, 2020.

24 12. On September 14, 2020, Defendant filed its Answer to the First Amended Complaint,  
25 which included a general denial of the allegations and affirmative defenses.

26 13. Defendant notified Plaintiff of its intent to move to reassign the case to a judicial  
27 referee under Civil Code § 638, which Plaintiff opposed. The Parties submitted briefing on  
28

1 Defendant's Motion to Compel Judicial Reference. On February 4, 2021, the Court issued its  
2 tentative ruling granting that motion, which became the Order of the Court on February 8, 2021.

3 14. On April 13, 2021, the Joint Status Report indicated agreement to proceed in judicial  
4 reference before the Honorable Rita "Sunny" Miller (Ret.), who was appointed on April 21, 2021.

5 15. The possibility of settlement was raised but settlement talks did not progress. On  
6 November 18, 2021, the Parties submitted a Joint Status Report asking to move forward with the  
7 judicial reference proceedings. Plaintiff served interrogatories and document requests to which  
8 Defendant responded.

9 16. On January 25, 2022, Defendant filed a Motion for Judgment on the Pleadings,  
10 arguing the Account Agreement permitted the challenged fee practice.

11 17. On February 14, 2022, the Parties filed a stipulation to stay the case pending  
12 mediation, which Judicial Referee Miller granted on March 21, 2022.

13 18. In addition to arbitration-related discovery resulting in production of all relevant  
14 Account agreements that allowed them to evaluate changes Defendant made to its contract promises  
15 regarding its overdraft fee practices and/or policies, the Parties engaged in informal discovery  
16 regarding an estimate of the aggregate relevant APSN Fees assessed during the Class Period, as well  
17 as analyzed and estimated the most probable calculation of damages recoverable by Plaintiff and  
18 the Settlement Class.

19 19. Following a full-day mediation on April 22, 2022, with mediator Robert Meyer, Esq.  
20 of JAMS, the Parties reached an agreement in principle to settle, with the material terms  
21 memorialized in a May 4, 2022 Term Sheet. The Parties then turned to drafting the Agreement,  
22 which they negotiated.

23 20. The Parties' May 5, 2022 Joint Status Report confirmed the agreement in principle  
24 and requested the Court continue the stay all deadlines.

25 21. To gather full Account-level transaction data sufficient for Plaintiff's expert to  
26 determine membership in the Settlement Class, the Court on multiple occasions extended the  
27 deadline to file this Motion.

28



1           29.     Class Counsel spent a significant amount of time analyzing data regarding  
2 Defendant's fee revenue related to the assessment of APSN Fees, with Mr. Olsen's assistance. Prior  
3 to mediation, Defendant supplied information concerning its estimate of most probable damages  
4 and provided aggregate Overdraft Fee information for the relevant time period from which  
5 Plaintiff's counsel have been able to work with the Mr. Olsen to scrutinize Defendant's estimate.  
6 Class Counsel and Plaintiff's expert used this data to analyze the damages at issue for mediation.

7           30.     After the Term Sheet was signed, Mr. Olsen spoke with Defendant's representatives  
8 to confirm availability of necessary data for a classwide analysis. Mr. Olsen has completed the  
9 necessary work to identify the APSN Fees assessed to Accountholders in the Settlement Class,  
10 allowing the Parties to deliver a class list to the Settlement Administrator for the Notice Program  
11 and ultimate distribution of the Net Settlement Fund.

12           31.     Class Counsel's review of documents and data enabled them to gain an  
13 understanding of the law and evidence related to central questions in the case and prepared them for  
14 well-informed settlement negotiations. Class Counsel was also well-positioned to evaluate the  
15 Plaintiff's claims, and the appropriate basis upon which to settle them, as a result of their litigating  
16 similar claims in courts across the country.

17           32.     On April 22, 2022, when the Parties mediated, Class Counsel had prepared a detailed  
18 mediation statement for Mr. Meyer. Class Counsel entered the mediation fully informed of the  
19 merits of Settlement Class members' claims and negotiated the proposed Settlement while zealously  
20 advancing the position of Plaintiff and Settlement Class members and being fully prepared to  
21 continue to litigate rather than accept a settlement that was not in Plaintiff's and the Settlement  
22 Class's best interests.

23           33.     Mr. Meyer actively supervised and participated in the settlement discussions,  
24 presiding over arms-length negotiations between capable and experienced class action counsel on  
25 both sides.

26  
27  
28





1 Defendant shall separately pay Settlement Administration Costs, a substantial expense estimated by  
2 the proposed Settlement Administrator to be \$93,816.00.

3 40. The Settlement provides for automatic delivery to Settlement Class Members of the  
4 Settlement Class Member Payments. Settlement Class Members do not have to submit claims or  
5 take any other affirmative step to receive relief under the Settlement or to receive a Settlement Class  
6 Member Payment. Current Accountholders will receive an Account credit and Past Accountholders  
7 will be sent a check.

8 41. Class Counsel have not been paid for their extensive efforts or reimbursed for  
9 litigation costs and expenses incurred. Class Counsel are entitled to request attorneys' fees of up to  
10 33.33% of the \$5,000,000.00 Settlement Fund, as well as reimbursement of litigation costs incurred  
11 in connection with the Action. The Parties negotiated and reached agreement regarding fees and  
12 costs only after agreeing on all material terms of the Settlement. Such award is subject to this Court's  
13 approval and will serve to compensate for the time, risk and expense Plaintiff's counsel incurred  
14 pursuing claims for the Settlement Class.

15 42. Class Counsel will seek an Incentive Award of up to \$10,000.00 for Plaintiff. The  
16 Incentive Award will be paid from the Settlement Fund and will be in addition to the Settlement  
17 Class Member Payment the Plaintiff will be entitled to receive under the terms of the Settlement.  
18 The award will compensate the Class Representative for her time and effort and for the risks she  
19 assumed in prosecuting the Action against Defendant.

20 43. Plaintiff provided assistance that enabled Class Counsel to successfully prosecute the  
21 Action and reach the Settlement, including: (1) granting a release of *all* her claims; (2) having  
22 incurred substantial risks in undertaking this litigation beginning in 2017, including the potential  
23 liability for costs of suit, while exposing her to reputational risk by filing the Action which identifies  
24 her financial difficulties associated with the assessment of Overdraft Fees; and (3) having expended  
25 resources in prosecuting this Action by providing information and documents to Class Counsel to  
26 assist in their investigation of her claims, reviewing and approving the complaints, agreeing to  
27 pursue the arbitration to invalidate the arbitration provision, considering and accepting the  
28

1 settlement proposal, and regularly communicating with and supervising Class Counsel. As  
2 confirmed in her separate declaration, Plaintiff understands and has accepted the obligations of  
3 being a class representative and has adequately represented the Settlement Class to date and will do  
4 so going forward. Plaintiff's participation is integral to the success in the Action.

5 44. The Parties concluded that the benefits of settlement in this Action outweigh the risks  
6 and uncertainties of continued litigation, as well as the attendant time and expenses associated with  
7 the Motion for Judgment on the Pleadings and, if Plaintiff were successful on that Motion, class  
8 certification discovery and contested class certification proceedings, completing merits discovery,  
9 pretrial motion practice, trial, and finally likely appellate review.

10 **Risks of Continued Litigation**

11 45. Plaintiff and Class Counsel are confident in the strength of this case, but they are also  
12 pragmatic in their awareness of the various defenses available to Defendant, and the risks inherent  
13 to litigation. Plaintiff faced the risk of losing the pending Motion for Judgment on the Pleadings, at  
14 class certification, summary judgment, at trial, or on a subsequent appeal based on Defendant's  
15 various theories and defenses, including its defense that the Account Agreement permitted APSN  
16 Fees and the arbitration defense that Defendant claims applies to all Accountholders in the  
17 Settlement Class.

18 46. Each of these risks, by itself, could have impeded the successful prosecution of these  
19 claims at trial and in an eventual additional appeal—resulting in zero benefit to the Settlement Class.  
20 Under the circumstances, Plaintiff and Class Counsel appropriately determined that the Settlement  
21 reached outweighs the gamble of continued litigation.

22 47. Plaintiff's \$5,000,000.00 recovery is outstanding given the complexity of the  
23 litigation and the significant barriers that would loom in the absence of settlement. Based on  
24 Plaintiff's expert data analysis, the Settlement Class's most likely recoverable damages at trial  
25 would have been approximately \$13.3 million. Each Settlement Class Member's maximum realistic  
26 recovery depends on the number of APSN Fees assessed during the Class Period. For some, only  
27 one APSN Fee was assessed. An expert is required to evaluate complicated account-level transaction  
28

1 data on the days that Overdraft Fees were assessed and to identify which Debit Card Transactions  
2 were authorized against a positive available balance, something the average Accountholder would  
3 not recognize from her Account statements. The Settlement will afford Plaintiff and the Settlement  
4 Class a recovery of approximately 37% of their most probable damages, without further risks  
5 attendant to litigation. This is on par with other account fee class actions challenging APSN Fees,  
6 as reflected in the Motion. Thus, the Settlement will provide Settlement Class Members with  
7 substantial relief, well within the range of reasonable recovery in light of the litigation risks.

8 48. The claims and defenses in this Action are complex, as is clear by the record and  
9 Class Counsel's efforts in other financial institution fee cases that have been hard fought for years.  
10 There is no doubt that continued litigation here would be difficult, expensive, and time consuming.  
11 The risks and obstacles in this case are just significant or more significant as those in other financial  
12 institution fee cases and this case would likely have taken years as well to successfully prosecute.  
13 Recovery by any means other than settlement would require additional years of litigation. Under the  
14 circumstances, Plaintiff and Class Counsel appropriately determined that the Settlement reached  
15 with Defendant outweighs the gamble of continued litigation.

16 49. The Settlement provides immediate and substantial benefits to tens of thousands of  
17 Accountholders. The proposed Settlement is the best vehicle for the Settlement Class to receive the  
18 relief to which they are entitled in a prompt and efficient manner.

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

23 51. Plaintiff's best-case scenario would be full reimbursement of all APSN Fees.  
24 However, Defendant disputes the APSN Fees breach the contract or violate consumer protection  
25 laws. Cases pursuing this legal theory have yet to be successfully tried to judgment. Thus, the  
26 Settlement Fund amount to be distributed pro rata to Settlement Class Members based on the number  
27 of APSN Fees assessed to each of them is an excellent recovery.

28



1 each member of the Settlement Class. For example, each Accountholder's relationship with  
2 Defendant arises from an Account Agreement that is the same or substantially similar in all relevant  
3 respects to the other Accountholders in the Settlement Class and each was subjected to the same  
4 Overdraft Fee policy and APSN Fee assessment practice.

5 57. Plaintiff is an adequate Class Representative. Her claims are not antagonistic to or in  
6 conflict with other Accountholders' claims. She pursues the same legal theories challenging the  
7 same course of Defendant's conduct. Plaintiff's and the class claims turn on the same alleged  
8 promises, misrepresentations, and omissions, and she seeks remedies equally applicable and  
9 beneficial to her fellow Accountholders. Plaintiff's claims are typical. They are based on the same  
10 facts and underlying legal theories as other Accountholders in the Settlement Class. Like them, she  
11 was assessed APSN Fees.

12 58. As noted above, Class Counsel has significant experience in the litigation,  
13 certification, trial, and settlement of state and national class actions, including numerous claims  
14 against banks and credit unions, through their active roles similar class actions throughout the  
15 country, many of which have settled and finally approved. *See Firm Resumes of Class Counsel,*  
16 *attached hereto as Exhibits 1-2.* In litigating these cases, Class Counsel has been at the forefront of  
17 litigating financial institution account fees like APSN Fees.

18 59. Class Counsel is qualified and competent, possesses extensive knowledge of the  
19 applicable laws, and experience in prosecuting complex class actions in courts throughout the  
20 United States, including ones similar to this case, and have recovered hundreds of millions of dollars  
21 for the classes they represented. The experience, resources, and knowledge Class Counsel brings to  
22 this Action is extensive and formidable. Class Counsel has devoted substantial time and resources  
23 to this Action, is qualified to represent the Settlement Class, and will, along with the Class  
24 Representative, vigorously protect the interests of the Settlement Class.

25 60. Prior cases in which each Andrea R. Gold of Tycko & Zavareei LLP has been  
26 approved by a court to act as lead counsel, Class Counsel or Settlement Class Counsel include  
27 *Jacobs v. FirstMerit Corp., et. al.*, No. 11 CV000090 (Ct. Common Pleas, Lake County, Ohio);  
28

1 *Maria Vergara v. Uber Tech., Inc.*, No. 1:15-CV-06942 (N.D. Ill.); *Szafarz v. United Parcel Service,*  
2 *Inc.*, No. SUCV2016-2094-BLS2 (Superior Court, Commonwealth of Massachusetts); *Jenna Lloyd,*  
3 *et al. v. Navy Fed. Cred. Union*, Case No. 3:17-cv-01280 (S.D. Cal.); *Harris v. Farmers Insurance,*  
4 No. BC579498 (Super. Ct. State of CA); *Lambert v. Navy Fed. Cred. Union*, No. 19-cv-00103-LO-  
5 MSN (E.D. Va.); *Smith v. Fifth Third Bank*, No. 1:18-cv-464-DRC-SKB (S.D. Ohio); *Hamm, et al.*  
6 *v. Sharp Electronics Corp.*, No. 5:19-cv-00488-JSM-PRK (M.D. Fla); *Clark v. Hills Bank & Tr.*  
7 *Co.*, No. LACV080753 (Iowa Dist. for Johnson Cty.); *Roy v. ESL Fed. Cred. Union*, No. 6:19-cv-  
8 06122-FPG-MJP (W.D.N.Y.); *Glass et al. v. Delta Comm. Cred. Union*, No. 2019CV317322  
9 (Super. Ct. of Fulton Cty., Ga.); *Quirk v. Liberty Bank*, No. X03-HHD-CV20-6132741-S (Sup. Ct.  
10 Dist. of Hartford, Conn.); *Webb, et al. v. City of Maplewood, Missouri*, No. 4:16-cv-1703-CDP (E.D.  
11 Mo.); and *Marino, et al. v. Coach, Inc.* No. 1:16-cv-01122-VEC (S.D.N.Y.).

12           61. Prior cases in which each Jonathan M. Streisfeld of Kopelowitz Ostrow P.A. has  
13 been approved by a court to act as lead or co-counsel are as follows: *Dasher v. RBC Bank, N.A.*, No.  
14 10-cv-22190 (S.D. Fla.); *Lacour v. Whitney Bank*, No. 11-cv-1896 (M.D. Fla.); *Hawthorne v.*  
15 *Umpqua Bank*, No. 11-cv-06700 (N.D. Cal.); *Hawkins v. First Tenn. Bank, N.A.*, No. CT-004085-  
16 11 (Cir. Ct., Shelby Cty., Tenn.); *Payne v. Old Nat. Bank*, No. 82C01-1012 (Cir. Ct., Vanderburgh  
17 Cty., Ind.); *Roberts v. Capital One, N.A.*, No. 16-cv-04841 (S.D.N.Y.); *Lloyd, et al. v. Navy Fed.*  
18 *Cred. Union*, No. 17-cv-1280 (S.D. Cal.); *Lashambae v. Capital One Bank, N.A.*, No. 17-cv-06406  
19 (E.D.N.Y.); *Stahl v. Bank of the West*, No. BC673397 (Sup. Ct. of Cal., Cty. of Los Angeles); *Perks*  
20 *v. TD Bank, N.A.*, No. 1:18-cv-11176 (S.D.N.Y.); *Smith v. Fifth Third Bank*, No. 18-cv-00464 (S.D.  
21 Ohio); *Lambert v. Navy Fed. Cred. Union*, No. 19-cv-00103 (E.D. Va.); *Morris v. Provident Cred.*  
22 *Union*, No. CGC-19-581616 (Sup. Ct. of Cal., Cty. of San Fran.); *Roy v. ESL Fed. Cred. Union*, No.  
23 19-cv-06122 (W.D.N.Y.); *Glass v. Delta Comm. Cred. Union*, No. 2019CV317322 (Sup. Ct. Fulton  
24 Cty., Ga.); *Thompson v. Comm. Bank, N.A.*, No. 19-cv-0919 (N.D.N.Y.); *Coleman v. Alaska USA*  
25 *Fed. Cred. Union*, No. 19-cv-00229 (D. Alaska); *Fallis v. Gate City Bank*, No. 09-2019-CV-04007  
26 (Dist. Ct., Cty. of Cass, N.D.); *Paris v. Prog. Amer, Ins.*, No. 19-cv-21761 (S.D. Fla.); *Osterndorf*  
27 *v. Grange Indem. Ins.*, No. 19-cv-01147 (S.D. Ohio); *Spielman v. United Serv. Auto. Assoc.*, No.

28

1 2:19-cv-01359 (C.D. Cal.); *Rosado v. Barry Univ., Inc.*, No. 20-cv-21813 (S.D. Fla.); *Baptiste v.*  
2 *GTE Fed. Cred. Union*, No. 20-CA-002728 (Cir. Ct., Hillsborough Cy., Fla.); *Quirk v. Liberty Bank*,  
3 No. X03-HHD-CV20-6132741-S (Sup. Ct. Dist. of Hartford, Conn.); *Holiday v. Atlanta Postal*  
4 *Cred. Union*, No. 2020CV339077 (Sup. Court Fulton Cty., Ga.); *Mayo v. Affinity Plus Fed. Cred.*  
5 *Union*, No. 27-CV-20-11786 (Dist. Ct., Cty. of Hennepin, Minn.); *In re: Luxottica of Am., Inc.*, No.  
6 20-cv-00908 (S.D. Ohio); *Lopez v. Volusion, LLC*, No. 20-cv-00761 (W.D. Tex.); *Abercrombie v.*  
7 *TD Bank, N.A.*, No. 21-cv-61376 (S.D. Fla.).

8 62. Class Counsel has further been aided during the litigation by the support of the other  
9 class action firms sharing in the attorneys' fees requested in the Action, The Kick Law Firm,  
10 McCune Law Group, and KalielGold PLLP, who have also dedicated a substantial portion of their  
11 class action practices to Overdraft Fee and other bank fee challenges. *See Firm Resumes of Co-*  
12 *Counsel, Exhibits 3-5.*

13 63. The following law firms have an agreement to split attorneys' fees: Tycko &  
14 Zavareei LLP, Kopelowitz Ostrow P.A., The Kick Law Firm, McCune Law Group, and KalielGold  
15 PLLP. Plaintiff has provided written approval to that agreement.

16 64. Currently the combined litigation costs incurred by counsel, including for the  
17 services of Plaintiff's expert, are \$60,458.10. Recovery of those costs, and any other costs  
18 reasonably incurred before the Final Approval Hearing, will be sought.

19 **Settlement Administrator and Notice Program**

20 65. The proposed Settlement Administrator is Kroll Settlement Administration LLC,  
21 which will oversee the Notice Program. The Parties obtained three competitive bids for the services  
22 of qualified firms for notice and settlement administration. Kroll Settlement Administration LLC is  
23 one of the leading notice administration firms in the United States with experience in banking class  
24 actions. The Notice Program is designed to provide the best notice practicable and is tailored to take  
25 advantage of the information Defendant has available about the Settlement Class.


26 66. The Notice Program constitutes sufficient notice to all persons entitled to notice. The  
27 Notice Program satisfies all applicable requirements of law and due process.

28

1           67.     The Notice will properly inform members of the Settlement Class of the substantive  
2 terms of the Settlement. It will advise Accountholders in the Settlement Class of their options for  
3 opting-out of or objecting to the Settlement, and how to obtain additional information about the  
4 Settlement. The Notice Program is designed to reach a high percentage of the Settlement Class by  
5 sending direct mail and email notices, where necessary, to Settlement Class members and exceeds  
6 the requirements of constitutional due process.

7           We declare under penalty of perjury under the laws of the State of California that the  
8 foregoing is true and correct.

9 Executed on January 30, 2023

10  
11   
12 \_\_\_\_\_  
13 Jonathan Streisfeld  
14 **KOPELOWITZ OSTROW P.A.**

15  
16   
17 \_\_\_\_\_  
18 Andrea R. Gold  
19 **TYCKO & ZAVAREEI LLP**

20  
21  
22  
23  
24  
25  
26  
27  
28



# **EXHIBIT 1**



## FIRM RESUME

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

**Telephone:** 954.525.4100

**Facsimile:** 954.525.4300

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

**Miami – Fort Lauderdale – Boca Raton**

## OUR FIRM

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

---

## WHO WE ARE

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

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

# CLASS ACTION PLAINTIFF

Since its founding, KO has initiated and served as co-lead counsel and liaison counsel in many high-profile class actions. Currently, the firm serves as well as co-lead counsel in a multidistrict class products liability action in the Southern District of Florida, *In re Zantac (Ranitidine) Prods. Liab. Litig.*, MDL 2924, and liaison counsel in a multidistrict class action antitrust case against four of the largest contact lens manufacturers in the Middle District of Florida, *In Re: Disposable Contact Lens Antitrust Litigation*, MDL 2626.

Further, the firm has served or is currently serving as lead or co-lead counsel in dozens of certified and/or proposed class actions against national and regional banks involving the unlawful re-sequencing of debit and ATM transactions resulting in manufactured overdraft fees, and other legal theories pertaining to overdraft fees and insufficient funds (NSF) fees. The cases are pending, or were pending, in various federal and state jurisdictions throughout the country, including some in multidistrict litigation pending in the Southern District of Florida and others in federal and state courts dispersed throughout the country. KO's substantial knowledge and experience litigating overdraft class actions and analyzing overdraft damage data has enabled the firm to obtain about a dozen multi-million dollar settlements (in excess of \$500 million) for the classes KO represents.

Additionally, other current cases are being litigated against automobile insurers for failing to pay benefits owed to insureds with total loss vehicle claims; data breaches; false advertising; defective consumer products and vehicles; antitrust violations; illegal online gambling applications; and suits on behalf of students against colleges and universities arising out of the COVID-19 pandemic.

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

## CLASS ACTION DEFENSE

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

---

## MASS TORT LITIGATION

The firm also has extensive experience in mass tort litigation, including the handling of cases against Bausch & Lomb in connection with its Renu with MoistureLoc product, Wyeth Pharmaceuticals related to Prempro, Bayer Corporation related to its birth control pill YAZ, Howmedica Osteonics Corporation related to the Stryker Rejuvenate and AGB II hip implants, 3M Corporation related to the Combat Arms Earplugs, and the manufacturers of Zantac/Ranitidine. In connection with the foregoing, some of which has been litigated within the multidistrict arena, the firm has obtained millions in recoveries for its clients.

---

## OTHER AREAS OF PRACTICE

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

---

## FIND US ONLINE

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

# CLASS ACTION AND MASS TORT SETTLEMENTS

---

## FINANCIAL INSTITUTIONS

*Wallace v. Wells Fargo*, 17CV317775 (Sup. Ct. Santa Clara 2021) - \$10 million

*Doxex v. Community Bank, N.A.*, 8:19-CV-919 (N.D.N.Y. 2021) - \$3 million

*Coleman v. Alaska USA Federal Credit Union*, 3:19-cv-0229-HRH (Dist. of Alaska 2021) - \$1 million

*Perri v. Notre Dame Federal Credit Union*, 71C01-1909-PL-000332 (Cir. Ct. St. Joseph 2021) - \$800,000

*Smith v. Fifth Third Bank*, 1:18-cv-00464-DRC-SKB (W.D. Ohio 2021) - \$5.2 million

*Lambert v. Navy Federal Credit Union*, 1:19-cv-00103-LO-MSN (S.D. Va. 2021) - \$16 million

*Roberts v. Capital One, N.A.*, 16 Civ. 4841 (LGS) (S.D.N.Y. 2021) - \$17 million

*Baptiste v. GTE Financial*, 20-CA-002728 (Cir. Ct. Hillsborough 2021) - \$975,000

*Morris v. Provident Credit Union*, CGC-19-581616 (Sup. Ct. San Francisco 2020) - \$1.1 million

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**FALSE  
PRICING**

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

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

---

**CONSUMER  
PROTECTION**

*Ostendorf v. Grange Indemnity Ins. Co.*, 2:19-cv-01147-ALM-KAJ (E.D. Ohio 2020) – \$12.6 million

*Walters v. Target Corp.*, 3:16-cv-1678-L-MDD (S.D. Cal. 2020) – \$8.2 million

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

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

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

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

---

**MASS  
TORT**

*In re Zantac (Ranitidine) Prods. Liab. Litig.*, 9:20-md-02924-RLR (S.D. Fla.) - MDL No. 2924 – Co-Lead Counsel

*In re Disposable Contact Lens Antitrust Litig.*, MDL 2626 (M.D. Fla.) - Liaison Counsel

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

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

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

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

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



# JEFF OSTROW

Managing Partner

## ***Bar Admissions***

The Florida Bar

## ***Court Admissions***

Supreme Court of the United States

U.S. Court of Appeals for the Eleventh Circuit

U.S. District Court, Southern District of Florida

U.S. District Court, Middle District of Florida

U.S. District Court, Northern District of Florida

U.S. District Court, Northern District of Illinois

U.S. District Court, Eastern District of Michigan

U.S. District Court, Western District of Tennessee

U.S. District Court, Western District of Wisconsin

## **Education**

Nova Southeastern University, J.D. - 1997

University of Florida, B.S. – 1994

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

Jeff Ostrow is the Managing Partner of Kopelowitz Ostrow P.A. He established his own law practice in 1997 immediately upon graduation from law school and has since grown the firm to 35 attorneys in 3 offices throughout south Florida. In addition to overseeing the firm's day-to-day operations and strategic direction, Mr. Ostrow practices full time in the areas of consumer class actions, sports and business law. He is a Martindale-Hubbell AV® Preeminent™ rated attorney in both legal ability and ethics, which is the highest possible rating by the most widely recognized attorney rating organization in the world.

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

Mr. Ostrow is an accomplished trial attorney who represents both Plaintiffs and Defendants, successfully trying many cases to verdict involving multi-million dollar damage claims in state and federal courts. Currently, he serves as lead counsel in nationwide and statewide class action lawsuits against many of the world's largest financial institutions in connection with the unlawful assessment of fees. To date, his efforts have successfully resulted in the recovery of over \$1 billion for tens of millions of bank and credit union customers, as well as monumental changes in the way they assess fees. In addition, Mr. Ostrow has served as lead Class Counsel in consumer class actions against some of the



world's largest airlines, pharmaceutical companies, clothing retailers, health and auto insurance carriers, technology companies, pharmaceutical companies, and oil conglomerates, along with serving as class action defense counsel for some of the largest advertising and marketing agencies in the world, banking institutions, real estate developers, and mortgage companies.

In addition to the law practice, he is the founder and president of ProPlayer Sports LLC, a full-service sports agency and marketing firm. He represents both Olympic Gold Medalist Swimmers, World Champion Boxers, and select NFL athletes, and is licensed by both the NFL Players Association as a certified Contract Advisor. At the agency, Mr. Ostrow handles all player-team negotiations of contracts, represents his clients in legal proceedings, negotiates all marketing and NIL engagements, and oversees public relations and crisis management. He has extensive experience in negotiating, mediating, and arbitrating a wide range of issues on behalf of clients with the NFL Players Association, the International Olympic Committee, the United States Olympic Committee, USA Swimming and the World Anti-Doping Agency. He has been an invited sports law guest speaker at New York University and Nova Southeastern University and has also served as a panelist at many industry-related conferences.

Mr. Ostrow received a Bachelor of Science in Business Administration from the University of Florida in 1994 and Juris Doctorate from Nova Southeastern University in 1997. He is a licensed member of The Florida Bar and the District of Columbia Bar, is fully admitted to practice before the U.S. Supreme Court, the U.S. District Courts for the Southern, Middle, and Northern Districts of Florida, Eastern District of Michigan, Northern District of Illinois, Western District of Tennessee, Western District of Wisconsin, and the U.S. Court of Appeals for the Eleventh Circuit. Mr. Ostrow is also member of several Bar Associations.

He is a lifetime member of the Million Dollar Advocates Forum. The Million Dollar Advocates Forum is the most prestigious group of trial lawyers in the United States. Membership is limited to attorneys who have had multi-million dollar jury verdicts. Additionally, he is consistently named as one of the top lawyers in Florida by Super Lawyers®, a publication that recognizes the best lawyers in each state. Mr. Ostrow is an inaugural recipient of the University of Florida's Warrington College of Business Administration Gator 100 award for the fastest growing University of Florida alumni-owned law firm in the world.

When not practicing law, Mr. Ostrow serves on the Board of Governors of Nova Southeastern University's Wayne Huizenga School of Business and is a Member of the Broward County Courthouse Advisory Task Force. He is also the Managing Member of One West LOA LLC, a commercial real estate development company with holdings in downtown Fort Lauderdale. He has previously sat on the boards of a national banking institution and a national healthcare marketing company. Mr. Ostrow is a founding board member for the Jorge Nation Foundation, a 501(c)(3) non-profit organization that partners with the Joe DiMaggio Children's Hospital to send children diagnosed with cancer on all-inclusive Dream Trips to destinations of their choice. Mr. Ostrow resides in Fort Lauderdale, Florida, and has 3 sons, 2 of which currently attend the University of Florida.



# ROBERT C. GILBERT

Partner

## **Bar Admissions**

The Florida Bar  
District of Columbia Bar

## ***Court Admissions***

Supreme Court of the United States  
U.S. Court of Appeals for the 11th Circuit  
U.S. District Court, Southern District of Florida  
U.S. District Court, Middle District of Florida

## ***Education***

University of Miami School of Law, J.D. - 1985  
Florida International University, B.S. - 1982

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

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

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

Bobby has been appointed to leadership positions in numerous other class actions and multidistrict litigation proceedings. He is currently serving as co-lead counsel in *In re Zantac (Ranitidine) Prods. Liab. Litig.*, 9:20-md-02924-RLR (S.D. Fla.), as well as liaison counsel in *In re Disposable Contact Lens Antitrust Litig.*, MDL 2626 (M.D. Fla.); liaison counsel in *In re 21st Century Oncology Customer Data Security Beach Litig.*, MDL 2737 (M.D. Fla.); and *In re Farm-Raised Salmon and Salmon Products Antitrust Litig.*, No. 19-21551 (S.D. Fla.). He previously served as liaison counsel for indirect purchasers in *In re Terazosin Hydrochloride Antitrust Litig.*, MDL 1317 (S.D. Fla.), an antitrust class action that settled for over \$74 million.

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

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

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



# JONATHAN M. STREISFELD

Partner

## *Bar Admissions*

The Florida Bar

## *Court Admissions*

Supreme Court of the United States

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

U.S. District Court, Southern District of Florida

U.S. District Court, Middle District of Florida

U.S. District Court, Northern District of Florida

U.S. District Court, Northern District of Illinois

U.S. District Court, Western District of Michigan

U.S. District Court, Western District of New York

U.S. District Court, Western District of Tennessee

## *Education*

Nova Southeastern University, J.D. - 1997

Syracuse University, B.S. - 1994

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

---

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

Mr. Streisfeld has vast and successful experience in class action litigation, serving as class counsel in nationwide and statewide consumer class action lawsuits against the nation's largest financial institutions in connection with the unlawful assessment of fees. To date, his efforts have successfully resulted in the recovery of over \$500,000,000 for millions of bank and credit union customers, as well as profound changes in the way banks assess fees. Additionally, he has and continues to serve as lead and class counsel for consumers in many class actions involving false advertising and pricing, defective products, and data breach. In addition, Mr. Streisfeld has litigated class actions against some of the largest health and automobile insurance carriers and oil conglomerates, and defended class and collective actions in other contexts.

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

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

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

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

# JASON H. ALPERSTEIN

Partner

## ***Bar Admissions***

The Florida Bar  
New York Bar

## ***Court Admissions***

U.S. Court of Appeals for the Sixth Circuit  
U.S. Court of Appeals for the Ninth Circuit  
U.S. District Court, Southern District of Florida  
U.S. District Court, Middle District of Florida  
U.S. District Court, Northern District of Florida  
U.S. District Court, Southern District of New York  
U.S. District Court, Eastern District of New York  
U.S. District Court, Eastern District of Michigan  
U.S. District Court, Western District of Michigan  
U.S. District Court, Northern District of Illinois

## **Education**

University of Miami School of Law, J.D. – 2008  
University of Miami School of Business, M.B.A. – 2008  
Brown University, B.A. – 2004

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

Jason Alperstein is a partner at Kopelowitz Ostrow P.A. (“KO”) and his practice focuses exclusively on the litigation of complex class actions, including cases involving automotive safety defects, mass torts, and data breaches. As a tireless advocate for consumers throughout his career, Jason has developed a track record of success in helping to implement significant business reforms and recover billions of dollars on behalf of those injured by fraudulent schemes and deceptive and unfair business practices.

Jason began his career as a class action litigator with KO in 2009 and rejoined the firm in 2021 after having the privilege of representing consumers around the country in some of the most important and unprecedented class actions. As a partner with Robbins Geller Rudman & Dowd LLP, Jason was an integral member of the team that litigated *In re Volkswagen “Clean Diesel” Marketing, Sales Practices, & Prods. Liab. Litig.*, No. 15-md-2672 (N.D. Cal.), prosecuting claims on behalf of almost 600,000 consumers who were duped into purchasing and leasing Volkswagen, Audi and Porsche vehicles that were marketed as environmentally friendly. In reality, those vehicles had been installed with “defeat devices” that concealed the vehicles’ true emission levels, which were up to 40 times the legal limit permitted by the EPA. Working closely with Lead Counsel and the Plaintiffs’ Steering Committee, Jason was involved in almost all aspects of the litigation, including at the appellate level. A series of settlements were ultimately reached on behalf of purchasers, lessees and dealers that totaled well over \$17 billion, the largest consumer automotive settlement in history.

On the heels of the landmark “Clean Diesel” settlement, Jason helped obtain an \$840 million global settlement in *In re Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practices and Prods. Liab. Litig.*, No. 3:17-md-02777-EMC (N.D. Cal.), for similar “defeat devices” installed in Jeep and Dodge diesel trucks and SUVs that were marketed as environmentally friendly “EcoDiesel” vehicles. Jason was also involved in some of the nation’s most significant privacy cases, including *In re Yahoo! Inc. Customer Data Security Breach Litig.*, No. 5:16-md-02752-LHK (N.D. Cal.), where he assisted Lead Counsel in obtaining a \$117.50 million recovery in the largest data breach in history.



Prior to these landmark recoveries, and as a partner with KO, Jason served on lead and co-lead litigation teams in nationwide and statewide class action lawsuits against dozens of the largest banking institutions in connection with the unlawful assessment of checking account overdraft fees. His efforts resulted in over \$250 million in settlements for his clients and significant changes in the way banks charge overdraft fees to their customers. In addition, Jason led consumer class actions against product manufacturers for false and deceptive labeling, and some of the world's largest clothing retailers for their use of false and deceptive comparative pricing in their outlet stores. Before shifting his focus to class action litigation, Jason successfully represented institutional investors in securities fraud and derivative actions seeking damages related to the origination and servicing of residential mortgage-backed securities. He also gained substantial experience representing both plaintiffs and defendants in business litigation disputes involving trademark infringement, theft of trade secrets, fraudulent and negligent misrepresentation, breach of fiduciary duty, breach of contract, tortious interference, and commercial real estate litigation.

Jason has been recognized by several leading industry organizations for the success he has achieved in the class action practice area. For the past three years, *Benchmark Litigation* has named him to its 40 & Under Hot List (previously known as the Under 40 Hot List) for being an “ambitious and accomplished lawyer[] [who] frequently handle[s] major cases – some of which are high-stakes or precedent-setting.” The publication honors “the best and brightest law firm partners who stand out in their practices throughout the US and in Canada.” In 2017, Jason was recognized by *Law360* as a Consumer Protection Rising Star, and from 2014-2019 was selected as a *Florida Super Lawyer* “Rising Star” in the Class Action & Mass Tort category. Jason is also a frequent speaker on issues pertaining to class action practice and procedure, having presented for The Florida Bar, the Florida Alliance of Paralegal Associations, and the Stanford Plaintiffs’ Lawyers Association.

Jason earned a dual Bachelor of Arts degree in Political Science and Sociology, with honors, from Brown University. While at Brown, he was a sprinter on the Varsity Track & Field team, studied at the University of Melbourne in Australia, and served as an intern for Judge Gilbert V. Indeglia of the Superior Court of Rhode Island. Jason received a Juris Doctor degree, cum laude, from the University of Miami School of Law, where he was a member of the Business Law Review, and a Masters of Business Administration in Finance from the University of Miami School of Business, where he was a Graduate Assistant Scholar.

Jason is a native of South Florida and is the past Miami-Dade Area Chair of the Brown Alumni Schools Committee. He also is a founding member of the American Heart Association’s PULSE, has been inducted into the Leadership Broward Foundation, and is a graduate of the National Outdoor Leadership School (NOLS). Prior to practicing law, Jason served as an intern for United States Senator Bob Graham in Washington, D.C., and as an intern for Wolf Blitzer Reports in the Washington, D.C. bureau of CNN.



# DANIEL TROPIN

Partner

## ***Bar Admissions***

The Florida Bar

## ***Court Admissions***

U.S. District Court, Southern District of Florida

U.S. District Court, Middle District of Florida

## ***Education***

University of Virginia, J.D. - 2012

Emory University, B.A. - 2008

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

Daniel Tropin is a litigator who specializes in complex commercial cases and class action litigation. Mr. Tropin joined the law firm as a partner in 2018, and has a wealth of experience across the spectrum of litigation, including class actions, derivative actions, trade secrets, arbitrations, and product liability cases. Mr. Tropin is appointed to the Leadership Development Committee in *In re Zantac (Ranitidine) Prods. Liab. Litig.*, MDL 2924.

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

Represented bank and credit union account holders in dozens of class actions challenging overdraft and insufficient funds fees.

Represented a major homebuilder in an action against a former business partner, who engaged in a fraud and defamation scheme to extort money. Following a jury trial, the homebuilder was awarded \$1.02 billion in damages. The award was affirmed on appeal.

Represented the former president and CEO of a cruise line against a major international venture capital conglomerate, travel and entertainment company, based on allegations of misappropriation of trade secrets, breach of a non-disclosure agreement, and breach of a partnership agreement.

Represented the CEO of a rapid finance company in an action seeking injunctive relief to protect his interest in the company.

Represented a medical supply distribution company in an action that involved allegations of misappropriation and breach of a non-circumvention agreement.

Represented a mobile phone manufacturer and distributor in a multi-million-dollar dispute regarding membership interests in a Limited Liability Company, with claims alleging misappropriation of trade secrets and breach of fiduciary duty.

Represented a major liquor manufacturer in a products liability lawsuit arising out of an incident involving flaming alcohol.

# KRISTEN LAKE CARDOSO

Partner



## ***Bar Admissions***

The Florida Bar  
The State Bar of California

## ***Court Admissions***

U.S. District Court, Southern District of Florida  
U.S. District Court, Middle District of Florida  
U.S. District Court, Central District of California  
U.S. District Court, Eastern District of Michigan

## ***Education***

Nova Southeastern University, J.D., 2007  
University of Florida, B.A., 2004

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

---

Kristen Lake Cardoso is a litigation attorney focusing on complex commercial cases and consumer class actions. She has gained valuable experience representing individuals and businesses in state and federal courts at both the trial and appellate levels in a variety of litigation matters, including contractual claims, fraud, breach of fiduciary duty, negligence, professional liability, real estate claims, enforcement of non-compete agreements, trade secret infringement, shareholder disputes, deceptive trade practices, other business torts, as well as consumer protection statutes.

Mrs. Cardoso's class action cases have involved, amongst other things, data breaches, violations of state consumer protection statutes, and breaches of contract. Mrs. Cardoso has represented students seeking reimbursements of tuition, room and board, and other fees paid to their colleges and universities for in-person education, housing, meals, and other services not provided when campuses closed during the COVID-19 pandemic. Ms. Cardoso also represents consumers seeking recovery of gambling losses from tech companies that profit from illegal gambling games offered, sold, and distributed on their platforms. In this litigation she is appointed Interim Executive Committee Member in (N.D. Cal.). Mrs. Cardoso is also actively litigating cases against major U.S. airlines for their failure to refund fares following flight cancellations and schedule changes.

Mrs. Cardoso is admitted to practice law in California and Florida, in both state and federal courts. Mrs. Cardoso attended the University of Florida, where she received her Bachelor's degree in Political Science, cum laude. She received her law degree from Nova Southeastern University, magna cum laude. While in law school, Mrs. Cardoso served as an Articles Editor for the Nova Law Review, was on the Dean's List, and was the recipient of a scholarship granted by the Broward County Hispanic Bar Association for her academic achievements. When not practicing law, Mrs. Cardoso serves as a volunteer at Saint David Catholic School. She has also served on various committees with the Junior League of Greater Fort Lauderdale geared towards improving the local community through leadership and volunteering.



# **EXHIBIT 2**

## Firm Resume

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

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

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

## Representative Cases

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

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

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

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

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

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

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

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

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

***Wallace v. Wells Fargo Bank, N.A., No. 17CV31775 (Sup. Ct. Ca., Santa Clara Cty.)***. Tycko & Zavareei LLP serve as Co-Lead Counsel in this case against Wells Fargo's overdraft fee practices. Tycko & Zavareei LLP recently moved for preliminary approval of a \$10.5 million common fund class settlement.

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

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

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

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

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

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

***Lambert v. Navy Federal Credit Union, No. 19-cv-00103 (E.D. Va.)***. Tycko & Zavareei LLP was appointed Class Counsel and helped secure a \$16 million settlement on behalf of members of Navy Federal Credit Union who were harmed by the credit union's practice of assessing a second or third NSF Fee upon re-presentation of debit items or checks.

***Hamm v. Sharp Electronics Corp., No. 19-cv-488 (M.D. Fla.)***. Tycko & Zavareei LLP was appointed Co-Lead Counsel and was instrumental in providing relief valued at \$109 million for class members exposed to a product defect in certain Sharp Microwave Drawer Ovens.

***Gibbs v. TCV V, LP & Gibbs v. Rees, Nos. 19-cv-789 & 20-cv-717 (E.D. Va.)***. Tycko & Zavareei LLP was named class counsel in one of, if not, the largest unlawful tribal payday lending schemes. Thus far, class counsel has been able to obtain a settlement fund over \$60 million as well as the cancellation of \$380 million in loans.

## Jonathan Tycko

---

### Partner

202.973.0900

jtycko@tzlegal.com

In his 25 years of practice, Jonathan Tycko has represented a wide range of clients, including individuals, Fortune 500 companies, privately-held business, and non-profit associations, in both trial and appellate courts around the country. Although he continues to handle a variety of cases, his current practice is focused primarily on helping whistleblowers expose fraud and corruption through qui tam litigation under the False Claims Act and other similar whistleblower statutes. Mr. Tycko's whistleblower clients have brought to light hundreds of millions of dollars in fraud in cases involving healthcare, government contracts, customs and import duties, banking and tax.

Prior to founding Tycko & Zavareei LLP in 2002, Mr. Tycko was with Gibson, Dunn & Crutcher LLP, one of the nation's top law firms. He received his law degree in 1992 from Columbia University Law School, and earned a B.A. degree, with honors, in 1989 from The Johns Hopkins University. After graduating from law school, Mr. Tycko served for two years as law clerk to Judge Alexander Harvey, II, of the United States District Court for the District of Maryland.

In addition to his private practice, Mr. Tycko is an active participant in other law-related and community activities. He currently serves on the Conference Committee of the Taxpayers Against Fraud Education Fund, charged with planning the premier annual conference of whistleblower attorneys and their counterparts at the United States Department of Justice and other government agencies. He has taught as an Adjunct Professor at the George Washington University Law School. He is a former member and Chairperson of the Rules of Professional Conduct Review Committee of the District of Columbia Bar, where he helped draft the ethics rules governing members of the bar. And Mr. Tycko is a member of the Board of Trustees of Studio Theatre, one of the D.C. area's top non-profit theaters.

Mr. Tycko is admitted to practice before the courts of the District of Columbia, Maryland and New York, as well as before numerous federal courts, including the Supreme Court, the Circuit Courts for the D.C. Circuit, Third Circuit, Fourth Circuit, Fifth Circuit, Seventh Circuit, Ninth Circuit, Eleventh Circuit and Federal Circuit, the District Courts for the District of Columbia and District of Maryland, the Southern District of New York, the Northern District of New York, the Western District of New York, and the Court of Federal Claims.



---

### Education

Columbia University Law School,  
1992

The Johns Hopkins University, 1989,  
with Honors

---

### Bar Admissions

District of Columbia  
Maryland  
New York  
Supreme Court of the United States

---

### Memberships

American Association for Justice  
(AAJ)  
Public Justice  
Taxpayers Against Fraud Education  
Fund (TAFEF)

---

### Awards

Stone Scholar (all three years),  
Columbia Law School  
Thomas E. Dewey Prize for Best  
Brief, Harlan Fiske Stone Moot Court  
Competition, Columbia Law School  
Award of Litigation Excellence,  
CARECEN-The Central American  
Resource Center  
Super Lawyers, 2012-current  
Member of the D.C. Bar Leadership  
Academy

## Hassan A. Zavareei

---

### Partner

202.973.0900

hzavareei@tzlegal.com

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

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

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



---

### Education

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

Duke University, 1990, *cum laude*

---

### Bar Admissions

California

District of Columbia

Maryland

Supreme Court of the United States

---

### Memberships

Public Justice, Board Member

American Association for Justice

---

### Awards

Washington Lawyers Committee,  
Outstanding Achievement Award

Super Lawyer

Lawdragon 500

---

### Presentations & Publications

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

Witness Before the Civil Rules  
Advisory Committee, 2018, 2019

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

## Andrea R. Gold

---

### Partner

202.973.0900  
agold@tzlegal.com

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

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

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

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

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

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



---

### Education

University of Michigan Law School, 2004

University of Michigan, Ross School of Business, 2001

---

### Bar Admissions

District of Columbia  
Illinois  
Maryland

---

### Memberships

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

---

### Awards

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

## Anna Haac

---

### Partner

202.973.0900  
ahaac@tzlegal.com



Anna C. Haac is a Partner in Tycko & Zavareei LLP's Washington, D.C. office. She focuses her practice on consumer protection class actions and whistleblower litigation. Her prior experience at Covington & Burling LLP, one of the nation's most prestigious defense-side law firms, gives her a unique advantage when representing plaintiffs against large companies in complex cases. Since arriving at Tycko & Zavareei LLP, Ms. Haac has represented consumers in a wide range of practice areas, including product liability, false labeling, deceptive and unfair trade practices, and predatory financial practices. Her whistleblower practice involves claims for fraud on federal and state governments across an equally broad spectrum of industries, including health care fraud, customs fraud, and government contracting fraud.

Ms. Haac has helped secure multimillion-dollar relief on behalf of the classes and whistleblowers she represents. Ms. Haac also serves as the D.C. Co-Chair of the National Association of Consumer Advocates and as Co-Chair of the Antitrust and Consumer Law Section Steering Committee of the D.C. Bar.

Ms. Haac earned her law degree *cum laude* from the University of Michigan Law School in 2006 and went on to clerk for the Honorable Catherine C. Blake of the United States District Court for the District of Maryland. Prior to law school, Ms. Haac graduated with a B.A. in political science with Highest Distinction from the Honors Program at the University of North Carolina at Chapel Hill.

Ms. Haac is a member of the District of Columbia and Maryland state bars. She is also admitted to the United States Court of Appeals for the Second, Third, and Fourth Circuits and the United States District Courts for the District of Columbia, District of Maryland, and the Eastern District of Michigan, among others.

---

### Education

University of Michigan Law School,  
2006, *cum laude*

University of North Carolina at  
Chapel Hill, 2002, Highest Honors

---

### Bar Admissions

District of Columbia  
Maryland

---

### Memberships

Antitrust & Consumer Protection  
Section of District of Columbia Bar,  
Co-Chair

National Association of Consumer  
Advocates, District of Columbia  
Co-Chair

Public Justice

---

### Awards

Super Lawyers, Rising Star, 2015

---

### Presentations & Publications

Discussion Leader, "Practical Ideas  
about Properly Framing the Issues  
and Educating the Court and Public  
in Filings Responding to Increasing  
Attacks on Class Action Settlements  
and Fees," Cambridge Forum on  
Plaintiffs' Class Action Litigation  
(October 2020)

## Annick M. Persinger

---

### Partner

510.254.6808

apersinger@tzlegal.com



Annick M. Persinger leads Tycko & Zavareei LLP's California office as California's Managing Partner. While at Tycko & Zavareei LLP, Ms. Persinger has dedicated her practice to utilizing California's prohibitions against unfair competition and false advertising to advocate for consumers. Ms. Persinger has taken on financial institutions, companies that take advantage of consumers with deceptive advertising, tech companies that disregard user privacy, companies that sell defective products, and mortgage loan servicers. Ms. Persinger also represents whistleblowers who expose their employer's fraudulent practices.

Ms. Persinger graduated magna cum laude as a member of the Order of the Coif from the University of California, Hastings College of the Law in 2010. While in law school, Ms. Persinger served as a member of Hastings Women's Law Journal, and authored two published articles. In 2008, Ms. Persinger received an award for Best Oral Argument in the first year moot court competition. In 2007, Ms. Persinger graduated *cum laude* from the University of California, San Diego with a B.A. in Sociology, and minors in Law & Society and Psychology.

Following law school, Ms. Persinger worked as a legal research attorney for Judge John E. Munter in Complex Litigation at the San Francisco Superior Court.

Ms. Persinger served as an elected board member of the Bay Area Lawyers for Individual Freedom (BALIF) from 2017 to 2019, and as Co-Chair of BALIF from 2018 to 2019. During her term on the BALIF Board of Directors, Ms. Persinger advocated for LGBTQI community members with intersectional identities, and promoted anti-racism and anti-genderism. Ms. Persinger now serves as a Steering Committee member for the Cambridge Forum on Plaintiffs' Food Fraud Litigation.

---

### Education

University of California Hastings  
College of Law, 2010, *magna cum laude*,  
Order of the Coif

University of California San Diego,  
2007, *cum laude*

---

### Bar Admissions

California

---

### Memberships

American Association for Justice

Plaintiffs' Food Fraud Litigation, 2020  
Steering Committee Member

Public Justice

---

### Awards

Super Lawyer, Rising Star 2020

UC Hastings, Best Oral Argument  
2008



## Sabita J. Soneji

---

### Partner

510.254.6808

ssoneji@tzlegal.com

In 20 years of practice, Sabita J. Soneji has developed extensive experience in litigation and legal policy at both the federal and state level and a passion for fighting consumer fraud. Now a Partner in Tycko & Zavareei LLP's Oakland office, she focuses on consumer protection class actions and whistleblower litigation. In addition to her success with novel Telephone Consumer Protection cases, False Claims Act cases involving insurance fraud, and deceptive and false advertising cases, Ms. Soneji serves in leadership on multi-district litigation against Juul, for its manufacture and marketing to youth of an addictive nicotine product. Ms. Soneji also successfully represents consumers harmed by massive data breaches and by corporate practices that collect and monetize user data without consent. She serves as head of the firm's Privacy and Data Breach Group.

Ms. Soneji began that work during her time with the United States Department of Justice, as Senior Counsel to the Assistant Attorney General. In that role, she oversaw civil and criminal prosecution of various forms of financial fraud that arose in the wake of the 2008 recession. For that work, Ms. Soneji partnered with other federal agencies, state attorneys' general, and consumer advocacy groups. Beyond that affirmative work, Ms. Soneji worked to defend various federal programs, including the Affordable Care Act in nationwide litigation.

Ms. Soneji has extensive civil litigation experience from her four years with international law firm, her work as an Assistant United States Attorney in the Northern District of California, and from serving as Deputy County Counsel for Santa Clara County, handling civil litigation on behalf of the County including regulatory, civil rights, and employment matters. She has successfully argued motions and conducted trials in both state and federal court and negotiated settlements in complex multi-party disputes.

Early in her career, Ms. Soneji clerked for the Honorable Gladys Kessler on the United States District Court for the District of Columbia, during which she assisted the judge in overseeing the largest civil case in American history, *United States v. Phillip Morris, et al.*, a civil RICO case brought against major tobacco manufacturers for fraud in the marketing, sale, and design of cigarettes. The opinion in that case paved the way for Congress to authorize FDA regulation of cigarettes.

Ms. Soneji is a graduate of the University of Houston, *summa cum laude*, with degrees in Math and Political Science, and Georgetown University Law Center, *magna cum laude*.



---

### Education

Georgetown University Law Center,  
*magna cum laude*

University of Houston, *summa cum laude*

---

### Bar Admissions

District of Columbia

California

Supreme Court of the United States

---

### Memberships

Ninth Circuit Judicial Council Lawyer  
Representative for the Northern  
District of California, 2023-2025

Law360 Diversity & Inclusion  
Editorial Advisory Board Member,  
2022-2023

American Association for Justice  
(AAJ)

Public Justice, 2022-2023 Member of  
the Board of Directors

Impact Fund

Taxpayers Against Fraud Education  
Fund (TAFEF)

---

### Awards

Attorney General's Award 2014

---

### Presentations & Publications

NITA Trial Skills Faculty 2010-  
present

## Kristen G. Simplicio

---

### Partner

202.973.0900

ksimplicio@tzlegal.com



Kristen G. Simplicio has devoted her career to representing victims of false advertising and corporate fraud. Prior to joining Tycko & Zavareei LLP's D.C. office in 2020, she spent ten years at a boutique class action firm in California. While there, she successfully litigated over a dozen false advertising cases against manufacturers of a variety of consumer products, including olive oil, flushable wipes, beverages, and chocolate. In connection with this work, she helped to obtain millions of dollars in refunds to consumers, as well as changed practices.

In addition to her product labeling work, Ms. Simplicio has represented plaintiffs in a wide variety of areas. For example, she was the lead associate on RICO case on behalf of small business owners against 18 defendants in the credit card processing industry. In connection with that case, she obtained a preliminary injunction halting an illegal \$10 million debt collection scheme, and later, helped to secure refunds and changed practices for the victims. She has also represented victims of other debt collectors, as well as those harmed by unlawful background and credit reporting, including a pro bono matter performed in conjunction with the Lawyers' Committee for Civil Rights of the San Francisco Bay Area. Ms. Simplicio also worked on a lawsuit against government agencies, which were charging unconstitutional fines and fees in connection with toll collection.

Ms. Simplicio graduated *cum laude* from American University, Washington College of Law in 2007. She holds a bachelor's degree from McGill University. She began her legal career at the United States Department of Labor, where she advised on regulations pertaining to group health insurance plans. Before and during law school, Ms. Simplicio worked for other plaintiffs' law firms.

Ms. Simplicio serves as the D.C. Co-Chair of the National Association of Consumer Advocates. She is admitted to practice in California and the District of Columbia.

---

### Education

American University, Washington  
College of Law, 2007, *cum laude*

McGill University, 1999

---

### Bar Admissions

California  
District of Columbia

---

### Memberships

National Association of Consumer  
Advocates

American Association for Justice  
Public Justice

## Renée Brooker

---

### Partner

202.417.3664

reenebrooker@tzlegal.com

Bringing 30 years of practice, knowledge, and expertise as a former prosecutor in a senior leadership position at the United States Department of Justice, Renée Brooker is now representing whistleblowers. While at the Department of Justice for over two decades, Ms. Brooker was responsible for billions of dollars in recoveries under whistleblower laws. As an accomplished and experienced attorney, Ms. Brooker has advised and represented whistleblowers under the False Claims Act (FCA), the Anti-Kickback Statute and Stark Law, FIRREA (bank fraud, mail, and wire fraud), the Financial Institutions Anti-Fraud Enforcement Act (FIAFE), and the Whistleblower Programs of the SEC, the CFTC, and the IRS.

As Assistant Director within the Civil Division of the United States Department of Justice, Ms. Brooker was responsible for sizeable recoveries and successful judgments under the False Claims Act, FIRREA, and civil RICO in almost every industry: pharmaceutical, health care, defense, financial services, government procurement, small business, insurance, tobacco products, and higher education.

Ms. Brooker received her law degree in 1990 from Georgetown University Law Center, and a B.S. degree in 1987 from Temple University. After graduating from Georgetown, Ms. Brooker served as a Law Clerk to Judge Noël Kramer in the District of Columbia for one year before joining the United States Department of Education as an attorney. Ms. Brooker was hired as part of the enforcement response to Congressional investigations of fraud in federal student aid programs affecting consumers and taxpayers. Prior to joining Tycko & Zavareei LLP in 2020, Ms. Brooker worked at another prominent whistleblower firm where she advised and represented whistleblowers while expanding the firm's whistleblower practice. Ms. Brooker also served as a member of the United States Department of Justice-appointed Independent Corporate Compliance Monitor and Auditor for Volkswagen under its Plea Agreement and Consent Decree with the United States Department of Justice.



---

### Education

Georgetown University Law Center, J.D.  
Temple University, B.S.

---

### Bar Admissions

District of Columbia  
Pennsylvania

---

### Memberships

Taxpayers Against Fraud Education Fund (TAFEF)  
Board Member, Federal Bar Association Qui Tam Section  
National Employment Lawyers Association (NELA)

---

### Awards

Department of Justice Commendation Award for recovering billions of dollars under the Big Lender Initiative, 2016  
Council of the Inspectors General on Integrity and Efficiency Award for Excellence for \$1.2 billion False Claims Act settlement with Wells Fargo, 2016  
Department of Justice Award for “a record of outstanding actions and accomplishments,” 2015  
Attorney General’s Award for Fraud Prevention, 2011  
Department of Justice Award for prosecuting Big Tobacco under RICO, 2005

## Eva Gunasekera

---

### Partner

202.417.3655

eva@tzlegal.com

Bringing 16 years of complex litigation experience practice, Eva Gunasekera, the former Senior Counsel for Health Care Fraud at the United States Department of Justice, is now representing whistleblowers. Ms. Gunasekera has spent the better part of her career enforcing the False Claims Act and the Stark and Anti-Kickback laws.

Highly strategic, Ms. Gunasekera has many notable successes under her belt, sizeable recoveries under the False Claims Act, and has held companies accountable for fraudulent conduct that harmed important government programs such as Medicare and Medicaid. With deep health care fraud expertise, she has investigated, litigated, and settled cases involving all federal health care programs (Medicare, Medicaid, TRICARE, FEHB). Ms. Gunasekera is an expert on analyzing complex health care data sets, including Medicare and Medicaid payment data and trends, to identify potentially fraudulent practices. She has enforced anti-fraud laws and represented whistleblowers across industries: pharmaceutical manufacturers, health care providers, hospitals, physicians, physician groups, laboratories, managed care, pharmacies, hospice and nursing home providers, financial institutions, government suppliers, automotive, small businesses, and defense contractors. Many of her investigations involved parallel criminal proceedings and compliance and whistleblower programs of health care organizations, including those subjected to Corporate Integrity Agreements and oversight by Independent Review Organizations, as required by the U.S. Department of Health and Human Services, Office of Inspector General (HHS-OIG).

After graduating with her Master's in Public Administration from Ohio University, and from Georgetown University Law Center, Ms. Gunasekera practiced law at two international law firms. She acted as second chair during administrative trials and handled complex commercial litigation. Ms. Gunasekera also played a significant role on the team that represented the Enron Creditors Recovery Corp in the bankruptcy proceeding, successfully returning billions of dollars to creditors in the wake of the Enron scandal. Further, Ms. Gunasekera represented clients in pro bono matters, including the successful defense of an individual seeking asylum and as guardian ad litem for three children.



---

### Education

Georgetown University Law Center,  
J.D., 2004

Ohio University, M.A., 2001

Ohio University, B.A., 2000

---

### Bar Admissions

District of Columbia

Ohio

---

### Memberships

Taxpayers Against Fraud Education  
Fund (TAFEF)

Federal Bar Association Qui Tam  
Section

---

### Presentations & Publications

“Whistleblower Rewards 101” –  
Scottsdale (Arizona) Bar Association  
(March 9, 2021)

“Should the False Claims Act be  
Amended to Define Falsity?” - Federal  
Bar Association, Qui Tam Section  
(February 17, 2021)

Law review article: False Claims Act,  
the opioid crisis, whistleblowing,  
Emory University Law School,  
February 26, 2019

## Allison W. Parr

---

### Associate

202.973.0900

aparr@tzlegal.com

Prior to joining Tycko & Zavareei LLP in 2021, Allison W. Parr was an associate in the Washington, D.C. office of Mayer Brown LLP, where she represented corporations in complex commercial litigation, including cases involving unfair competition and false advertising claims. Previously, Ms. Parr was a litigation associate in the New York office of Kramer Levin Naftalis & Frankel LLP, where she maintained an active pro bono practice in LGBTQ civil rights.

Ms. Parr graduated from the Georgetown University Law Center in 2018, where she served as the Articles and Notes Editor for the Food and Drug Law Journal. During law school, Ms. Parr externed for the Commercial Litigation Branch, Fraud Section of the Department of Justice, where she assisted with cases involving allegations of fraud against the government. Ms. Parr received her Bachelor of Music from the Peabody Institute of the Johns Hopkins University in 2013.

Ms. Parr is admitted to practice in New York and the District of Columbia.



---

### Education

Georgetown University Law Center,  
2018

John Hopkins University, 2013, with  
High Honors

---

### Bar Admissions

New York  
District of Columbia

---

### Memberships

Public Justice

---

### Presentations & Publications

Agribusiness and Antibiotics: A  
Market-Based Solution, 73 Food &  
Drug L.J. 338 (2018)

## Dia Rasinariu

---

### Associate

202.973.0900

drasinariu@tzlegal.com

Dia Rasinariu graduated *cum laude* from Harvard Law School in 2016. While in law school, Ms. Rasinariu served as an Executive Editor of the *Harvard Law Review*. She was also a member of HLS Lambda. Following law school, Ms. Rasinariu clerked for the Honorable Diana Gribbon Motz on the United States Court of Appeals for the Fourth Circuit. Ms. Rasinariu earned her Bachelor of Arts, with distinction, from Cornell University in 2011, with majors in Government and in Economics.

Prior to joining Tycko & Zavareei LLP in 2021, Ms. Rasinariu was a litigation associate in the Washington, D.C. office of Jones Day. Ms. Rasinariu maintained an active pro bono practice, representing clients on civil rights, asylum, and domestic violence matters.

Ms. Rasinariu is a member of the District of Columbia and Illinois state bars. She is also admitted to practice before the United States District Court for the District of Maryland and the United States Courts of Appeals for the Fourth and Sixth Circuits.



---

### Education

Harvard Law School, 2016, *cum laude*  
Cornell University, 2011, with  
Distinction

---

### Bar Admissions

Illinois  
District of Columbia  
Supreme Court of the United States

---

### Memberships

Public Justice

---

### Awards

Super Lawyers, Rising Star 2020

## Glenn Chappell

---

### Associate

202.973.0900

gchappell@tzlegal.com

Glenn Chappell is an associate in the Washington, D.C. office. Prior to joining Tycko & Zavareei LLP, he was an associate in the Washington, D.C. office of Gibson, Dunn & Crutcher LLP, one of the nation's most prestigious defense-side firms. During his time at Gibson Dunn, Mr. Chappell represented corporations in complex litigation at the trial and appellate levels, including the United States Supreme Court. He also maintained an active pro bono practice that focused on police and sentencing reform.

Mr. Chappell graduated *summa cum laude* from Duke University School of Law in 2017, where he served as Managing Editor of the *Duke Law Journal* and Senior Research Editor of the *Duke Law & Technology Review*. While in law school, he dedicated more than 450 hours to pro bono work.

After graduating law school, Mr. Chappell clerked for the Honorable Gerald Bard Tjoflat of the United States Court of Appeals for the Eleventh Circuit and the Honorable Anthony J. Trenga of the United States District Court for the Eastern District of Virginia. Before law school, he worked as a manager in the manufacturing industry. He graduated with honors from Saint Leo University, earning a Bachelor of Arts in Business Administration. His legal scholarship has appeared in multiple publications, including the *Duke Law Journal* and the *University of Richmond Law Review*.



---

### Education

Duke University School of Law, 2017,  
*summa cum laude*, Order of the Coif  
Saint Leo University, 2011, *cum laude*

---

### Bar Admissions

District of Columbia  
Virginia  
Supreme Court of the United States

---

### Memberships

Order of the Coif  
Virginia Equality Bar Association  
American Constitution Society  
Virginia Bar Association  
Public Justice

---

### Publications

*The Historical Case for Constitutional "Concepts"*, 53 UNIVERSITY OF RICHMOND LAW REVIEW 373 (2019)

*Health Care's Other "Big Deal": Direct Primary Care Regulation in Contemporary American Health Law*, 66 DUKE LAW JOURNAL 1331 (2017)

*Seeking Rights, Not Rent: How Litigation Finance Can Help Break Copyright's Precedent Gridlock*, 15 DUKE LAW & TECHNOLOGY REVIEW 269 (2017)

## Lauren Kuhlik

---

### Associate

202.973.0900

lkuhlik@tzlegal.com

Prior to joining Tycko & Zavareei LLP in 2021, Lauren Kuhlik was a fellow at the National Prison Project of the American Civil Liberties Union, where she engaged in litigation and other advocacy to stop unconstitutional and illegal practices by prison and jail administrators and ICE. She focused on improving conditions of confinement for pregnant and postpartum people, as well as fighting to eliminate the inhumane practice of solitary confinement. During the COVID-19 crisis, Ms. Kuhlik maintained an extensive habeas practice seeking to secure the release of detained individuals with medical vulnerabilities.

Ms. Kuhlik graduated *cum laude* from Harvard Law School in 2017. She also received a Masters in Public Health from the Harvard T.H. Chan School of Public Health in 2017. Following law school, Ms. Kuhlik clerked for the Honorable Stephen Glickman of the District of Columbia Court of Appeals. She has published articles regarding the treatment of pregnant incarcerated people in the Harvard Law and Policy Review and the Harvard Civil Rights-Civil Liberties Law Review. Ms. Kuhlik has also published about gender and incarceration in USA Today and Ms. Magazine, among others.



---

### Education

Harvard Law School, 2017, *cum laude*

Harvard T.H. Chan School of Public Health, M.P.H., 2017

Wesleyan University, BA in Philosophy with Honors, 2011

---

### Bar Admissions

District of Columbia

Virginia

---

### Memberships

Public Justice

---

### Publications & Presentations

National Abortion Federation Annual Meeting (2021)

Pregnancy, Systematic Disregard and Degradation, and Carceral Institutions, Harvard Law & Policy Review (2020)

Harvard Law & Policy Review Fall Symposium (2019)

Society of Family Planning Annual Meeting (2019)

George Mason University Law School Civil Rights Law Journal Symposium (2019)

Pregnancy Behind Bars: The Constitutional Argument for Reproductive Healthcare Access in Prison, Harvard Civil Rights & Civil Liberties Law Review (2017)



## Leora N. Friedman

---

### Associate

202.417.3669

lfriedman@tzlegal.com

Leora Friedman received her J.D. from Georgetown University Law Center in 2020.

At Georgetown Law, Leora obtained diverse legal experience through experiential courses led by the O’Neill Institute for National and Global Health Law and by the Institute for Constitutional Advocacy and Protection. In addition, she authored papers proposing new legal frameworks for addressing the negative health impacts of electronic cigarettes and improving pandemic preparedness through writing-intensive coursework.

During law school, Leora also served as an intern for the Department of Justice’s Office of Vaccine Litigation and its Consumer Protection Branch. She was an Executive Editor for the Georgetown Environmental Law Review, which published her note “Recommending Judicial Reconstruction of Title VI to Curb Environmental Racism: A Recklessness-Based Theory of Discriminatory Intent.”

Previously, Leora was the Rockefeller Foundation’s Princeton Project 55 Fellow from 2014-2015 and, thereafter, aided international health advocacy campaigns at Global Health Strategies.

She graduated from Princeton University with an A.B. in Politics in 2014.



---

### Education

Georgetown University Law Center,  
2020

Princeton University, 2014

---

### Bar Admissions

District of Columbia

---

### Memberships

Public Justice

---

### Publications

*Recommending Judicial Reconstruction of Title VI to Curb Environmental Racism: A Recklessness-Based Theory of Discriminatory Intent*, 32 GEO. ENV’T L. REV. 421 (2020)

## Spencer Hughes

---

### Associate

202.973.0900

shughes@tzlegal.com

Spencer Hughes is an associate in the Washington, D.C. office, where he focuses on representing consumers in class actions against corporations.

Before joining Tycko & Zavareei LLP, Mr. Hughes was an associate at Kirkland & Ellis LLP, a top defense-side law firm. He gained invaluable experience in complex consumer protection cases and learned the strategies of defense teams in these matters. While at Kirkland & Ellis, Mr. Hughes maintained an active pro bono practice in trial-level and appellate courts, and he received the firm's Pro Bono Service Award for four consecutive years.

Mr. Hughes earned his Juris Doctor from Duke University School of Law in 2017, where he was an editor of the *Duke Law Journal*. After graduation, he clerked for the Honorable Gerald Bard Tjoflat of the United States Court of Appeals for the Eleventh Circuit.

Mr. Hughes graduated *cum laude* from Iowa State University in 2014, earning a Bachelor of Arts in political science and speech communication. He served as the university's Student Body President for the 2013-14 academic year.



---

### Education

Duke University School of Law, 2017

Iowa State University, 2014, *cum laude*

---

### Bar Admissions

District of Columbia

Supreme Court of the United States

---

### Memberships

American Constitution Society

Public Justice

## Cameron Partovi

---

### Associate

510.254.6808

[cpartovi@tzlegal.com](mailto:cpartovi@tzlegal.com)



Cameron Partovi is an associate in the Oakland, California office.

Prior to joining Tycko & Zavareei LLP in 2022, Mr. Partovi was an associate at Bird Marella, P.C., a litigation boutique in Los Angeles. There, Mr. Partovi represented individuals and corporations in complex commercial actions, including profit participation, false advertising, and breach of contract class actions. Mr. Partovi was previously a litigation associate at Gibson, Dunn & Crutcher LLP, one of the country's top defense firms. Mr. Partovi maintained an active pro bono practice in both law firms.

Mr. Partovi graduated from Harvard Law School *cum laude* in 2017, where he served as a Managing Editor of the Harvard Environmental Law Review. After graduating, Mr. Partovi clerked for the Honorable Lawrence E. Kahn of the United States District Court for the Northern District of New York.

Mr. Partovi graduated with honors from the University of Utah, earning a Bachelor of Science in Political Science.

---

### Education

Harvard Law School, 2017, *cum laude*  
University of Utah, 2013, with Honors

---

### Bar Admissions

California

---

### Memberships

Public Justice

## Gemma Seidita

---

### Associate

202.973.0900

[gseidita@tzlegal.com](mailto:gseidita@tzlegal.com)

Gemma Seidita is an associate in the Washington, D.C. office where she focuses on civil rights cases and advocating for whistleblowers and consumers.

Prior to joining Tycko & Zavareei LLP in 2022, Ms. Seidita was an associate in the Washington, D.C. office of Cooley LLP, where she represented clients in complex commercial litigation and investigations, including cases involving securities, trade secret, and unfair competition claims. At Cooley, Ms. Seidita maintained an active pro bono practice in civil rights and immigration areas. Ms. Seidita was a member of the trial team in the historic federal *Sines v. Kessler* litigation where white supremacists were put on trial for their conspiratorial actions in planning and committing violence at the Unite the Right rally in Charlottesville, Virginia.

Ms. Seidita graduated from Duke University School of Law in 2018 where she earned a J.D. and an LLM in international and comparative law. While in law school, she served as a Research Editor for the Duke Environmental Law and Policy Forum. Ms. Seidita received her Bachelor of Arts in Foreign Affairs from the University of Virginia in 2015.



---

### Education

Duke University School of Law, 2018,  
*cum laude*

University of Virginia, 2015, with  
Distinction

---

### Bar Admissions

California  
District of Columbia  
Massachusetts

---

### Memberships

Public Justice

## David W. Lawler

---

### Of Counsel

202.973.0900  
dlawler@tzlegal.com

Mr. Lawler joined Tycko & Zavareei LLP in January 2012. He has over twenty years of commercial litigation experience, including an expertise in eDiscovery and complex case management. At the firm Mr. Lawler has represented consumers in a numerous practice areas, including product liability, false labeling, deceptive and unfair trade practices, and antitrust class actions litigation.

Before joining Tycko & Zavareei LLP, Mr. Lawler was an associate in the litigation departments at McKenna & Cuneo LLP and Swidler Berlin Shereff Friedman LLP.

Among Mr. Lawler's career achievements include the co-drafting of appellate briefs which resulted in rare reversal and entry of judgment in favor of client, US Court of Appeals for the Fourth Circuit.

Mr. Lawler is a member of the District of Columbia Bar, as well as numerous federal courts.



---

### Education

Creighton University School of Law,  
1997

University of California, Berkeley  
School of Law, 1989

---

### Bar Admissions

District of Columbia

---

### Memberships

American Association for Justice  
Public Justice

## F. Peter Silva II

---

### Of Counsel

202.973.0900

psilva@tzlegal.com

Peter Silva is a zealous advocate for consumers, workers, and individuals whose rights have been violated by the government, employers, and financial institutions. Over the last decade, Peter has successfully represented clients in civil rights, consumer protection, and foreclosure defense cases in negotiations, mediations, arbitrations, and at trial in state and federal courts and before various administrative agencies.

Prior to joining Tycko & Zavareei LLP, Peter represented individuals and small businesses as a Partner with Gowen Silva & Winograd, PLLC. Peter's work on behalf of Maryland, D.C., and Virginia homeowners has prevented dozens of foreclosures through loan modifications, settlements, and litigation. Peter not only defends foreclosures, but countersues for violations of state and federal lending and servicing laws. Peter has successfully brought and defended lawsuits against America's biggest banks and mortgage servicers including Wells Fargo, Bank of America, U.S. Bank, Fannie Mae, Freddie Mac, Mr. Cooper/Nationstar Mortgage, Bayview Loan Servicing, and Ocwen Loan Servicing. Through aggressive litigation and creative settlement solutions, Peter has obtained millions of dollars in damages and savings for his clients including principal and interest reductions, write-downs, and deficiency waivers. Peter's extensive knowledge of the foreclosure and loan modification processes, mortgage servicing industry and applicable state and federal laws including the Real Estate Settlement Procedures Act (RESPA) and Truth-in-Lending (TILA) allows him to provide clients with upfront and straightforward assessments of their options so that they can make an informed decision.

Peter has worked with local, state, and federal governments and non-profit entities to strengthen legal protections of consumers. Peter is a member of the National Association of Consumer Advocates.

At the beginning of his legal career, Peter worked extensively in the civil rights field as an attorney fellow for the Washington Lawyers' Committee for Civil Rights and Urban Affairs, and a law clerk with the Equal Employment Opportunity Commission and the civil rights interest group, People for the American Way.



---

### Education

University of Miami, School of Law,  
2010

San Diego State University, 2007

---

### Bar Admissions

Virginia

District of Columbia

Maryland

---

### Memberships

National Association of Consumer  
Advocates

Public Justice

---

### Presentations & Publications

"The Tactical Deployment of Regulation X: Loss Mitigation in Judicial, Quasi-Judicial, and Non-judicial States," National Association of Consumer Advocates (February 11, 2021)

"Foreclosures: What You Don't Know Will Hurt You!" National Association for the Advancement of Colored People

## Wesley M. Griffith

---

### Of Counsel

510.254.6808  
wgriffith@tzlegal.com

Mr. Griffith is a graduate of the University of California, Berkeley and the University of Chicago Law School. After law school, Mr. Griffith spent a decade working at two of the nation's top defense firms, where he represented some of the world's largest companies in class actions, complex litigation, and regulatory matters.

Mr. Griffith now uses those same skills to advocate on behalf of his consumer clients. He is dedicated to tenaciously advancing his clients' interests through all phases of litigation, including trial and on appeal.

While Mr. Griffith's preference is always to litigate, he also knows that being an effective advocate sometimes means settling. Mr. Griffith has been involved with dozens of significant settlements over the course of his career, including settlements valued at over \$100 million, and he has defended those settlements in parallel actions and on appeal.

Mr. Griffith maintains an active pro bono practice representing clients in civil rights cases. He serves on the pro bono panels for the Ninth Circuit Court of Appeal and the Eastern District of California, and was recognized in 2021 for his pro bono service to the Eastern District.

Mr. Griffith is a member of the California Bar and is admitted to practice in the U.S. District Courts for the Central, Eastern, Northern and Southern Districts of California, as well as the U.S. Judicial Panel on Multidistrict Litigation and the U.S. Courts of Appeal for the Second, Ninth, and Eleventh Circuits.

Mr. Griffith is a member of the Advisory Board of the Legal Aid Foundation of Los Angeles, and he has been repeatedly recognized for his mentorship to junior attorneys.

When not practicing law, Mr. Griffith enjoys spending time with his toddler and wife and hiking in the Sierras with his dog.



---

### Education

University of Chicago Law School,  
2012

University of California, Berkeley,  
2007, with Honors and Distinction

---

### Bar Admissions

California  
Supreme Court of the United States

---

### Memberships

Pro Bono Panel, Ninth Circuit Court  
of Appeal

Pro Bono Panel, U.S. District Court  
for the Eastern District of California

Legal Aid Foundation of Los Angeles,  
Advisory Board Member

Public Justice

---

### Awards

2021 Honoree, U.S. District Court for  
the Eastern District of California  
Night to Honor Service

2020 and 2021 Mentorship Award,  
Jenner & Block LLP

## Shana Khader

---

### Of Counsel

202.973.0900

skhader@tzlegal.com

Shana Khader is passionate about using the legal system creatively to challenge abuses of power and to seek justice on behalf of traditionally marginalized communities and poor people—even in hard cases. In the past several years, she has specialized in representing low-income immigrant workers in Texas. As Senior Managing Attorney at the Equal Justice Center and as Director of Legal Services at Workers Defense Project, Ms. Khader represented workers in challenging abusive employment practices through class and individual litigation, policy advocacy, and community organizing. She also has extensive experience working with survivors of sexual harassment and assault at work. She has obtained favorable decisions and verdicts on behalf of her clients in state and federal court.

Prior to moving to Texas, Ms. Khader served as a Kirkland & Ellis Public Service Fellow at the New York Legal Assistance Group, where she represented low-income New Yorkers who were victimized by unscrupulous debt collectors in courts throughout the city.

Ms. Khader graduated with academic honors from Columbia Law School. She served as a judicial law clerk to the Honorable Debra C. Freeman, Magistrate Judge in the Southern District of New York.

Ms. Khader served as a member of the Dallas Civil Service Board, has served as a board member of the DFW chapter of the National Employment Lawyers Association, and is an alumna of the Latino Center for Leadership Development Leadership Academy. She is fluent in Spanish.



---

### Education

Columbia University School of Law, 2011, *James Kent Scholar*

Occidental College, 2005, *magna cum laude*

---

### Bar Admissions

New York

Texas

---

### Memberships

American Association for Justice  
Public Justice

---

### Awards

Kirkland & Ellis New York City  
Public Service Fellow

Hamilton Fellow

Pro Bono Honors

---

### Presentations & Publications

“Timekeeping and Teleworking in the Era of COVID,” Texas Employment Lawyers Association Spring Seminar, (Apr. 2021)

“Taking the Sex out of Sexual Harassment: Why the ‘Equal Opportunity Harasser’ Defense Under Title VII Should be Eliminated.” *Columbia Gender and Sexuality Law Journal Online*, (Spring 2011)



## Jaclyn S. Tayabji

---

### Fellow

202.973.0900

[jtayabji@tzlegal.com](mailto:jtayabji@tzlegal.com)



Jaclyn Tayabji is the 2021-2023 Public Interest Fellow at Tycko & Zavareei LLP. Jaclyn received her J.D. *magna cum laude* from Boston University School of Law in 2021. While in law school, Jaclyn embraced experiential learning opportunities and consistently utilized her legal skills to promote the public interest. Jaclyn completed a legal internship in the Consumer Protection Division of the Massachusetts Attorney General's Office and a judicial externship with the Honorable Vickie L. Henry on the Massachusetts Appeals Court. As a Student Attorney in the Access to Justice Civil Litigation Clinic, Jaclyn represented low-income clients in various civil disputes, including defending tenants in summary process evictions and facilitating discovery production in a federal employment discrimination case.

In law school, Jaclyn served as an Editor for the *Boston University Law Review* and was elected to leadership positions in the Middle Eastern & South Asian Law Students Association, the International Law Society, and the Public Interest Project. Jaclyn was also selected to serve on the Public Interest Committee alongside fellow students, faculty, and staff to review the policies and programs related to public service offerings at Boston University School of Law and to advocate for institutional resources.

Jaclyn received her B.A. in International Studies and African Studies from Emory University in 2016. Prior to law school, Jaclyn served with the Peace Corps in Malawi and subsequently worked as a Recovery Coach through the inaugural AmeriCorps-Police Assisted Addiction & Recovery Initiative program.

---

### Education

Boston University School of Law,  
2021, *magna cum laude*

Emory University, 2016

---

### Bar Admissions

District of Columbia

---

### Memberships

Public Justice

---

### Awards

Public Interest Scholar, Boston  
University School of Law

Sylvia Beinecke Robinson Award,  
Boston University School of Law

Paul J. Liacos Scholar, Boston  
University School of Law

G. Joseph Tauro Distinguished  
Scholar, Boston University School of  
Law

Deans Award (Torts), Boston  
University School of Law

---

### Presentations & Publications

*Rehabilitation Under the Rehabilitation  
Act: The Case for Medication-Assisted  
Treatment in Federal Correctional Facilities*,  
101 B.U. L. REV. ONLINE 79 (2021)

*Boston University Law Review*, Editor

## Cort Carlson

---

### Fellow

510.254.6808

ccarlson@tzlegal.com

Cort Carlson is a Public Interest Fellow in the Oakland, California office. Mr. Carlson received his J.D. from University of California, Berkeley, School of Law in 2022, with a Public Interest & Social Justice Certificate. During law school, Mr. Carlson immersed himself in public interest scholarship and advocacy. Mr. Carlson completed a judicial externship with the Honorable Kimberly J. Mueller, Chief United States District Judge for the Eastern District of California, worked on whistleblower cases as a law clerk for a public interest plaintiff-side law firm in the Bay Area, and worked on cases involving unsafe and unfair housing conditions as an extern at the San Francisco City Attorney's Office. Mr. Carlson was twice elected to editor positions on the *Ecology Law Quarterly*, one of the nation's leading environmental law reviews, and served on the *Berkeley Technology and Law Journal*. Outside of school, Mr. Carlson served as a student advocate for incarcerated youth in collaboration with the Contra Costa County Public Defender and was a student researcher for the Brady Center to Prevent Gun Violence. Mr. Carlson also participated in a state and local impact litigation practicum in which he worked alongside current and former government attorneys on justice-oriented affirmative litigation projects.

Mr. Carlson received his B.A. *Summa Cum Laude* in Anthropology and English with a minor in Political Science from The George Washington University in 2019. Mr. Carlson traces his passion for public interest advocacy to early experiences working on issues that uniquely affect vulnerable communities, including poverty, incarceration, environmental harm, and personal data protection. Prior to law school, Mr. Carlson served as an academic tutor to persons pursuing higher education while incarcerated at Prince George's County Correctional Center in Maryland. Mr. Carlson also conducted research on people's perceptions and management of privacy on their cellular devices in collaboration with the GW Anthropology Department and the Smithsonian Institution.



---

### Education

UC Berkeley School of the Law, 2022  
The George Washington University,  
2019, *summa cum laude*

---

### Bar Admissions

Sat for California Bar Examination,  
July 2022 (*results pending*)

---

### Memberships

Public Justice

---

### Awards

Public Interest & Social Justice  
Certificate, University of California,  
Berkeley, School of Law

Hart Award for Outstanding  
Academic Achievement, The George  
Washington University

## Schuyler Standley

---

### Fellow

202.973.0900  
sstandley@tzlegal.com

Schuyler Standley is the 2022-2024 Public Interest Fellow at Tycko & Zavareei LLP. Schuyler received her J.D. from the University of California, Berkeley School of Law in 2021. While in law school, Schuyler embraced experiential learning opportunities and consistently utilized her legal skills to promote the public interest. Before her fellowship, Schuyler clerked for the Honorable Katherine M. Menendez of the United States District Court for the District of Minnesota. She also served as a judicial fellow for the Honorable Joseph C. Spero, Chief Magistrate Judge of the United States District Court for the Northern District of California.

While in law school, Ms. Standley focused on experiential learning and pro bono work. She spent three semesters in the Samuelson Law, Technology, and Public Policy Clinic, where she assisted with litigation at the intersection of technology and civil rights.



---

### Education

UC Berkeley School of the Law, 2021  
American University, 2016

---

### Bar Admissions

Illinois

---

### Memberships

Public Justice

---

# **EXHIBIT 3**

# THE KICK LAW FIRM, APC

## FIRM PROFILE

The practice focus of The Kick Law Firm, APC, is consumer class actions. The consumer class action matters handled by the firm include:

*Story v. SEFCU*, United States District Court for the Northern District of New York, Case No. 1:18-cv-00764 (appointed co-lead counsel in federal consumer class action regarding alleged improper overdraft fees, final approval granted on February 25, 2021); *Smith v. Bank of Hawaii*, United States District Court for the District of Hawaii, Case No. 1:16-cv-00513 (appointed co-lead counsel in federal consumer class action regarding alleged improper overdraft fees, final approval granted on December 22, 2020); *Coleman-Weathersbee v. Michigan State University Federal Credit Union*, United States District Court for the Eastern District of Michigan, Case No. 2:19-cv-11674 (appointed co-lead counsel in federal consumer class action regarding alleged improper overdraft fees, final approval granted on July 29, 2020); *Walker v. People's United Bank*, United States District Court for the District of Connecticut, Case No. 3:17-cv-00304 (appointed co-lead counsel in federal consumer class action regarding alleged improper overdraft fees, final approval granted on June 29, 2020); *Salls v. Digital Federal Credit Union*, United States District Court for the District of Massachusetts, Case No. 18-cv-11262-TSH (appointed co-lead counsel in Massachusetts District Court, final approval granted in January 2020); *Pingston-Poling v. Advia Credit Union*, United States District Court for the Western District of Michigan, Case No. 1:15-CV-1208 (appointed co-lead counsel in the Western District of Michigan, final approval granted in January 2020); *Lloyd v. Navy Federal Credit Union*, United States District Court for the Southern District of California, Case No. 3:17-cv-01280 (appointed co-lead counsel in federal consumer class action regarding alleged improper overdraft fees, final approval granted May 18, 2019); *Ketner v. SECU Maryland*, Civil No.:1:15-CV-03594-CCB (D. MD. 2017) (appointed co-lead counsel in federal consumer class action in the District of Maryland regarding alleged improper overdraft fees, final approval granted on January 11, 2018); *Towner v. 1st MidAmerica Credit Union*, No. 3:15-cv-1162 (S.D. Ill. 2017) (appointed co-lead counsel in federal consumer class action regarding alleged improper overdraft fees, final approval granted in November 2017); *Lane v. Campus Federal Credit Union*, Case No. 3:16-cv-00037 (M.D. La. 2017) (appointed co-lead counsel in consumer class action in the Middle District of Louisiana regarding alleged improper overdraft fees, final approval granted in August 2017); *Fry v. MidFlorida Credit Union*, United States District Court for the Middle District of Florida, Case No. 8:15-CV-2743 (appointed co-lead counsel in federal consumer class action regarding alleged improper overdraft fees, final approval granted); *Ramirez v. Baxter Credit Union*, United States District Court for the Northern District of California, Case No. 16-cv-03765-SI (appointed co-lead counsel in federal consumer class action regarding alleged improper overdraft fees, final approval granted); *Lynch v. San Diego County Credit Union*, San Diego County Superior Court, Case No. 37-2015-00008551 (appointed co-lead counsel in California state consumer class action regarding alleged improper overdraft fees, final approval granted); *Gunter v. United Federal Credit Union*, United States District Court for the District of Nevada, Case No. 3:15-cv-00483-MMD-WGC (appointed co-lead counsel in federal consumer class

action regarding alleged improper overdraft fees, final approval granted); *Hernandez v. Point Loma Credit Union*, San Diego County Superior Court, Case No. 37-2013-00053519 (appointed co-lead counsel in consumer class action in state court in California, regarding alleged improper overdraft fees, final approval granted); *Gray v. Los Angeles Federal Credit Union*, Los Angeles County Superior Court, Case No. BC625500 (appointed co-lead counsel in California state consumer class action regarding alleged improper overdraft fees, final approval granted in June 2017); *Morales v. Kern Schools Federal Credit Union*, Kern County Superior Court, Case No. BCV-15-100538 (appointed co-lead counsel in California state consumer class action regarding alleged improper overdraft fees, final approval granted in June 2017); *Manwaring v. Golden 1 Credit Union*, Sacramento County Superior Court, Case No. 34-2013-00142667 (appointed co-lead counsel in California state consumer class action regarding alleged improper overdraft fees, final approval granted in December 2015); *Casey v. Orange County Credit Union*, Orange County Superior Court No. 30-2013-00658493-CJ-BT-CXC (appointed co-lead counsel in California state consumer class action regarding alleged improper overdraft fees, final approval granted by the court in May 2015); *Sewell v. Wescom Credit Union*, Los Angeles County Superior Court No. BC5860 (appointed co-lead counsel in California state consumer class action regarding alleged improper overdraft fees, final approval granted); *Fernandez v. Altura Credit Union*, Riverside County Superior Court, Case No. RIC1610873 (appointed co-lead counsel in California state consumer class action regarding alleged improper overdraft fees, final approval granted); *Hernandez v. Logix Federal Credit Union*, Los Angeles County Superior Court, Case No. BC628495 (appointed co-lead counsel in California state consumer class action regarding alleged improper overdraft fees, final approval granted); *Bowens v. Mazuma Federal Credit Union*, United States District Court for the Western District of Missouri, Case No. 15-00758-CV-W-BP (appointed co-lead counsel in federal consumer class action regarding alleged improper overdraft fees, final approval granted); *Santiago v. Meriwest Credit Union*, Sacramento County Superior Court, Case No. 34-2015-00183730 (appointed co-lead counsel in California state consumer class action regarding alleged improper overdraft fees, final approval granted); *Southern California Gas Leak JCCP & Other Related Cases*, Case No. JCCP 4861, Los Angeles County Superior Court (appointed as interim co-lead counsel for the class action cases); *Howard v. Sage Software*, Los Angeles County Superior Court Case No. BC487140 (appointed lead counsel in multi-state consumer class action regarding alleged improper sales tax issues, final approval granted); *Kirtley v. Wadekar*, United States District Court for the District of New Jersey, Case No. 05-5383 (lead class counsel for nationwide class of purchasers of generic drugs); *Ford Explorer Cases*, Sacramento County Superior Court, JCCP Nos. 4266 & 4270 (co-class counsel and head of discovery committee for California class of car purchasers); *Pereyra v. Mike Campbell & Associates*, Los Angeles County Superior Court Case No. BC365631 (appointed lead class counsel for state-wide class of employees); *Alston v. Pacific Bell*, Los Angeles County Superior Court Case No. BC297863 (appointed lead class counsel for multi-state class regarding alleged improper telephone service related charges); *Oshaben v. Monster Worldwide, Inc., et al.*, San Francisco County Superior Court Case No. CGC-06-454538 (appointed lead class counsel for nationwide class regarding improper auto-renewal of subscription fees); *Cole v. T-Mobile USA, et al.*, Central District of California Case No. 06-6649

(appointed lead class counsel for an adversely certified state-wide class of 1.4 million cell-phone customers).

Taras Kick, a shareholder of the firm, has been a member of the California State Bar since 1989, the year he graduated from the University of Pennsylvania Law School. Prior to that, in 1986, he graduated from Swarthmore College, with a Bachelor of Arts degree in Economics and Psychology. For over five years Mr. Kick was a member of the national Board of Directors of Public Justice, including its Class Action Preservation Committee. He has been a member of numerous other committees pertaining to consumer class actions, including the American Association for Justice Class Action Litigation Sub-Group; the Consumer Attorneys of California Class Action Group; the American Bar Association Committee on Class Actions & Derivative Suits; and, the State Bar of California Antitrust and Unfair Competition Litigation section. From 2012 to September 2017, he was a Commissioner of the California Law Revision Commission, an independent state agency created by statute in 1953 to assist the Legislature and Governor by examining California law and recommending needed reforms, having been appointed by Governor Edmund G. Brown Jr. in 2012, and was Chairperson of the Commission from September 2015 through September 2016.

# **EXHIBIT 4**





McCUNE • WRIGHT • AREVALO  
ATTORNEYS AT LAW

3281 East Guasti Road, Suite 100  
Ontario, CA 91761  
(909) 345-8110

73255 El Paseo, Suite 10  
Palm Desert, CA 92260  
(760) 892-5099

164 W. Hospitality Lane, Suite 109  
San Bernardino, CA 92408  
(909) 443-1643

231 North Main Street, Suite 20  
Edwardsville, IL 62025  
(618) 424-4402

18565 Jamboree Road, Suite 550  
Irvine, CA 92612  
(714) 909-2326

One Gateway Center, Suite 2600  
Newark, NJ 07102  
(973) 737-9981

1032 Cherry Valley Blvd, Suite 340  
Calimesa, CA 92320  
(602) 926-7797

Email: [info@mccunewright.com](mailto:info@mccunewright.com)

Website: <https://mccunewright.com/>

## Firm Profile

McCune Wright Arevalo, LLP, is a nationally acclaimed plaintiff law firm with more than 30 years of experience serving a wide variety of clients from our California offices in Ontario, Palm Desert, San Bernardino, Irvine, as well as our offices in Illinois, Arizona, and New Jersey. Our team of attorneys specialize in diverse practice areas and have demonstrated successes in financial class actions and mass torts, personal injury and wrongful death, product liability, medical malpractice, commercial litigation, nursing home and elder abuse, government UDAP civil penalties, appellate counsel, civil rights, and employment law.

McCune Wright Arevalo, LLP, has been recognized by legal organizations across the country for our success and client experience, including Best Lawyers®, American Board of Trial Advocates®, the Million Dollar Advocates Forum, and the Multi-Million Dollar Advocates Forum. We are proud to be home to several past and current Super Lawyers®, be voted one of the top 100 national trial lawyers and one of the top 25 product liability lawyers, and to have received an AV® Preeminent™ rating from Martindale Hubbell®.

McCune Wright Arevalo's dedication to success for our clients and legal education has also garnered us many features in broadcast and print media outlets. We've been featured in both local and national news networks including **The Today Show, CNN, FOX, ABC News, Forbes Magazine, the Los Angeles Times, Fortune, and USA Today**. Several of our attorneys have also acted as speakers for national legal conventions and seminars as well as contributing authors for **Law360** and **Continuing Education of the Bar**.

## Case Profiles

### Financial Services Class Actions

- Current Cases
  - i. Overdraft Fee Arbitration Claims Against Chase Bank  
McCune Wright Arevalo is bringing arbitration claims against Chase Bank for their allegedly unfair overdraft practices. These unfair practices have cost customers millions of dollars and unfairly target lower-income customers who are least able to afford these fees.
  - ii. Overdraft Fee Claims Against PNC Bank  
McCune Wright Arevalo is bringing arbitration claims against PNC Bank for their allegedly unfair overdraft practices. Unclear opt-in agreements following the merger transition from BBVA to PNC and allegedly unscrupulous charging practices may contribute to millions in overdraft fees for customers.
  - iii. Overdraft Fee Claims Against Wells Fargo  
McCune Wright Arevalo is bringing arbitration claims against Wells Fargo for their allegedly unfair opt-in agreement and alleged overcharging of overdraft fees to their customers.
  - iv. Fifth Third Bank Class Action  
McCune Wright Arevalo is building a class action case against Fifth Third bank for opening unauthorized accounts in their customers' names to meet unrealistic sales targets for their employees. This kind of financial fraud is

unacceptable and could cause far-reaching consequences for their unsuspecting customers' credit history or overall financial health.

- Successes
  - i. \$203 Million Trial Verdict Against Wells Fargo  
Trial verdict awarded for unfair overdraft fees.
  - ii. \$70 Million Settlement  
National class action settlement awarded for unfair overdraft fees.
  - iii. \$35 Million Settlement  
National class action settlement awarded for unfair overdraft fees.

### **Commercial Litigation**

- Current Cases
  - i. Antitrust Infringement of Crop Input Manufactures and Retailers  
McCune Wright Arevalo is bringing a class action lawsuit against the manufacturers of certain crop inputs and their retailers for allegedly colluding to price fix across their distribution channels and boycott sales to online retailers who could provide more inexpensive products to growers. Most farmers struggle to make ends meet; we want to help them by protecting their livelihood.
- Successes
  - i. \$23 Million Verdict  
Verdict awarded for breach of fiduciary duty.

### **Mass Torts - Medical Devices & Pharmaceuticals**

- Current Cases
  - i. Phillips Bi-Level CPAPs and Ventilators Have Been Linked to Illness  
Phillips Respironics has issued a recall for several of their CPAP, BiPAP, and ventilator models which have been linked to the development of dangerous and potentially carcinogenic side effects. The PE-PUR sound abatement foam within the affected models has been shown to break down, releasing particles into the air pathway of the device leading to ingestion or inhalation. McCune Wright Arevalo is bringing a mass tort on behalf of patients who have been harmed by using this defective product.
- Successes
  - i. Settlement Against Bayer for Essure Birth Control  
Settlement awarded for broken, defective devices and horrific side effects.
  - ii. Settlement Against Gore-Tex Hernia Mesh  
Settlement awarded for defective mesh products and horrific side effects.
  - iii. \$75 Million Verdict Against Pfizer  
Trial verdict awarded for a lack of informed consent for children and their families participating in a clinical trial.
  - iv. \$4 Million Settlements Against DePuy  
Total settlement amounts awarded for defective ASR hip devices.

- v. \$2.7 Million Settlement  
Settlement awarded for a defective medical device.
- vi. \$1.7 Million Settlement  
Settlement awarded for defective ankle implant and medical malpractice.
- vii. \$1.1 Million Settlement  
Settlement awarded for a defective vaccine.

### **Personal Injury/Automotive Defect Class Actions**

- Current Cases
  - i. Ecolab Oxycide™ Cleaning Products  
McCune Wright Arevalo is pursuing a class action lawsuit on behalf of a class of hospital and other healthcare workers who have used Ecolab Oxycide™ Cleaning Products at work and have developed throat, lung, and nose irritation and other severe symptoms. Following an investigation performed by the National Institute of Occupational Safety and Health, the product was found to be harmful to those using it and the agency recommended limiting usage. Ecolab is now being accused of knowing about the effects of the active ingredients in Oxycide™ and concealing these findings from their consumers.
  - ii. Parkinson's Disease Allegedly Linked to Paraquat Herbicide  
McCune Wright Arevalo is bringing a case against the manufactures of Paraquat – the commonly used herbicide – for its alleged connection to the development of Parkinson's Disease in those who have been exposed to the product.
  
- Successes
  - i. \$200,000 Settlement Against a California Surgeon  
After a botched hip replacement surgery, McCune Wright Arevalo was retained by the wronged patient to reclaim the costs of her pain, suffering, and additional medical bills associated with the revision surgery to correct it. We were able to settle the matter even before experts were disclosed – a swift and satisfactory resolution.
  - ii. \$2.6 Million Settlement  
Settlement awarded for the wrongful death of husband and father.
  - i. \$200 Million Settlement Against Hyundai  
Settlement awarded for class action arguing Hyundai advertised inflated gas mileage.
  - ii. \$22.5 Million Verdict  
Verdict awarded for unsafe roadways.
  - iii. \$8 Million Settlement  
Settlement awarded for injuries sustained during vehicle failure.
  - iv. \$4.28 Million Verdict  
Verdict awarded for a ski boat defect.
  - iii. \$3.6 Million Settlement

- Settlement awarded for wrongful death because of a product defect.
- iv. \$2 Million Verdict  
Verdict awarded for defective vehicle frame.
  - v. \$1.2 Million Settlement Against Slim Fast  
Settlement awarded for class action against Slim Fast.
  - vi. \$975,000 Verdict  
Verdict awarded for injuries sustained during seat belt malfunction in a collision.
  - vii. \$725,000 Settlement  
Settlement awarded for defective automotive product.
  - viii. \$600,000 Settlement  
Settlement awarded for faulty roadway design.
  - ix. \$525,000 Settlement  
Settlement awarded for negligent automotive production.
  - x. \$400,000 and \$305,000 Settlements  
Settlements awarded for faulty roadway design.
  - xi. \$240,000 Settlement
  - xii. Settlement awarded for ski lift malfunction.
  - xiii. \$950,000 Settlement  
Settlement awarded for burns caused by airway product and for medical malpractice.
  - xiv. \$625,000 Verdict  
Verdict awarded for medical malpractice and wrongful death of a patient who underwent liver transplant surgery and was not diagnosed with a perforated artery.
  - xv. \$225,000 Settlement  
Settlement awarded for medical malpractice and negligent implantation of port and catheter.
  - xvi. \$40 Million Against Volkswagen/Audi  
When it was revealed that Volkswagen/Audi had committed emissions fraud in several states across the country, most state attorney generals settled early for a meager \$1,100 per vehicle. Arizona, however, retained McCune Wright Arevalo to fight for their air quality, resulting in a \$40 Million settlement – a resolution more in line with the amount of environmental impact the company caused by lying about their vehicles’ emissions.
  - xvii. \$16.5 Million Verdict Against a Drunk Driver  
Verdict awarded to family for injuries during a drunk driving collision.
  - xviii. \$11 Million Verdict Against a Negligent Driver  
Verdict awarded for catastrophic injuries during a collision.
  - xix. \$5.5 Million Verdict  
Verdict awarded for injuries during a van rollover.
  - xx. \$4.25 Million Verdict Against Negligent Driver  
Verdict awarded for injuries received while in a motorcycle collision.
  - xxi. \$2.675 Million Verdict Against Negligent Driver  
Verdict awarded for injuries received during a pickup truck fire.

- xxii. \$2.3 Million Verdict Against Negligent Driver  
Verdict awarded for head-on collision.
- xxiii. \$2.25 Million Verdict Against Negligent Driver  
Verdict awarded for injuries received during SUV rollover.
- xxiv. \$1.3 Million Settlement Against Negligent Firearms User  
Settlement awarded for family of victim shot at a car show.
- xxv. \$1.25 Million Settlement Against Negligent Homeowners  
Settlement awarded for woman who fell through a poorly maintained deck.
- xxvi. \$800,000 Trial Verdict Against Negligent Driver  
Trial verdict awarded for trucking collision.

### **Racial & Economic Justice**

- Current Cases
  - i. Sexual Harassment and Assault Within Universities  
McCune Wright Arevalo is bringing action against California State University and investigating other institutions regarding the potential culture of silence and victim shaming surrounding sexual harassment and assault instances in universities nationwide. We believe victims should never have to choose between receiving support and justice and getting a paycheck.

### **Environmental**

- Current Cases
  - i. Colonia High School Brain Tumor  
McCune Wright Arevalo partner Michel Vercoski is bringing a case regarding the link between the diagnosis of a rare brain tumor and former Colonia High School students and staff. Reports claim that more than sixty former students and staff of Colonia Highschool have been diagnosed with a rare brain tumor called glioblastoma.
  - ii. Fallout From Orange County Oil Spill  
On Saturday, October 2<sup>nd</sup>, 2021, the oil pipeline owned by Amplify Energy situated off the coast of Huntington Beach, California, was reported to have begun leaking crude oil into the coastal waters of Orange County. Though city officials and Coast Guard were notified as soon as the spill was identified, attempts to resolve the leak were too slow to prevent tens of thousands of gallons of crude oil from leeching into the ocean. McCune Wright Arevalo is bringing a case against Amplify Energy over the disruption to businesses that rely on clean water to operate.
  - iii. Hazardous Gas Over Carson, California  
McCune Wright Arevalo has brought a lawsuit over the noxious gas buildup over Carson, California, emanating from the Dominguez Channel. On October 3, 2021, residents of Carson, California began smelling a foul odor both indoors and out. The Los Angeles County Department of Public Works investigation

found that the order was that of hydrogen sulfide. Effects of inhaling this gas include nausea, coughing, sneezing, choking, shortness of breath, and headache or migraines.

iv. Hyperion Water Reclamation Plant Disaster

McCune Wright Arevalo is gathering clients against Hyperion Water Reclamation Plant of El Segundo. In July 2021, the Hyperion plant experienced a catastrophic failure that resulted in millions of gallons of raw sewage flooding the plant and being dumped directly into the Pacific Ocean. In the following weeks, citizens of El Segundo and surrounding cities have begun complaining of a lingering stench and health concerns caused by the odor and potential exposure to raw sewage in the water.

v. San Bernardino County Sandstorms

McCune Wright Arevalo is bringing legal action over the alleged public health and property damage arising from the Clearway solar farm project. Residents report the project has stirred up worsening sandstorms in Newberry Springs/Daggett. The desert surrounding cities in San Bernardino County like Barstow, Newberry Springs, and Daggett contains loose silica sand underneath a crust layer and vegetation. With the development of the Clearway solar farm, the crust and vegetation were removed, exposing the silica underneath, and causing immense and harmful sandstorms.

## Firm Biographies

### **Richard D. McCune, Founding Partner**

Richard D. McCune is the founding partner of McCune Wright Arevalo, LLP. He has 30 years of experience in representing plaintiffs throughout the United States, California and the Inland Empire in class action, government UDAP civil penalties, product liability, catastrophic personal injury, and business fraud cases.

Mr. McCune's trial and settlement success have resulted in his achieving the highest possible AV Rating™ from Martindale-Hubbell®. He is also a member of the Multi-Million Dollar Advocates Forum®. He is in the Top 100 of the National Trial Lawyer Association, including being in the Top 25 in Class Action and Product Liability. He has been peer selected as one of the top 5% of attorneys, selected to the California Super Lawyers. He was one of the select finalists for the 2011 California Consumer Attorney of the Year.

Mr. McCune frequently lectures at attorney conferences where he has made presentations on banking class actions, foreclosure class actions, and automobile product liability cases. He was appointed by Judge Selna as one of the leading firms for personal injury/wrongful death cases in the high-profile Toyota sudden unintended acceleration litigation. He was also selected by the State of Arizona to represent the citizens of Arizona against Volkswagen in the high-profile Volkswagen emissions fraud lawsuit. Mr. McCune is a member of the American Bar Association, the Association of Business Trial Lawyers, the California State Bar, the Consumer Attorneys of California, the Riverside County Bar Association, the San Bernardino County Bar Association, and the American Association for Justice.

### **David C. Wright, Partner**

David C. Wright is a partner of McCune Wright Arevalo, LLP. Prior to 2001, he was a federal prosecutor in the Major Crimes Division of the United States Attorney's Office for the Central District of California. Since 2001, Mr. Wright has used his litigation and trial skills to hold vehicle manufacturers, product manufacturers, and fraudulent businesses responsible for their actions.

Since leaving the U.S. Attorney's Office in 2001, he has applied his experience as a prosecutor to successfully litigate numerous defective product cases against some of the nation's largest corporations. Prior to working at the U.S. Attorney's Office, Mr. Wright clerked for the Honorable Stephen S. Trott, United States Court of Appeals for the Ninth Circuit.

As a partner at McCune Wright Arevalo, LLP, Mr. Wright focuses his practice on the representation of clients who have suffered catastrophic injury or the death of a loved one because of a dangerous product. He is a member of the California State Bar, the Consumer Attorneys of California, the Riverside County Bar Association, the San Bernardino County Bar Association, and the American Association for Justice.

#### **Kristy M. Arevalo, Partner**

As a partner at McCune Wright Arevalo, LLP, Kristy M. Arevalo has established herself in the Inland Empire in the legal fields of medical product failure, personal injury, wrongful death, and product liability.

Ms. Arevalo is dedicated to holding individuals, corporations, and entities responsible for defective and dangerous actions, products, and pharmaceuticals. She has litigated and settled multiple cases involving the recalled DePuy ASR hips and is active in many multidistrict and coordinated litigations around the country involving defective drugs and medical devices, such as DePuy Pinnacle hips, Wright Medical hips, inferior vena cava (IVC) filters, hernia mesh, and Essure birth control.

In addition to her mass torts practice, Ms. Arevalo handles catastrophic personal injury and wrongful death cases. She has argued in front of the California Court of Appeals and has tried multiple cases to verdict.

In addition to her busy litigation practice, Ms. Arevalo is actively involved in the Consumer Attorneys of California (CAOC) and is a graduate of CAOC's 2015 Leadership Academy. She is President of the Inland Empire Chapter of CAOC, Legislative Chair of the CAOC Diversity Committee, on the Board of Governors of CAOC, and involved in the CAOC Women's Caucus. She was selected to the California Rising Stars list in 2016, an honor bestowed on less than 2% of California attorneys aged 40 and younger. Ms. Arevalo is also a regular speaker at conferences on the subjects of mass torts, product liability, personal injury, and commercial litigation. She is a member of the California State Bar, the Consumer Attorneys of California, the Consumer Attorneys of the Inland Empire, the Riverside County Bar Association, the San Bernardino County Bar Association, and the American Association for Justice.

#### **Michele M. Vercoski, Partner**

Since 2007, Michele M. Vercoski, partner of McCune Wright Arevalo, LLP, has obtained financial recoveries to clients in personal injury, product liability, class action fraud, commercial litigation, and workplace harassment and discrimination. She is heavily involved in cases involving harm to women, whether personal or financial.



Ms. Vercoski has successfully argued before the 9th Circuit on an arbitration issue in a worker's contract. She joined the small group of elite attorneys when she argued the arbitration issue on writ of certiorari before the United States Supreme Court on October 29, 2018. The Chief Justice authored the 5-4 split decision. Additionally, she has been tapped as a contributing author to the legal news publication Law360.

Ms. Vercoski has also been featured by Continued Education of the Bar (CEB), a nonprofit program out of the University of California, as a contributing author in their newest tool for attorneys, Practitioner – published in November 2020. She authored sections on business litigation topics such as breaches of fiduciary duty, contingency fee agreements, unfair competition causes, breaches of written contract, and affirmative defenses for partnership disputes.

Ms. Vercoski is a member of the American Business Trial Lawyers, the California State Bar, the California Young Lawyers Association, the Consumer Attorneys of California, the New Jersey State Bar, the New York State Bar, the Orange County Bar Association, Public Justice, the Riverside County Bar Association, and the San Bernardino County Bar Association.

#### **Elaine S. Kusel, Partner**

Elaine S. Kusel, who joined the firm in 2008, is a partner of McCune Wright Arevalo, LLP, and leads the firm's New Jersey office. With her many years of experience, she performs a significant role in the firm's Consumer Fraud Class Action division.

After college, Ms. Kusel spent eight years working in the U.S. House of Representatives, where she eventually served as Legislative Director and Counsel to a Member of Congress serving on the House Commerce Committee.

After graduating from law school, her practice included fraud litigation, mass torts, and international human rights law. In one notable case, *Abdullahi v. Pfizer*, Ms. Kusel represented Nigerian children enrolled in a clinical trial by Pfizer without their families' informed consent. In another, *Gutierrez v. Wells Fargo Bank, N.A.*, her work helped secure a \$203 million-dollar class action verdict for unfair bank overdraft fees. Ms. Kusel helped to lead the effort to uncover the financial fraud of Volkswagen, leading to a \$40 million-dollar settlement on behalf of the citizens of the State of Arizona in the emissions fraud scandal.

Ms. Kusel is a member of the New Jersey State Bar, the New York State Bar, the New Jersey State Bar Association, and the New York State Bar Association.

#### **Cory R. Weck, Partner**

Cory R. Weck is a partner at McCune Wright Arevalo, LLP, and has been a trial lawyer in the Inland Empire since 2002. He has represented hundreds of clients in all matters arising out of personal injury litigation. Mr. Weck has been peer-selected as one of the top 5% of attorneys, selected to the California Super Lawyers list every year since 2012.

He has also served as a Marine Corps officer for over 20 years. He was commissioned as a second Lieutenant in 1994 and then served as a defense counsel representing Marines accused of violating the Uniform Code of Military Justice. Prior to leaving active duty he represented military commanders as a prosecutor for the busiest trial shop in the Department of Defense. As a result of his trial results and

dedication to justice he was selected as the “Top Young Lawyer of the Year for the U.S. Marine Corps” by the American Bar Association in 1999. Since 2001, Mr. Weck continued to serve as an active Reserve officer for the Marines until his retirement in 2017.

He is rated as Distinguished™ by Martindale-Hubbell® and is the past president of the Inland Empire chapter of the Consumer Attorneys of California. Mr. Weck is a member of the American Association for Justice, the California State Bar, the Consumer Attorneys of California, the Riverside County Bar Association, the San Bernardino County Bar Association, the Million Dollar Advocates Forum, and the Multi-Million Dollar Advocates Forum.

#### **Derek Y. Brandt, Partner**

Named one of the top 100 lawyers in Illinois, Derek Brandt is a litigator with decades of experience litigating high-stakes disputes involving powerful corporate and financial interests throughout the world. His plaintiff-oriented practice focuses on competition, antitrust, and other commercial and consumer disputes, both on a class and individual basis.

Mr. Brandt has represented clients large and small, ranging from “name brand” Fortune 100 and Fortune 150 multi-national companies to smaller publicly traded market innovators, privately held businesses, municipalities, and individual consumers and investors. Many of his litigations have played out before influential state and federal courts.

Mr. Brandt has also represented plaintiffs in False Claims Act “whistleblower” actions and in various litigations relating to consumer, commercial, and investment transactions. He has been named to the Illinois Super Lawyers list each year for the last decade, an honor reserved by Thomson Reuters for the top 5% of practitioners, based on peer nominations and its independent research. In 2020, Super Lawyers recognized him as one of the Top 100 attorneys in Illinois. He was separately honored for inclusion in the 2018-19, 2019-20, and 2020-21 versions of *Best Lawyers in America*.

Mr. Brandt is a member of the Illinois State Bar Association, the American Bar Association, the American Association for Justice, and the Federal Bar Association.

#### **Steven J. Weinberg, Partner**

Steven J. Weinberg is an accomplished trial lawyer and partner of McCune Wright Arevalo, LLP. Mr. Weinberg has focused his legal career on cases involving personal injury, wrongful death, medical malpractice, and nursing home abuse. He serves as the managing attorney of the McCune Wright Arevalo, LLP, Coachella Valley office and leads in the practice areas of medical malpractice and nursing home abuse.

During his time as a practicing lawyer, Mr. Weinberg has tried over 100 cases. He worked in three law offices after graduating from law school and eventually founded his own practice in 1988. He worked in his own office until joining the McCune Wright Arevalo, LLP, team in 2019.

Mr. Weinberg has achieved multiple professional recognitions throughout his years as a lawyer, including maintaining an AV rating since 1979, multiple listings by the Super Lawyers organization, and recognition by the Consumer Attorneys of California for his excellence in professional liability, product liability, and general negligence litigation.

In addition to his work as an attorney, Mr. Weinberg has been involved in several professional organizations such as the American Board of Trial Advocates (ABOTA), the Association of Trial Lawyers of America, and the Million Dollar Advocates Forum. He currently serves as Governor Emeritus of the Consumer Attorneys of California, a position he has held since 2004.

Mr. Weinberg also is a member of the California State Bar, the American Association for Justice, the California Continuing Education of the Bar, the Desert Bar Association, the Montana Trial Lawyers Association, the Nevada Trial Lawyers Association, the Orange County Trial Lawyers Association, the Riverside County Bar Association, the San Bernardino Bar Association, and the Western Trial Lawyers Association.

### **Steven A. Haskins, Partner**

Steven A. Haskins is a partner of McCune Wright Arevalo, LLP, specializing in class actions, complex litigation, and appeals and writs. His legal background includes experience working on matters involving antitrust, constitutional issues, contract and business disputes, labor and employment disputes, commercial and product-liability disputes, and probate matters. Over the course of his career, Mr. Haskins has prepared dozens of briefs for cases heard by the United States Supreme Court, the California Supreme Court, the Ninth Circuit of the United States Court of Appeals, and the California Court of Appeal. Mr. Haskins has also been involved in complex litigation in trial courts across the country, including a nine-month trial in San Bernardino County Superior Court that ended in a complete victory for his clients.

Before joining McCune Wright Arevalo, Mr. Haskins represented entities and individuals in a multitude of industries including manufacturing, property development, health care, media and entertainment, and non-profit corporations. He also worked alongside McCune Wright Arevalo during its representation of the State of Arizona Attorney General's office in litigation against Volkswagen regarding its emissions scandal. He is a member of the California State Bar, the Riverside County Bar Association, and the San Bernardino County Bar Association.

### **Joseph L. Richardson, Partner**

Partner Joseph L. Richardson leads the firm's Racial & Economic Justice practice. This practice group is designed to bring actions against entities and institutions whose policies disproportionately harm people of color in the workplace and the consumer/small business marketplace. The group encompasses areas including employment, civil rights, and consumer and small business class actions.

In addition to litigation, Mr. Richardson also leads the department in advocacy – partnering with leaders (business, community, political, religious and others) and community institutions including schools and nonprofits to shed light on and combat racial and economic inequality. Mr. Richardson also spearheads the effort to identify meaningful pro bono opportunities for the attorneys of the firm whose professional pro bono work will be directed in helping individuals and small businesses that are harmed by racist policies.

Mr. Richardson has been involved in employment, class action, and other litigation involving treatment of disadvantaged individuals, and has secured successful verdicts and million-dollar settlements for clients. He has also advocated for churches and non-profit entities. Mr. Richardson is a member of the American Association for Justice, the Los Angeles County Bar Association, the National Bar Association,

the Richard T. Fields Bar Association, the Riverside County Bar Association, the San Bernardino Bar County Bar Association, the State Bar of California, the Consumer Attorneys Association of Los Angeles, and the Consumer Attorneys of California.

**Emily J. Kirk, Associate**

An associate at McCune Wright Arevalo, LLP, Emily J. Kirk has over 15 years of experience leading complex litigation and class actions on behalf of plaintiffs in product liability, personal injury, environmental, and business fraud cases.

In one of Ms. Kirk's most notable cases, she represented a small publicly traded company against its dominant competitor in a lawsuit involving antitrust allegations. The matter resulted in a business deal and settlement under which the client received tens of millions of dollars. She was also an instrumental part of the team that worked to uncover the financial fraud of Volkswagen, leading to a \$40 million settlement on behalf of the citizens of the State of Arizona in the emissions fraud scandal.

In 2009, U.S. Senator Dick Durbin appointed Ms. Kirk to a bipartisan screening committee that selected Stephen Wigginton as the U.S. Attorney for the Southern District of Illinois.

In addition to her litigation practice, Ms. Kirk is involved in the American Bar Association Section of Litigation where she serves as a Co-Chair the Solo and Small Firm Committee and as a Member of the Mental Health and Wellness Task Force for Lawyers. She was also appointed as a 2018-2019 American Bar Association Membership Advocate, and regularly serves as a speaker for ABA panels and events. She is a member of the American Bar Association, the Illinois State Bar, and the Missouri State Bar.

**Tuan Q. Nguyen, Associate**

Tuan Q. Nguyen joined McCune Wright Arevalo, LLP, in 2017 as an associate attorney. Mr. Nguyen represents plaintiffs in class action, product liability, mass tort, business fraud, and consumer protection litigation.

Mr. Nguyen attended the University of San Diego School of Law, earning his J.D. in 2016. During law school, Mr. Nguyen was the Lead Editor for the San Diego Law Review. Mr. Nguyen also served as a judicial extern to the Honorable Ronald Prager of the California Court of Appeal for the 4th District, the Honorable Michael Anello of the U.S. District Court for the Southern District of California, and the Honorable Michael Nash of the Los Angeles Superior Court.

Prior to joining the firm, Mr. Nguyen has worked for a Workers' Compensation law firm in Orange County and the Legal Aid Society of Orange County. He is a member of the American Bar Association, the California State Bar, the Consumer Attorneys Association of Los Angeles, the Consumer Attorneys of California, the Korean American Bar Association of Southern California, the Orange County Asian American Bar Association, the Orange County Bar Association, the Pan Asian Lawyers of San Diego, the Riverside County Bar Association, the San Bernardino County Bar Association, and the San Diego County Bar Association.

**Mark I. Richards, Associate**

Mark I. Richards joined McCune Wright Arevalo, LLP, in 2018 as an Associate. Mr. Richards represents plaintiffs in class actions, product liability, mass torts, business fraud, and consumer protection litigation.

While attending UC Hastings College of the Law, Mr. Richards was a Notes Editor for the Hastings Business Law Journal and served as a Judicial Extern for the Honorable Jaqueline Scott Corley in the Northern District of California. In addition, he assisted federal prosecutors as a Law Clerk in United States Attorney's Office Economic Crimes and Fraud Division.

Prior to joining the firm, Mr. Richards worked for a nationally recognized law firm in Oakland, California representing individuals diagnosed with mesothelioma and asbestos related diseases.

Mr. Richards serves as Board Member of Inland Counties Legal Services (ICLS) – a volunteer-based legal aid agency serving low-income residents of the Inland Empire. As Board Member, he assists ICLS in continuing their organizational mission of pursuing justice and equality for low-income people through counsel, advice, advocacy, and community education. He is a member of the California State Bar, the Riverside County Bar Association, the San Bernardino County Bar Association, and the San Diego County Bar Association.

#### **Leigh Perica, Associate**

Leigh Perica joined McCune Wright Arevalo, LLP, in 2018 as an Associate. Ms. Perica represents plaintiffs in class actions, anti-trust matters, and commercial litigation.

Before joining McCune Wright Arevalo, Ms. Perica served as a law clerk to Hon. David R. Herndon of the United States District Court for the Southern District of Illinois for four years where she worked on a wide variety of civil and criminal cases, including both mass actions and class actions.

Prior to her federal clerkship, Ms. Perica earned her J.D. at the University of Kentucky College of Law, where she served as President of the Moot Court Board and a member of the Moot Court National Competition Team. In addition, she was awarded the Luke Woodward Award for Excellence in Oral Argument and Leadership. While in law school, Ms. Perica also worked as a products liability research assistant on the leading multi-volume products liability treatise, Owen, and Davis Products Liability Law (4th ed. 2014). Ms. Perica is a member of the Missouri State Bar and the Illinois State Bar.

#### **Bryinna D. Popka, Associate**

Bryinna D. Popka joined McCune Wright Arevalo, LLP, in 2019 as an associate attorney. Ms. Popka represents plaintiffs in personal injury litigation.

Ms. Popka attended the University of La Verne, College of Law, earning her J.D. in 2015. During law school, she earned the coveted Student of Distinction Award and achieved CALI Excellence for the Future Awards in Insurance Law and Mediation. She also served as the College of Law's American Bar Association Representative. Ms. Popka also served as an extern for the San Bernardino County Superior Court assisting self-represented litigants in unlawful detainer, small claims, and family law matters.

Prior to joining the firm, Ms. Popka worked for a catastrophic personal injury law firm in Los Angeles County on numerous high-profile cases including multiple eight-figure jury verdicts. She is a member of

the California State Bar, the Riverside County Bar Association, and the San Bernardino County Bar Association.

#### **Connor Lemire, Associate**

Connor Lemire is one of the associate attorneys on the McCune Wright Arevalo, LLP, team. He works remotely for the Midwest office in Edwardsville, IL and primarily handles document reviews for cases.

Mr. Lemire is a recent graduate of the University of Miami School of Law; he earned his degree in May of 2018. Mr. Lemire interned at a Worcester, MA law firm during the summers of 2014, 2016, and 2017. As a legal intern, he conducted research and assisted attorneys in trial and during settlement negotiations. He is a member of the Washington DC Bar.

#### **Yasmin N. Vahid, Associate**

Yasmin Vahid joined McCune Wright Arevalo, LLP, as an associate in June 2020, following her time as a law clerk for the firm. She has worked on the 3M Combat Earplugs case, and was heavily involved in client interaction, gathering data and evidence for the case, and producing documentation to the defendants. Ms. Vahid also worked on the Vehicle Safety Defect case, where she conducted extensive legal research and analysis, identified implications for cases from legal precedents, and wrote reports and memoranda for attorney review. As an associate with McCune Wright Arevalo, Ms. Vahid focuses on OxyCide, gathering data for the case, preparing legal documentation, and drafting complaints.

While in law school, Ms. Vahid became a certified mediator through the dispute resolution programs act. She previously interned at an Orange County firm, where she focused on complex business litigation. Ms. Vahid was also a law clerk at a Los Angeles firm, where she focused on bankruptcy and immigration law. She is a volunteer at Inland Counties Legal Services and is a member of the Orange County Bar Association.

#### **Sherief Morsy, Associate**

Sherief Morsy joined McCune Wright Arevalo's New Jersey office as an associate in 2020. His practice primarily focuses on consumer fraud class actions and other complex litigation matters.

Prior to joining the firm, Mr. Morsy was a senior associate at a New York City law firm, whose practice focused on complex civil and class action litigation, including securities litigation, antitrust litigation, and consumer class actions. As he previously assisted investors in recovering their losses resulting from corporate securities fraud, he now focuses that experience at McCune Wright Arevalo in assisting people who have been victimized by deceptive business practices or other corporate wrongdoing.

During law school, Mr. Morsy interned with the Honorable Shira A. Scheindlin, Southern District of New York. He has also interned with a New York securities firm, a multinational corporation, and the King's County DA's office.

Mr. Morsy earned his J.D. at Brooklyn Law School, where he graduated *cum laude*. While earning his J.D., Sherief was a Notes and Comments Editor for the Brooklyn Law Review. He is the author of *The JOBS Act and Crowdfunding: How Narrowing the Secondary Market Handicaps Fraud Plaintiffs*, 79 Brook. L. Rev. (2014), Brooklyn Law Review, Vol. 79, Issue 3. Mr. Morsy is a member of the New Jersey State Bar and the New York State Bar.

### **Sandy Gonzalez, Associate**

Sandy Gonzalez is a civil litigation attorney working on matters involving complex litigation and consumer class actions.

Prior to joining MWA in 2020, Ms. Gonzalez worked as a defense attorney in the areas of medical malpractice, elder and dependent adult abuse, and complex litigation, including mass torts. She also worked as a scientific researcher at several prestigious academic institutions and conducted her own graduate study in psychology and law.

During law school, Ms. Gonzalez worked as a judicial extern to the Honorable Otis D. Wright II at the US District Court for the Central District of California. After her first year, she advocated for start-up clients by helping them navigate complex patent landscapes and obtain rights to their cutting-edge inventions. She also worked at the San Francisco City Attorney's office and mediated small claims disputes at the San Francisco Superior Court and Human Rights Commission.

Ms. Gonzalez was recognized by the UC Hastings Pro Bono Legal Society for her work as a Hastings to Haiti delegate in Port-au-Prince, Haiti, where she conducted fact-finding in partnership with Haitian law schools to advance gender rights and support the rule of law in Haiti. She is a member of the California State Bar, the Consumer Attorneys of California, the Los Angeles County Bar Association, and the William P. Gray Legion Lex Inn of Court.

### **Catherine M. Roe, Associate**

Catherine M. Roe is a civil litigation attorney who specializes in product liability, personal injury, wrongful death, and medical product failure, including mass torts.

Before joining MWA in 2020, Ms. Roe worked in-house as associate legal counsel for an Orange County-based company where she drafted lease agreements, evaluated legal documents, and consulted with external legal counsel. She also volunteered her time and skills to operate as a volunteer counselor where she advised low-income clients on employment and COVID-19-related matters.

While attending law school, Ms. Roe worked as a judicial extern to the Honorable Kimberly Menninger, Superior Court of Orange County, as well as a research advocacy intern. As a Research Advocacy Intern, she drafted advocacy statements regarding international crimes of aggression for submission to the United Nations Human Rights Council (UNHRC) and even argued before the UNHRC in Geneva.

During her final years of law school, Ms. Roe successfully represented clients as a student attorney with the UC Hastings Refugee & Human Rights Clinic. She also provided counsel to clients seeking advice in employment, discrimination, FMLA, and workers' compensation matters under the UC Hastings Workers Rights Clinic. She was elected the Vice President of the Human Rights & International Law Organization and the Hastings to Haiti outreach partnership. Ms. Roe also worked as a Senior Articles Editor on the Hastings International & Comparative Law Review. She is a member of the American Bar Association, the California State Bar, the Consumer Attorneys of California, and the Orange County Bar Association.

### **Valerie L. Savran, Associate**

Valerie L. Savran is a civil litigation attorney specializing in financial services and class actions.

Prior to joining MWA as a Law Clerk in August of 2020, Ms. Savran worked at a civil litigation firm in downtown Los Angeles. While at this firm, she represented low-income clients against landlords in matters of housing negligence. She later worked with two plaintiff-side employment law firms in West Los Angeles where she pursued legal actions on behalf of those who were wronged by their employers.

As a 2015 University of Southern California graduate and a 2020 Pepperdine university Caruso School of Law graduate, Ms. Savran has always been an extremely active and dedicated student, aiming to learn new skills and apply them to her professional career. She participated in moot court at Pepperdine and was a member of the Jewish Law Students Association. Ms. Savran was also president of Pepperdine's chapter of the Student Animal legal Defense Fund. She is a member of the California State Bar.

### **Jordan I. Wispell, Associate**

Jordan I. Wispell is a civil litigation attorney specializing in product liability and class actions.

Before her admission to the California State Bar, Ms. Wispell worked with MWA as an intake coordinator, organizing potential client leads and helping new clients get set up to work with their MWA attorney. She was also employed as a law clerk at several law firms throughout Southern California where she prepared documents and performed research for active cases. She even operated as a congressional intern for Congressman Pete Aguilar in 2016.

After graduating from California State University, Channel Islands in 2015 with her Bachelor of Arts degree in Political Science, Ms. Wispell attended Loyola Marymount University School of Law in Los Angeles. While in law school, she excelled, ranking among the top 15 percent of her class. She even worked as a staff writer and, later, a senior production editor on the Loyola of Los Angeles International & Comparative Law Review. She is a member of the California State Bar.

### **Dana R. Vogel, Attorney**

Dana Vogel is the Director/Managing Attorney of McCune Wright Arevalo, LLP's Arizona branch. Ms. Vogel has been practicing law since 2013 when she joined the Arizona State Attorney General's office as an Assistant Attorney General. While in this role, she specialized in antitrust and consumer fraud matters, going on to co-lead a litigation against General Motors in which she successfully secured a \$6 million resolution for Arizona consumers.

Following her success as Assistant Attorney General, Ms. Vogel became the Attorney General's Antitrust Unit Chief and, later, the Competition, Innovation & Privacy Unit Chief. As Unit Chief, she oversaw the Unit's caseload and managed multiple attorneys and paralegals as they worked toward justice for Arizona's consumers. While in this role, Ms. Vogel handled matters including Generic Drug Pharmaceuticals antitrust litigation alongside other State Attorneys General, Facebook antitrust litigation alongside other State Attorneys General and the FTC, and Google antitrust litigation alongside other State Attorneys General and the DOJ. Ms. Vogel has experience in data privacy, FinTech, competition law, consumer protection law, and antitrust cases.

Ms. Vogel has won awards including the Michael C. Cudahy Mentoring award, 2020, Class Action Fairness Act (CAFA) Outstanding Team Award, 2018, and E-Discovery Outstanding Team Award, 2018. She is a member of the Arizona State bar.

### **Kyle Lawheed, Attorney**



Kyle Lawheed is a civil litigation attorney specializing in banking and personal injury matters.

Kyle Lawheed has acted as a practicing attorney since 2014 but has worked in law firms since 2011. Mr. Lawheed began his legal career as a legal assistant in Huntington Beach, CA, where he drafted motions, provided legal research, and interfaced with clients regarding their filings against the largest banking institutions. He then ventured into the realm of intellectual property law, offering support as a law clerk in intellectual property litigation matters. After graduating with his J.D. in International Law, Mr. Lawheed worked in multiple roles as a Family Law and Personal Injury attorney. These positions allowed him to expand his repertoire and connect on a personal level with clients who have been wronged.

As he worked to represent his Personal Injury clients, Mr. Lawheed also provided his skills in drafting, reviewing, and filing legal documents to firms in need of his assistance. His work assisting firms specialized in contract review and intellectual property research. Mr. Lawheed is also a Legal Content Manager and writer for Home Business Magazine in Minnesota.

Mr. Lawheed graduated with honors in International Law and was elected both First Year Class Representative and President of the International Law Society at Whittier Law School. He is a member of the California State Bar.

#### **Joshua A. Genzuk, Associate**

Joshua A. Genzuk is a civil litigation attorney specializing in product liability and catastrophic personal injury matters.

Prior to joining MWA, Joshua Genzuk worked as a trial attorney with a California law firm specializing in bad faith insurance claims, catastrophic personal injury, and product liability. In this role, Mr. Genzuk demonstrated great aptitude, boasting a history of successes with awards upwards of millions of dollars. Mr. Genzuk is a 2018 graduate of Loyola Law School in Los Angeles, CA where he received honors in negotiations and mediation advocacy. During his time at Loyola, he also was part of the International Chamber of Commerce Paris Mediation Competition, a prestigious competition pitting teams from law schools across the globe against each other. Following his graduation, Mr. Genzuk operated as an assistant trial attorney where he drafted motions, prepared trial witnesses, took expert testimonies, and managed his own caseload – a role which prepared him for his growing responsibility in the court room.

Mr. Genzuk has used his growing expertise during his school years to offer pro bono support for the Disability Legal Right Center where he ensured settlements and memoranda were in compliance with ADA requirements. This experience has shaped his practice and inspired his commitment to serving wronged consumers and underserved groups. Mr. Genzuk is a member of the California State Bar, Consumer Attorneys Association of Los Angeles, Consumer Attorneys of California, and the United States District Court, Central District of California.

#### **Richard A. Nervig, Of Counsel**

Richard A. Nervig is a civil litigation attorney specializing in commercial and securities litigation.

Richard Nervig has practiced law since 1993. He began his career specializing in securities litigation where he managed the mass filing and prosecution of FINRA arbitration cases and oversaw compliance in securities and investment banking matters. Mr. Nervig then opened his own practice which handled general Commercial, Personal Injury, and securities litigation. With nearly 30 years of experience within

the legal industry, Mr. Nervig has become an expert in his field and offers his expertise to partner firms like McCune Wright Arevalo, LLP.

In an effort to shape the next generation of attorneys and to provide a much-needed resource to new lawyers, Mr. Nervig also acts as an Adjunct Professor of Business Law at California State University – San Marcos. In his undergraduate course, he lectures on contracts, torts, bankruptcy, and business formation.

#### **Curt W. Jure, Of Counsel**

Curt W. Jure is Of Counsel with McCune Wright Arevalo, LLP, and has over 30 years of experience in personal injury and wrongful death. He has represented thousands of clients in all types of personal injury litigation. He has been AV rated by Martindale-Hubbell during his entire career.

Mr. Jure has established himself as one of the region's most accomplished attorneys, having practiced exclusively in the Inland Empire since 1971. He is a founding member of both the San Bernardino County Bar Association and the Inland Empire Chapter of the American Inns of Court. He is also admitted to practice in the state of California and the U.S. Federal Court. He is a member of the California State Bar, the Riverside County Bar Association, and the San Bernardino County Bar Association.

#### **Joseph A. Waks, Of Counsel**

Joseph A. Waks is Of Counsel with McCune Wright Arevalo, LLP. He is a New Jersey native and New Jersey and Pennsylvania licensed attorney that focuses his work with McCune Wright Arevalo, LLP, on litigating cases as outside counsel for government entities bringing UDAP claims.

Mr. Waks brings an extensive background in public policy and governmental legal affairs. He has worked in public policy development and served as a trusted counsel and adviser to elected officials in New Jersey at the highest levels of government. Among his positions, he served as Appointments Counsel to a governor of New Jersey, as press secretary and counsel to a Member of Congress, and as state director to a United States Senator. He is a member of the Hudson County Bar Association and the New Jersey State Bar.

#### **Keena Patel, Attorney**

Keena Patel has been practicing law since 2011. She started her career in civil litigation working with clients in federal court in Georgia. She then joined the Arizona Attorney General's Office in various Divisions with a focus on helping consumers. She is now an attorney at McCune Wright Arevalo, LLP, working out of the firm's Arizona office. She specializes in environmental and class action matters.

During her time at the Arizona Attorney General's Office as an Assistant Attorney General, she was responsible for the oversight of specialized enforcement proceedings, investigation and litigation of all civil education related violations, and review of class action settlements. Mrs. Patel's efforts during her time at the Arizona Attorney General's Office successfully resulted in numerous consumer positive outcomes. She also worked for the Office in the Civil Rights Division as a conflict resolution program coordinator where she mediated civil rights discrimination complaints including employment, housing, and public accommodations

She graduated with her J.D. from Georgia State University College of Law in 2011 and received her B.A. from University of North Carolina at Chapel Hill in 2007.

She is a member of the State Bar of Arizona, State Bar of California, and State Bar of Georgia.

**Christopher M. Sloat, Attorney**

Chris is an attorney in McCune Wright Arevalo's Arizona branch and represents clients in antitrust, class actions, and related commercial litigation matters.

Before joining the firm, Chris served as an Assistant Attorney General in the Arizona Attorney General's Office, where, as part of a coalition of states, he investigated and litigated monopolization claims against Google alongside the United States Department of Justice in the U.S. District Court for the District of Columbia

Prior to his role at the Attorney General's Office, Chris clerked for the Honorable Diane Johnsen of the Arizona Court of Appeals, the Honorable John Pelander of the Arizona Supreme Court, and the Honorable John Tuchi of the U.S. District Court for the District of Arizona.

Chris graduated from the University of Arizona James E. Rogers College of Law in 2016, where he served as Editor-in-Chief of *Arizona Law Review*. Chris was admitted to the State Bar of Arizona in 2018.

# **EXHIBIT 5**

**KALIELGOLD PLLC**

KalielGold PLLC was founded in 2017 and is a 100% contingency Plaintiff-side law firm. Our attorneys have decades of combined experience and have secured hundreds of millions of dollars for their clients. Our firm's practice focuses on representing consumers in class action litigation and specifically on cases in the consumer financial services sector. In the four years since our firm was founded, our firm has been appointed lead counsel or co-lead counsel in numerous class action and putative class action lawsuits in state and federal courts nationwide including most recently in *Roberts v. Capital One*, No. 1:16-cv-04841 (S.D.N.Y.); *Walters v. Target Corp.*, No. 3:16-cv-00492 (S.D. Cal.); *Robinson v. First Hawaiian Bank*, Civil No.17-1-0167-01 GWBC (1<sup>st</sup> Cir. Haw.); *Liggio v. Apple Federal Credit Union*, No. 18-cv-01059 (E.D. Va.); *Morris et al. v. Bank of America, N.A.*, No. 3:18-cv-00157-RJC-DSC (W.D.N.C.); *Brooks et al. v. Canvas Credit Union*, 2019CV30516 (Dist. Ct. for Denver Cnty., Colo.); *Figueroa v. Capital One, N.A.*, Case No. 3:18-cv-00692-JM-BGS (S.D. Cal.); *White v. Members 1<sup>st</sup> Credit Union*, Case No. 1:19-cv-00556-JEJ (M.D. Pa.); *Plummer v. Centra Credit Union*, Case No. 03D01-1804-PL-001903 (Cnty. Of Bartholomew, Ind.); *Holt v. Community America Credit Union*, Case No. 4:19-cv-00629-FJG (W.D. Mo.); *Trinity Management v. Charles Puckett*, Case No. GCG-17-558960 (Super. Ct., San Francisco Cnty, Cal.); *Martin v. Le<sup>o</sup>N Federal Credit Union*. No. 19-CI-022873 (Jefferson Cir. Ct., Div. One); *Clark v. Hills Bank and Trust Company*, No. LACV080753 (Iowa Dist. Ct. Johnson Cnty.); *Morris v. Provident Credit Union*, Case No. CGC-19-581616 (Super. Ct., San Francisco Cnty., Cal.).

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

**JEFFREY D. KALIEL**

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

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

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

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

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

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

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

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

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

**SOPHIA GOREN GOLD**

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

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

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

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

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

**BRITTANY CASOLA**

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

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

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



**AMANDA ROSENBERG**

Amanda Rosenberg graduated *cum laude* from the University of California, Hastings College of the Law in 2011 and the University of California, San Diego in 2008, where she earned departmental Honors with Highest Distinction in history.

Before joining KalielGold PLLC, Amanda represented and advised small businesses and financial institutions in litigation matters including employment disputes, merchant disputes, credit and charge card disputes, wrongful foreclosures, and securities. She has successfully litigated cases in California, Illinois, and Michigan.

Amanda is an active volunteer in her community and has helped numerous individuals understand and navigate their rights in the workplace.

In law school, Amanda worked as an extern for the Honorable Judge Vaughn Walker in the United States District Court, Northern District of California. Amanda was awarded academic excellence awards for receiving the highest grades in Trial Advocacy and Litigating Class Action Employment.

When not working, Amanda loves exploring Michigan's outdoors with her husband, kids, and rescue dog.

**CLASS COUNSEL APPOINTMENTS**

- *Roberts v. Capital One*, No. 1:16-cv-04841 (S.D.N.Y.);
- *Walters v. Target Corp.*, No. 3:16-cv-00492 (S.D. Cal.);
- *Figueroa v. Capital One, N.A.*, Case No. 3:18-cv-00692-JM-BGS (S.D. Cal.).
- *Robinson v. First Hawaiian Bank*, Civil No.17-1-0167-01 GWBC (1<sup>st</sup> Cir. Haw.);
- *Brooks et al. v. Canvas Credit Union*, 2019CV30516 (Dist. Ct. for Denver Cnty., Colo.).
- *Liggio v. Apple Federal Credit Union*, Civil No. 18-cv-01059 (E.D. Va.);
- *Morris et al. v. Bank of America, N.A.*, Civil No. 3:18-cv-00157-RJC-DSC (W.D.N.C.);
- *White v. Members 1<sup>st</sup> Credit Union*, Case No. 1:19-cv-00556-JEJ (M.D. Pa.);
- *Plummer v. Centra Credit Union*, Case No. 03D01-1804-PL-001903 (Bartholomew Cnty., Ind.);
- *Holt v. Community America Credit Union*, Case No. 4:19-cv-00629-FJG (W.D. Mo.);
- *Trinity Management v. Charles Puckett*, Case No. GCG-17-558960 (Super. Ct., San Francisco, Cnty., Cal.);
- *Martin v. Le&N Federal Credit Union*. No. 19-CI-022873 (Jefferson Cir. Ct., Division One);
- *Clark v. Hills Bank and Trust Company*, No. LACV080753 (Iowa Dist. Ct. Johnson Cnty.);
- *Morris v. Provident Credit Union*, Case No. CGC-19-581616 (Super. Ct. San Francisco Cnty., Cal.).
- *Bodnar v. Bank of America, N.A.*, 5:14-cv-03224 (E.D. Pa.);
- *In re Higher One OneAccount Marketing and Sales Practice Litigation.*, No. 12-md-02407-VLB (D. Conn.).
- *Shannon Schulte, et al. v. Fifth Third Bank.*, No. 1:09-cv-06655 (N.D. Ill.);
- *Kelly Mathena v. Webster Bank*, No. 3:10-cv-01448 (D. Conn.);
- *Nick Allen, et al. v. UMB Bank, N.A., et al.*, No. 1016 Civ. 34791 (Cir. Ct. Jackson Cnty., Mo.);
- *Thomas Casto, et al. v. City National Bank, N.A.*, 10 Civ. 01089 (Cir. Ct. Kanawha Cnty., W. Va.);
- *Eaton v. Bank of Oklahoma, N.A., and BOK Financial Corporation, d/b/a Bank of Oklahoma, N.A.*, No. CJ-2010-5209 (Dist. Ct. for Tulsa Cnty., Okla.);
- *Lodley and Tehani Taulva, et al., v. Bank of Hawaii and Doe Defendants 1-50*, No. 11-1-0337-02 (Cir. Ct. of 1st Cir., Haw.);
- *Jessica Duval, et al. v. Citizens Financial Group, Inc., et al*, No. 1:10-cv-21080 (S.D. Fla.);
- *Mascaro, et al. v. TD Bank, Inc.*, No. 10-cv-21117 (S.D. Fla.);
- *Theresa Molina, et al., v. Intrust Bank, N.A.*, No. 10-cv-3686 (18th Judicial Dist., Dist. Ct. Sedgwick Cnty., Kan.);
- *Trombley v. National City Bank*, 1:10-cv-00232-JDB (D.D.C.); *Galdamez v. I.Q. Data International, Inc.*, No. 1:15-cv-1605 (E.D. Va.);
- *Brown et al. v. Transurban USA, Inc. et al.*, No. 1:15-CV-00494 (E.D. Va.);
- *Grayson v. General Electric Co.*, No. 3:13-cv-01799 (D. Conn.);
- *Galdamez v. I.Q. Data International, Inc.*, No. 1:15-cv-1605 (E.D. Va.).

# EXHIBIT C

1 Hassan A. Zavareei (CA Bar No. 181547)  
hzavareei@tzlegal.com  
2 Andrea R. Gold\*  
agold@tzlegal.com  
3 TYCKO & ZAVAREEI LLP  
2000 Pennsylvania Avenue, Northwest, Suite 1010  
4 Washington, District of Columbia 20006  
Telephone: (202) 973-0900  
5 Facsimile: (202) 973-0950

6 Jonathan M. Streisfeld\*  
streisfeld@kolawyers.com  
7 KOPELOWITZ OSTROW  
FERGUSON WEISELBERG GILBERT  
8 One West Las Olas Boulevard, Suite 500  
Fort Lauderdale, Florida 33301  
9 Telephone: (954) 525-4100  
Facsimile: (954) 525-4300

10 \*pro hac vice

11 *Attorneys for Plaintiff Maureen Harrold*

12

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

15

16 MAUREEN HARROLD, individually and on  
behalf of all others similarly situated,

17

Plaintiffs,

18

v.

19

20 MUFG UNION BANK, N.A.,

21

Defendant.

22

23

24

25

26

27

28

Case No. BC680214

**DECLARATION OF MAUREEN  
HARROLD IN SUPPORT OF  
UNOPPOSED MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

Date: April 26, 2023

Time: 10:00 a.m.

Department: 9

Action Filed: October 19, 2017

Amended Complaint Filed: July 29, 2020

Trial Date: None Set

I, Maureen Harrold, hereby declare as follows:

1. I am the named Plaintiff and proposed Class Representative for the proposed settlement in the above-captioned action. I am providing this declaration in support of the motion to preliminarily approve the settlement.

1           2.       I am an adequate class representative. I have actively participated in the prosecution  
2 of this case since I directed that it be filed in 2017, and I have assisted my counsel in the interests  
3 of putative California class and now on behalf of the proposed Settlement Class. I am prepared to  
4 continue to represent the interests of the Settlement Class with the approval of the Settlement.

5           3.       I have regularly communicated with and supervised my counsel and will continue to  
6 do so as needed to serve my role as the Class Representative.

7           4.       For this lawsuit, I have provided information and documents to my counsel regarding  
8 my bank account relationship with Defendant and the challenged overdraft fees that were assessed  
9 by Defendant to assist in their investigation of her claims; reviewed and approved the complaints  
10 filed in the action; approved my participation in the arbitration proceeding that occurred during this  
11 action; and consulted with counsel regarding the litigation leading up the completion of negotiations  
12 of the Settlement Agreement and Releases that I have now approved and signed.

13          5.       As I understand the circumstances, I do not have any legal conflicts with the  
14 Settlement Class. If the settlement were not approved, I am willing to continue to litigate the action  
15 for myself and other accountholders, including my participation in answering written discovery,  
16 give a deposition if requested, and appearing at any hearing or trial that requires my attendance.

17          6.       I confirm for the Court's benefit that for this lawsuit I have agreed to be represented  
18 by Tycko & Zavareei LLP, Kopelowitz Ostrow P.A., KalielGold PLLP, The Kick Law Firm, and  
19 McCune Law Group. I have given written approval to their division of any attorneys' fees recovered  
20 in this action and being reimbursed for litigation costs advanced in this action.

21           I declare under penalty of perjury under the laws of the State of California that the foregoing  
22 is true and correct.

23 Dated: January 29, 2023

*maureen harrold*

[maureen.harrold \(Jan 29, 2023 16:53 PST\)](#)

MAUREEN HARROLD

24  
25  
26  
27  
28

# EXHIBIT D

1  
2  
3 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
4 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

5 MAUREEN HARROLD, on behalf of herself and  
6 all others similarly situated,

7 Plaintiff,

8 vs.

9 MUFG UNION BANK, N.A.,

10 Defendant.

CASE NO. BC680214

11  
12 **DECLARATION OF**  
13 **SCOTT M. FENWICK OF KROLL**  
14 **SETTLEMENT ADMINISTRATION**  
15 **LLC IN CONECTION WITH**  
16 **PRELIMINARY APPROVAL OF**  
17 **SETTLEMENT**

18 I, Scott M. Fenwick, hereby declare:

19 1. I am a Senior Director of Kroll Settlement Administration LLC (“Kroll”), the  
20 Settlement Administrator<sup>1</sup> the Parties to the Action will request be appointed in the above-captioned  
21 case, whose principal office is located at 2000 Market Street, Suite 2700, Philadelphia, Pennsylvania  
22 19103. I am over 21 years of age and am authorized to make this declaration on behalf of Kroll and  
23 myself. The following statements are based on my personal knowledge and information provided by  
24 other experienced Kroll employees working under my general supervision. This declaration is being  
25 filed in connection with Preliminary Approval.

26 2. Kroll has extensive experience in class action matters, having provided services in  
27 class action settlements involving banking, antitrust, securities, labor and employment, consumer and  
28 government enforcement matters. Kroll has provided class action services in over 3,000 settlements  
varying in size and complexity over the past 50 years.

3. Kroll provided the Parties with an estimate of the Settlement Administration Costs  
expected to be incurred consistent with the services contemplated by the Settlement Agreement,  
including for the Notice Program.

<sup>1</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the  
Settlement Agreement (as defined below).





1 mailing. Upon approval, Kroll will coordinate the preparation of the Postcard Notice proofs for  
2 Counsel to review and approve.

3 10. As required under paragraph 90 of the Settlement Agreement, Kroll will send the  
4 Postcard Notice to the physical addresses of Accountholders for whom Defendant does not have an  
5 email address. In addition, as required under paragraph 94 of the Settlement Agreement, Postcard  
6 Notices will be sent to Accountholders in the Settlement Class whose Email Notice was returned as  
7 undeliverable.

8 11. Postcard Notices will be sent by First-Class Mail to those certain physical addresses  
9 as noted above. In preparation for the notice mailing, Kroll will send the Settlement Class Member  
10 data through the United States Postal Service's ("USPS") National Change of Address ("NCOA")  
11 database. The NCOA process will provide updated addresses for Accountholders in the Settlement  
12 Class who have submitted a change of address with the USPS in the last forty-eight (48 months), and  
13 the process will also standardize the addresses for mailing. Kroll will then prepare a mail file of  
14 Settlement Class members that are to receive the Postcard Notice via First Class Mail.

15 12. Postcard Notices returned by the USPS with a forwarding address will be  
16 automatically re-mailed to the updated address provided by the USPS.

17 13. As required under paragraph 94 of the Settlement Agreement, Postcard Notices  
18 returned by the USPS undeliverable as addressed without a forwarding address will be sent through  
19 an advanced address search process in an effort to find a more current address for the record. If an  
20 updated address is obtained through the advanced search process, Kroll will re-mail the Postcard  
21 Notice to the updated address.

22 14. The Notice Program of the Settlement Agreement as expected to be implemented by  
23 Kroll contemplates a robust Settlement Class List that will allow for direct notice to reach the vast  
24 majority of Settlement Class Members through direct mail, consistent with due process. Based upon  
25 information provided by counsel, and assuming data received is relatively up to date, we expect an  
26 average undeliverable rate of no more than 9%, and thus we project direct notice to reach of at least  
27 91% of the Settlement Class. These assumptions are subject to the accuracy and quality of the data  
28 received.



# **EXHIBIT E**

1 Hassan A. Zavareei (CA Bar No. 181547)  
hzavareei@tzlegal.com  
2 Andrea R. Gold\*  
agold@tzlegal.com  
3 TYCKO & ZAVAREEI LLP  
2000 Pennsylvania Avenue, Northwest, Suite  
4 1010  
Washington, District of Columbia 20006  
5 Telephone: (202) 973-0900  
Facsimile: (202) 973-0950  
6

Jonathan M. Streisfeld\*  
7 streisfeld@kolawyers.com  
KOPELOWITZ OSTROW  
8 FERGUSON WEISELBERG GILBERT  
One West Las Olas Boulevard, Suite 500  
9 Fort Lauderdale, Florida 33301  
Telephone: (954) 525-4100  
10 Facsimile: (954) 525-4300

11 \*pro hac vice

12 Attorneys for Plaintiff Maureen Harrold

13  
14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
15 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

16 MAUREEN HARROLD, individually and on  
behalf of all others similarly situated,  
17 Plaintiff,  
18 v.  
19 MUFG UNION BANK, N.A.,  
20 Defendant.  
21

Case No. BC680214  
**(Assigned for All Purpose to the Honorable  
Yvette M. Palazuelos, Dept. 9)**  
**[PROPOSED] FINAL JUDGMENT**  
Action Filed: October 19, 2017  
Amended Complaint Filed: July 29, 2020  
Trial Date: None Set

22  
23 On \_\_\_\_\_, 2023 the Court entered a Final Approval Order, a copy of which is attached  
24 as *Exhibit A* and incorporated herein by reference. A copy of the Settlement Agreement and Releases  
25 (“Settlement Agreement”) is attached as *Exhibit B*.

26 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

27 1. All terms used herein shall have the same meaning as defined in the Settlement  
28 Agreement.

1           2.       Judgment is hereby entered in accordance with the terms of the Court's Final  
2 Approval Order.

3           3.       Except for the Settlement Class members identified in paragraph 6 below, all  
4 Settlement Class Members and all Released Claims are covered by and included within the  
5 Settlement and this Final Judgment.

6           4.       The Settlement Class is defined as follows and subject to the stated exclusions below:

7           **All MUFG Union Bank, N.A. consumer checking Accountholders in California**  
8           **who were assessed one or more APSN Fees during the Class Period.**

9 Excluded from the Settlement Class is Defendant, its parents, subsidiaries, affiliates, officers, and  
10 directors; all Accountholders in the Settlement Class who make a timely election to be excluded by  
11 opting-out; and all judges and judicial referees assigned to these proceedings and their immediate  
12 family members.

13          5.       The Class Period means the period from October 19, 2013 through February 28,  
14 2019.

15          6.       \_\_\_ Settlement Class members have requested to be excluded from the Settlement  
16 and are identified as follows: \_\_\_\_\_. They are not bound by the  
17 Settlement of the Action.

18          7.       Pursuant to Code of Civil Procedures § 384(b), the Court determines that \$ \_\_\_\_\_  
19 (\$5,000,000.00 less the amount awarded to Class Counsel for attorneys' fees and costs and the  
20 Incentive Award to the Class Representative) will be payable to the Settlement Class Members.

21          8.       Pursuant to Settlement Agreement and Releases, Code of Civil Procedure § 664.6,  
22 and California Rules of Court, Rule 3.769(h), the Court retains jurisdiction over the Class  
23 Representative, each Settlement Class Member, and Defendant to enforce the terms of the  
24 Settlement Agreement and Releases, Final Approval Order, and this judgment. Specifically, without  
25 affecting the finality of the Court's Final Approval Order or this Final Judgment in any way, the  
26 Court retains jurisdiction over: (a) implementation and enforcement of the Settlement Agreement  
27 pursuant to further order of the Court until the Final Judgment contemplated hereby has become  
28 effective and each and every act agreed to be performed by the Parties shall have been performed

1 pursuant to the Settlement Agreement; (b) any other action necessary to conclude this Settlement  
2 and to implement the Settlement Agreement; and (c) the construction and interpretation of the  
3 Settlement Agreement.

4 9. Notice of entry of this judgment shall be provided to the Settlement Class by posting  
5 the Final Approval Order and this judgment on the Settlement Website for a period of not less than  
6 60 days from the date of this judgment.

7 10. This document shall constitute a judgment for purposes of Rule 3.769(h).

8 11. The Court finds that no just reason exists for delay in entering this Final Judgment  
9 and, accordingly, the Clerk is hereby directed forthwith to enter this Final Judgment.

10 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

11

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

\_\_\_\_\_  
The Honorable Yvette M. Palazuelos  
Judge of the Superior Court

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 Hassan A. Zavareei (CA Bar No. 181547)  
hzavareei@tzlegal.com  
2 Andrea R. Gold\*  
agold@tzlegal.com  
3 TYCKO & ZAVAREEI LLP  
2000 Pennsylvania Avenue, Northwest, Suite 1010  
4 Washington, District of Columbia 20006  
Telephone: (202) 973-0900  
5 Facsimile: (202) 973-0950

6 Jonathan M. Streisfeld\*  
streisfeld@kolawyers.com  
7 KOPELOWITZ OSTROW  
FERGUSON WEISELBERG GILBERT  
8 One West Las Olas Boulevard, Suite 500  
Fort Lauderdale, Florida 33301  
9 Telephone: (954) 525-4100  
Facsimile: (954) 525-4300

10 \*pro hac vice

11 *Attorneys for Plaintiff Maureen Harrold*

12  
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

15  
16 MAUREEN HARROLD, individually and on  
behalf of all others similarly situated,

17 Plaintiff,

18 v.

19  
20 MUFG UNION BANK, N.A.,

21 Defendant.

Case No. BC680214

**PROOF OF SERVICE**

**(Assigned for All Purpose to the Honorable  
Yvette M. Palazuelos, Dept. 9)**

Date: April 26, 2023  
Time: 10:00 a.m.

Action Filed: October 19, 2017

Amended Complaint Filed: July 29, 2020  
Trial Date: None Set

1 At the time of service, I was over 18 years of age and not a party to this action. I am employed  
2 in the District of Columbia. My business address is 2000 Pennsylvania Avenue NW, Suite 1010,  
3 Washington, D.C. 20006.

4 On January 30, 2023, I served true copies of the following documents described as:

5 **PLAINTIFF'S NOTICE OF MOTION AND UNOPPOSED MOTION FOR**  
6 **PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

7 on the interested parties in this action as follows:


8 MORRISON & FOERSTER LLP  
9 Nancy R. Thomas, Esq. (State Bar No. 236185)  
707 Wilshire Boulevard  
Los Angeles, CA 90017-3543

10 *Attorneys for Defendant MUFG Union Bank, N.A.*

11 **[X] BY ONE LEGAL:** I transmitted a correct and true attachment of the document(s) to the parties  
12 listed above using the court's e-filing system.

13  
14 I declare under penalty of perjury under the laws of the State of California that the above is  
15 true and correct.

16  
17 Executed: January 30, 2023

  
James Morrison

18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28