

**IN THE COURT OF COMMON PLEAS
OF SOMERSET COUNTY, PENNSYLVANIA**

PATRICIA SUFFECOOL, on behalf of
herself and all others similarly situated,

Plaintiff,

v.

SOMERSET TRUST COMPANY,

Defendant.

CIVIL DIVISION

No. 84 Civil 2022

CLASS ACTION

SOMERSET COUNTY
PROBATE DIVISION

2023 NOV 14 A 11:08

~~FILED FOR RECORD~~

Resid

**PLAINTIFF'S UNOPPOSED MOTION AND MEMORANDUM OF LAW FOR FINAL
APPROVAL OF CLASS ACTION SETTLEMENT, AND FOR AWARD OF
ATTORNEYS' FEES AND EXPENSES AND FOR SERVICE AWARD**

[Proposed] ORDER

The Court has reviewed Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement and for Award of Attorneys' Fees and Expenses and for Service Award. For good cause shown, **IT IS ORDERED:**

1. This Final Order incorporates and makes a part hereof, the Settlement Agreement and the Preliminary Approval Order. Unless otherwise provided herein, the terms defined in the Settlement Agreement and Preliminary Approval Order shall have the same meanings for purposes of this Final Approval Order and the accompanying Final Judgment.

2. The Court has jurisdiction over this above-captioned case, and all Parties in the above-captioned Lawsuit, including but not limited to, all Class Members, for all matters relating to this Lawsuit and the Settlement Agreement, including, without limitation, the administration, interpretation, effectuation and/or enforcement of the Settlement Agreement, this Final Approval Order, or the Final Judgment.

I. The Settlement Class

3. In the Preliminary Approval Order, the Court preliminarily certified the following Settlement Class:

Consumer customers of Defendant who were charged Retry NSF Fees between February 4, 2018 and November 4, 2022.

4. The Settlement Class is hereby certified pursuant to Pennsylvania Rules of Civil Procedure 1702, 1708, 1709, and 1710.

5. The Court preliminarily determined that Plaintiff Patricia Suffecool met the typicality and adequacy requirements of Pennsylvania Rules of Civil Procedure 1704 and 1709, thus qualifying her to serve as class representative of the Settlement Class. The Court hereby finally approves that appointment.

6. The Court also preliminarily determined that the following counsel for the Settlement Class met the competency requirement of Pennsylvania Rule of Civil Procedure 1709, thus qualifying them to serve as Class Counsel, and hereby finally approves the appointment of the following counsel as Class Counsel:

Kenneth J. Grunfeld
PA Attorney ID: 84121
grunfeld@kolawyers.com
**KOPELOWITZ OSTROW
FERGUSON WEISELBERG GILBERT**
65 Overhill Road
Bala Cynwyd, Pennsylvania 19004
Telephone: 215-967-8799
Facsimile: 954-525-4300

Jeffrey D. Kaliel
Sophia Goren Gold
KALIELGOLD PLLC
1100 15th St., NW, 4th Floor
Washington, D.C. 20005
(202) 350-4783
jkaliel@kalielpllc.com

sgold@kalielgold.com

For purposes of these settlement approval proceedings, the Court finds that these attorneys are competent and capable of exercising their responsibilities as Class Counsel and have fairly and adequately represented the interests of the Class for settlement purposes.

II. Class Notice

7. The record shows, and the Court finds, that Notice has been given to the Settlement Class in the manner approved by the Court in its Preliminary Approval Order. The Court finds that such Notice (i) constituted the best notice practicable to the Settlement Class under the circumstances; (ii) was reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency and nature of this Lawsuit, the definition of the Settlement Class, the terms of the Settlement Agreement, the rights of the Settlement Class to exclude themselves from the settlement or to object to any part of the settlement, the rights of the Settlement Class to appear at the Final Approval Hearing (either on their own or through counsel hired at their own expense), and the binding effect of the Settlement Agreement on all persons who do not exclude themselves from the Class, (iii) provided due, adequate, and sufficient notice to the Settlement Class; and (iv) fully satisfied all applicable requirements of law, including, but not limited to, Pennsylvania Rule of Civil Procedure 1712 and the due process requirements of the United States Constitution.

8. Due and adequate Notice of the Final Approval Hearing having been given to the Class and a full opportunity having been offered to Class Members to participate in the Final Approval Hearing and considering that there are no opt-outs, it is hereby determined that all Class Members are bound by this Final Approval Order and the Final Judgment.

III. Final Approval of the Settlement Agreement

9. Pursuant to Pennsylvania law, the Court finds that the Settlement is fair, reasonable and adequate, and in the best interest of the Settlement Class, as well as within a range that a responsible and experienced attorney could accept considering all the relevant risks and factors and the relative merit of Plaintiffs' claims and Somerset's defenses.

10. The Court finds that the settlement is fair, reasonable and adequate in light of the following factors:

- (a) the settlement consideration consists of two main components: (a) \$262,290.00 Settlement Fund to be distributed to Class Members, including Notice to the Class and administration of the Settlement, including the fees and expenses of the Settlement Administrator and the Notice Administrator; and (b) Defendant's modification of its overdraft program such that Retry NSF Fees are no longer charged to its consumer customers.
- (b) the settlement was reached in the absence of collusion. It was the product of informed, good-faith, arms' length negotiations between the Parties and their capable and experienced counsel;
- (c) the case was complex, expensive and time consuming and would have continued to be so through trial if the case had not settled;
- (d) the Settlement Class would have faced numerous and substantial risks in establishing liability and/or damages if they decided to continue litigation rather than settle; and
- (e) the settlement amount is well within the range of reasonableness in light of the best possible recovery and the risks the parties would have faced if the case had continued.

IV. Dismissal of Claims, Release, and Injunction

11. This Lawsuit is hereby dismissed with prejudice on the merits and without costs to any party, except as otherwise provided herein or in the Settlement Agreement.

12. The Court approves the parties' plan to distribute the Settlement Fund as set forth in the Settlement Agreement.

13. Named Plaintiff and the Class Members hereby release and forever discharge Defendant, and all of its past, present and future predecessors, successors, parents, subsidiaries, divisions, employees, affiliates, assigns, officers, directors, shareholders, representatives, attorneys, insurers and agents (collectively, the "Defendant Releasees") from any and all losses, fees, charges, complaints, claims, debts, liabilities, demands, obligations, costs, expenses, actions, and causes of action of every nature, character, and description, whether known or unknown, asserted or unasserted, suspected or unsuspected, fixed or contingent, which Named Plaintiff and the Class Members now have, own or hold against any of the Defendant Releasees that arise out of and/or relate to the facts and claims alleged in the Complaint and the Lawsuit, including but not limited to any claims relating to Retry NSF Fees..

V. Payment of Attorney Fees and Costs

14. The Court approves Class Counsel's request for attorneys' fees in the amount of \$87,421.25, which represents one-third of the Settlement Fund, exclusive of the substantial value of the practice changes provided by the settlement. The Court finds that this amount is reasonable and appropriate under applicable law and the circumstances of this case.

15. The Court further approves Class Counsel's request for reimbursement from the Settlement Fund of their out-of-pocket expenses, which amounts to \$603.73. The court finds that

these expenses were reasonably incurred and necessary to the prosecution and settlement of the case.

16. The Court further approves Class Counsel's request for reimbursement from the Settlement Fund of the Settlement Administrator's costs, which are estimated to be \$43,355.17. The court finds that these expenses were reasonably incurred and necessary to the administration of the settlement of the case.

VI. Class Representative Service Award

17. The Court hereby approves Class Counsel's request of a service award of \$3,000.00 for the Class Representative, Patricia Suffecool, to be paid from the Settlement Fund.

18. This service award is warranted to compensate the Plaintiff for her contributions to the litigation and her commitment and work on behalf of the Class.

VII. Other Provisions

19. The Court has jurisdiction to enter this Final Approval Order and the accompanying Final Judgment. Without in any way affecting the finality of this Final Approval Order or the Final Judgment, this Court expressly retains jurisdiction over the Defendant and each Class Member regarding the implementation, enforcement, and performance of the Settlement Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding or dispute arising out of or relating to the Settlement 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 Settlement Agreement and shall retain jurisdiction for the purpose of enforcing all terms of the Settlement Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice program and the Settlement Administrator.

20. The Parties are hereby directed to implement and consummate the settlement, as set forth in the terms and provisions of the Settlement Agreement.

21. Without further order of the Court, the Parties may agree to reasonably necessary extensions of time to carry out any of the provisions of the Settlement Agreement. Likewise, the Parties may, without further order of the Court or notice to the Settlement Class, agree to and adopt such amendments to the Settlement Agreement as are consistent with this Final Approval Order and the Final Judgment and that do not limit the rights of Settlement Class Members under the Settlement Agreement.

22. In the event that the Effective Date does not occur, certification of the Settlement Class shall be automatically vacated and the Final Approval Order and Final Judgment, and all other orders entered and releases delivered in connection herewith, shall be vacated and shall become null and void.

DONE AND ORDERED, this _____ day of _____, 2023.

Judge _____