

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

PRECISION ROOFING OF N.
FLORIDA INC. individually and on
behalf of all others similarly situated,

Plaintiff,

v.

CENTERSTATE BANK,

Defendant.

Case No.: 3:20-cv-352-BJD-LLL

ANGELA DENISE GRANT, on behalf
of herself and all persons similarly
situated,

Plaintiff,

v.

CENTERSTATE BANK,

Defendant.

Case No.: 8:20-cv-01920-BJD-AAS
(Administratively Closed)

**PLAINTIFFS' UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS SETTLEMENT AND
FOR CERTIFICATION OF SETTLEMENT CLASS**

Plaintiffs, Precision Roofing of N. Florida Inc. and Angela Denise Grant, respectfully move for Preliminary Approval of the Settlement Agreement,¹ attached as *Exhibit A*, which will resolve all claims against Defendant, CenterState Bank (now known as SouthState Bank, N.A.), in the Actions. Preliminary Approval should be granted because the Settlement provides substantial and immediate relief for the Settlement Class. Specifically, Defendant has agreed to: (1) pay \$2,650,000.00 into a cash Settlement Fund; (2) forgive and waive Uncollected Fees assessed to Accountholders, the amount of which will be calculated before Notice is sent; and (3) separately pay the Settlement Administration Costs. Additionally, there are non-monetary benefits. As a result of this Actions, Defendant modified its practice of assessing OD Fees and NSF Fees, resulting in past and future financial savings to the Settlement Class and to other accountholders who will better understand how and when the fees will be assessed. The terms of the Settlement are well within the range of reasonableness and consistent with applicable case law. Consequently, the Court should conclude that the Settlement meets the Fed. R. Civ. P. 23 standard and grant Preliminary Approval.

Accordingly, Plaintiffs and Class Counsel respectfully request the Court: (1) grant Preliminary Approval; (2) certify the Settlement Class (3) approve the Notice Program and the form and content of the Notices attached to the Agreement as Exhibits 1-2; (4) approve and order the opt-out and objection procedures; (5) appoint

¹ All capitalized terms used throughout this memorandum have the same meanings as those defined in the Agreement.

Plaintiffs as Class Representatives; (6) appoint Kopelowitz Ostrow P.A. and KalieGold PLLC as Class Counsel; (7) continue the stay of the Actions pending Final Approval; and (8) schedule a Final Approval Hearing.

I. BACKGROUND

A. Procedural History

The following summarizes the procedural history of the Actions that are the subject of the Agreement. On April 26, 2022, the Court consolidated the Actions. Dkt. 71. Before that, the Parties informally coordinated certain discovery efforts and participated in mediation after the Court denied motions to dismiss in both Actions.

Precision Roofing of N. Florida v. CenterState Bank

On April 6, 2020, Plaintiff Precision Roofing filed a putative Class Action Complaint in the *Precision* Action asserting a claim for breach of contract, including breach of the covenant of good faith and fair dealing, challenging Defendant's assessment of APPSN Fees on debit card transactions. On July 7, 2020, Defendant moved to dismiss, which was fully briefed, following which Plaintiff filed several notices of supplemental authority. On February 22, 2021, the Court denied Defendant's Motion to Dismiss entirely. Defendant filed its Answer and Affirmative Defenses to Plaintiff's Complaint on March 12, 2021. On September 3, 2021, following discovery, Plaintiff filed its Motion for Class Certification, supported by the report of Plaintiff's expert, Arthur Olsen. On October 25, 2021, Defendant filed its Response in Opposition to the Motion for Class Certification. With the Parties' agreement, and with the Court's approval, the *Precision* Action was stayed for mediation.

Grant v. CenterState Bank

On August 18, 2020, Plaintiff Grant filed a putative Class Action Complaint in the *Grant* Action, asserting a claim for breach of contract, including breach of the covenant of good faith and fair dealing, challenging Defendant's assessment of multiple NSF Fees and/or OD Fees on the same ACH debit or check item. On September 25, 2020, Defendant moved to dismiss, which was fully briefed, following which Plaintiff filed several notices of supplemental authority. On July 16, 2021, the Court denied the Motion to Dismiss as to the breach of contract claim but dismissed the part of the claim seeking to enforce the covenant of good faith and fair dealing. Defendant filed its Answer and Affirmative Defenses to Plaintiff's Complaint on July 20, 2021. On September 3, 2021, following discovery, Plaintiff filed her Motion for Class Certification, supported by Mr. Olsen's expert report. On October 25, 2021, Defendant filed its Response in Opposition to the Motion for Class Certification. With the Parties' agreement, and with the Court's approval, the *Grant* Action was stayed for mediation.

Practice Changes

Defendant charged OD Fees on APPSN transactions. After the *Precision* Action was filed, Defendant ceased charging such fees. Thus, the APPSN Fee Class Period ends on May 31, 2020.

Similarly, Defendant changed its Account agreement effective August 22, 2020, after the *Grant* Action was filed, to specify the possibility of Multiple Fees on an item. Thus, Multiple Fee Class Period ends on August 21, 2020.

Discovery Efforts

Class Counsel served interrogatories and document requests in the Actions and initiated several meet and confer conferences to discuss discovery responses and objections, and production of electronically stored information, damages data, and other documents and materials subject to discovery. Those efforts led to the production and Class Counsel's analysis of thousands of pages of documents (2,588 pages for the *Precision* Action and 3,710 pages for the *Grant* Action), sample account-level transaction data, and other information to evaluate the claims and defenses, to prepare for depositions taken in the case, and to move for class certification in the Actions.

Class Counsel worked with Mr. Olsen, the preeminent expert for bank account fee class action litigation. He analyzed sample transaction data produced to arrive at opinions as to methodologies to be employed to determine damages and class membership for the motion for class certification in each of the Actions.

The Parties also took depositions. Though not formally consolidated at the time, the Parties agreed that Defendant's Fed. R. Civ. P. 30(b)(6) designees should be deposed simultaneously in the Actions for efficiency. Matthew Bazo was deposed on June 25, 2021, and again on August 18, 2021. Don Stoltz was deposed on July 9, 2021. Mr. Olsen was deposed by Defendant on October 18, 2021.

Mediation

The Parties proceeded to court-ordered mediation, simultaneously mediating both Actions with a well-regarded and experienced class action mediator, Rodney Max, of Upchurch Watson White & Max Mediation Group. Class Counsel prepared

a detailed, consolidated confidential mediation statement. In advance of mediation, Class Counsel conferred with the mediator, and separately with Defendant's counsel.

The Parties participated in a lengthy mediation session on November 10, 2021. Though they did not settle, they agreed to reconvene on December 13, 2021. That session resulted in an agreement to continue negotiations following the Parties' exchange of additional information. Thereafter, the negotiations progressed, and the Parties ultimately agreed to settle the Actions on February 25, 2022. Thereafter, the Parties negotiated and executed the Agreement dated March 30, 2022.

B. Class Counsel's Investigation

Class Counsel spent many hours investigating the claims of several potential plaintiffs against Defendant. *See* Joint Declaration of Class Counsel ("Decl."), attached as *Exhibit B*, ¶5. Class Counsel interviewed Plaintiffs and gathered documents and information about Defendant's alleged conduct and its impact on Accountholders, essential to Class Counsel's ability to understand Defendant's alleged conduct, the material Account agreement language, and potential remedies. *Id.*

Class Counsel expended significant resources researching and developing the legal claims at issue. *Id.* ¶6. They are familiar with the claims as they have litigated and resolved many similar cases. *Id.* Class Counsel understand the damages at issue, what information is critical in determining class membership, and what data is necessary to calculate each Settlement Class Member's damages. Class Counsel spent a significant amount of time analyzing data regarding Defendant's OD Fee and NSF Fee revenue with Mr. Olsen's assistance to analyze the damages. *Id.* ¶6.

Class Counsel, fully informed of the claims' merits, negotiated the Settlement while zealously advancing the position of Plaintiffs and the members of the Settlement Class and being fully prepared to continue to litigate rather than accept any settlement that was not in the best interest of Plaintiffs and the Settlement Class. *Id.* ¶7.

C. Summary of the Settlement Terms

1. The Settlement Class

The below Settlement Class includes opt-out classes under to Rule 23(b)(3):

APPSN Fee Class

All of Defendant's current and former Accountholders who, from April 6, 2015, through May 31, 2020, were charged OD Fees on APPSN Transactions.

Multiple Fees Class

All of Defendant's current and former Accountholders who, from August 18, 2015, through August 21, 2020, were charged Multiple Fees, including NSF Fees and OD Fees, on the same item.

Excluded from the Settlement Class is Defendant, its parents, subsidiaries, affiliates, officers and directors, all Settlement Class members who make a timely election to be excluded, and all judges assigned to this litigation and their immediate family members.

Agreement ¶68. Plaintiff Precision Roofing is the Class Representative for the APPSN Fee Class, and Plaintiff Grant is the Class Representative for the Multiple Fee Class, though both may be determined to be members of both Settlement Classes.

2. Relief for the Benefit of The Settlement Class

a. Settlement Fund

Defendant will pay \$2,650,000.00 into a Settlement Fund, allocated \$1,457,500.00 (55%) for the APPSN Fee Class and \$1,192,500.00 (45%) for the

Multiple Fee Class. *Id.* ¶99.c. That fund will pay: (a) Settlement Class Member Payments; and (b) attorneys' fees and costs awarded to Class Counsel. *Id.* ¶79.a. Defendant has no other payment obligations than Settlement Administration Costs.

Settlement Class Members do not have to submit claims or take any other affirmative step to receive Settlement benefits. Instead, no later than 30 days after the Effective Date of the Settlement, Defendant and the Settlement Administrator will automatically distribute the Net Settlement Fund. *Id.* ¶99.c.iii.

b. Distribution and Allocation of Settlement Class Member Payments

Settlement Class Members who are Current Accountholders will receive Account credits for their Settlement Class Member Payments, or by checks mailed by the Settlement Administrator if Defendant is unable to complete the credit. *Id.* ¶99.c.iii.(a). Past Account Holders will receive checks mailed by the Settlement Administrator. *Id.* ¶99.c.iii.(b). The Settlement Administrator shall make reasonable efforts to locate the proper address for any check returned undeliverable and will re-mail a check once to the updated address. *Id.* Members of the Settlement Class shall have 180 days to negotiate checks. *Id.* Any checks uncashed after 180 days shall be distributed pursuant to the provisions regarding residual funds. *Id.*

All Settlement Class Members entitled to a Settlement Class Member Payment will receive a pro rata distribution from the Net Settlement Fund based on the number of APPSN Fees and/or Multiple Fees the Settlement Class Member paid during the Class Periods applying the stated formulas. *Id.* ¶99.c. Because each Settlement Class

Member's distribution amount is dependent on his or her specific Account activity and the number of Settlement Class Members, it is not possible to determine the likely recovery of each Settlement Class Member until this calculation is performed.

c. Disposition Of Residual Funds

Within 7 days after the deadline to cash Settlement Class Member Payment checks, any residual funds shall be distributed as follows: (a) first to the Defendant as reimbursement for the payment of Settlement Administration Costs it paid to the Settlement Administrator as of that date; and (b) second by check to all Settlement Class Members who either cashed their checks or received an Account credit, unless the residual amount is so small that it would be economically infeasible or impracticable to perform a secondary distribution. *Id.* ¶100. All secondary distribution costs shall be payable out of the remaining funds in the Net Settlement Fund. *Id.*

If the residual funds, after reimbursement to the Defendant for Settlement Administration Costs paid, is so small that a second distribution would be economically infeasible or impracticable, then, within 14 days after the deadline to cash checks sent to Settlement Class Members, Plaintiffs shall apply to the Court for a *cy pres* payment to the recipient agreed to by the Parties. *Id.* ¶101. Any remaining amounts resulting from uncashed checks shall be distributed to the *cy pres* recipient approved by the Court. *Id.* Similarly, if there are residual funds remaining 90 days following a secondary distribution, then Plaintiffs shall apply to the Court for a *cy pres* payment to the recipient agreed to by the Parties. *Id.* Any remaining amounts resulting

from uncashed checks shall be distributed to the *cy pres* recipient approved by the Court. *Id.*

3. Forgiveness of Uncollected Fees

Defendant shall forgive and waive all Uncollected Fees (APPSN Fees and Multiple Fees that were assessed, but not paid when an Account was closed and the APPSN Fees or Multiple Fees were charged off) no later than 30 days after the Effective Date. Defendant shall use best efforts to update any negative reporting to Chexsystems or credit reporting agencies with respect to Settlement Class Members who receive forgiveness of Uncollected Fees. *Id.* ¶99.c.iv.

4. Releases

In exchange for the Settlement benefits, all Settlement Class Members will be deemed to have released Defendant from the Released Claims. *Id.* ¶¶102-104. Additionally, Plaintiffs shall provide a separate general release to Defendant for \$5,000.00, along with the closing of their Accounts following Final Approval. *Id.* ¶80.²

5. The Notice Program

The Settlement Administrator is Kroll Settlement Administration LLC, one of the leading United States administration firms. The Settlement Administrator will oversee the Notice Program, which is designed to provide the best notice practicable and is tailored to take advantage of the information Defendant has available about the Settlement Class. Decl. ¶44. The Notice Program is reasonably calculated to apprise

² No service awards are sought in light of the current law in the Eleventh Circuit prohibiting such awards to Class Representatives.

members of the Settlement Class of: a description of the Settlement's material terms; a date by which members of the Settlement Class may opt-out of the Settlement; a date by which Settlement Class Members may object to the Settlement and/or Class Counsel's application for attorneys' fees and costs; the Final Approval Hearing date; and the Settlement Website address where members of the Settlement Class may access the Agreement, Long Form Notice, and other related documents. Agreement ¶89. The Notice and Notice Program constitute sufficient notice to all persons entitled to notice. Decl. ¶45. The Notice Program satisfies all applicable requirements of law, including Fed. R. Civ. P. 23 and constitutional due process. *Id.*

The Notice Program includes three Notice forms: (1) Email Notice to Current Accountholders; (2) Postcard Notice to Current Accountholders who have not agreed to receive statements by email, Past Accountholders, or Current Accountholders for whom Email Notice fails using the email address Defendant provided; and (3) detailed Long Form Notice that will be available on the Settlement Website and via U.S. mail upon request. Agreement ¶¶43, 53, 61, 93-94, 96 and Exhibits 1-2 thereto.³

The Long Form Notice will describe the procedures Settlement Class members must follow to opt-out of the Settlement or to object to the Settlement and/or Class Counsel's application for attorneys' fees and costs. Opt-outs must be postmarked no later than the last day of the Opt-Out Period. *Id.* ¶¶90-91. A valid objection must be mailed to the Clerk of the Court, Class Counsel, Defendant's counsel, and the

³ A Spanish language translation of the Long Form Notice will be available too.

Settlement Administrator by the last day of the Objection Period and include: (a) the name of the Action; (b) the objector's full name, mailing address, telephone number, and email address (if any); (c) all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel; (d) the number of times the objector has objected to a class action settlement within the five years preceding the date that the objector mails the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector's prior objections that were issued by the trial and appellate courts in each listed case; (e) the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement or fee application; (f) the number of times in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the 5 years preceding the date of the mailed objection, the caption of each case in which counsel or the firm has made such objection and a copy of any orders related to or ruling upon counsel's or the counsel's law firm's prior objections that were issued by the trial and appellate courts in each listed case in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the preceding 5 years; (g) any and all agreements that relate to the objection or the process of objecting—whether written or oral—between objector or objector's counsel and any other person or entity; (h) the identity of all counsel (if any) representing the objector who will appear at the Final Approval Hearing; (i) a list of all persons who will be called to testify at the Final Approval Hearing in support of the

objection (if any); (j) a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and (k) the objector's signature (an attorney's signature is not sufficient). *Id.* ¶92.

The Settlement Website will include hyperlinks to the Agreement, Long Form Notice, Preliminary Approval Order, and such other documents as the Parties agree to post or the Court orders posted. It shall be established following Preliminary Approval and prior to the commencement of the Notice Program. *Id.* ¶¶72, 89.

The Settlement Administrator will also establish and maintain an automated toll-free telephone line for Settlement Class members to call with Settlement-related inquiries and to receive automated responses and answer the frequently asked questions of Settlement Class members who call with or otherwise communicate such inquiries. *Id.* ¶88.d. That line can also be used to request the Long Form Notice.

6. Settlement Administration

The Settlement Administrator is one of the leading class action settlement administrators in the United States. Its duties are as follows:

- a. Use the name and address information for Settlement Class members provided by Defendant in connection with the Notice Program approved by the Court, for the purpose of mailing the Postcard Notice and sending the Email Notice and later mailing distribution checks to Past Account Holder Settlement Class Members, and to Current Account Holder 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 for exclusion from the Settlement Class;
- c. Establish and maintain the Settlement Website;
- d. Establish and maintain an automated toll-free telephone line for Settlement Class members to call with Settlement-related inquiries, and answer the frequently asked questions of Settlement Class members who call with or otherwise communicate such inquiries;

- e. Respond to any mailed Settlement Class member inquiries;
- f. Process all requests for exclusion from the Settlement Classes;
- g. Provide weekly reports to Class Counsel and Defendant that summarize the number of requests for exclusion received that week, the total number of exclusion requests received to date, and other pertinent information;
- h. In advance of the Final Approval Hearing, prepare a declaration or 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 Settlement Class member who timely and properly requested exclusion from the Settlement Classes, 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 and Current Accountholder Settlement Class Members who are unable to receive credits;
- j. Provide to Defendant the amount of the Settlement Class Member Payments to Current Accountholders and instruct Defendant to initiate the direct deposit or credit of Settlement Class Member Payments to Current Accountholder Settlement Class Members;
- k. Pay invoices, expenses, and costs upon approval by Class Counsel and Defendant, as provided in this Agreement; and
- l. Any other Settlement-administration-related function at the instruction of Class Counsel and Defendant, including, but not limited to, verifying that the Settlement Fund has been distributed.

Id. ¶88.

7. Settlement Termination

Defendant has the option to terminate this Agreement if 5% or more of the total Settlement Class Members opt-out. Defendant shall notify Class Counsel and the Court of its intent to terminate the Agreement within 10 days after the end of the Opt-Out Period, or the termination option shall be waived. *Id.* ¶108.

8. Attorneys' Fees and Costs

Class Counsel has not been paid for their extensive efforts or reimbursed for litigation costs incurred. Pursuant to Fed. R. Civ. P. 23(h), Class Counsel are entitled to request attorneys' fees of up to 33.33% of the Value of the Settlement, plus

reimbursement of reasonable costs incurred, to be paid from the Settlement Fund. Agreement ¶99.a; Decl. ¶25. The Parties negotiated and reached agreement on fees and costs only after agreeing on the Settlement’s material terms. *Id.* Both are subject to this Court’s approval and will compensate for the time, risk and expense Class Counsel incurred pursuing the Actions.

II. ARGUMENT

A. Legal Standard for Preliminary Approval

Rule 23(e) requires judicial approval for the compromise of class claims. “Although class action settlements require court approval, such approval is committed to the sound discretion of the district court.” *In re U.S. Oil and Gas Litig.*, 967 F.2d 489, 493 (11th Cir. 1992). In exercising that discretion, courts are mindful of the “strong judicial policy favoring settlement as well as by the realization that compromise is the essence of settlement.” *Bennett v. Behring Corp.*, 737 F.2d 982, 986 (11th Cir. 1984). “The public policy favoring settlement agreements is particularly strong in complex class action litigation where voluntary pretrial settlements obviate the need for expensive and time-consuming litigation.” *Parker v. Stownledge Furniture, LLC*, No 8:21-cv-00740-CEH-AEP, 2022 WL 738591, at *2 (M.D. Fla. Feb 17, 2022).

Preliminary evaluation of proposed class action settlement determines whether the settlement is within the “range of reasonableness.” 4 Newberg on Class Actions § 11.26. “Preliminary approval is appropriate where the proposed settlement is the result of the parties’ good faith negotiations, there are no obvious deficiencies and the settlement falls within the range of reason.” *Smith v. Wm. Wrigley Jr. Co.*, No. 09-cv-

60646, 2010 WL 2401149, at *2 (S.D. Fla. June 15, 2010). Settlement negotiations involving arm's-length, informed bargaining with an experienced mediator and counsel support a preliminary finding of fairness. *See* Manual for Complex Litigation, Third, § 30.42 (“A presumption of fairness, adequacy, and reasonableness may attach to a class settlement reached in arm's-length negotiations between experienced, capable counsel after meaningful discovery.”) (internal quotation marks omitted).

When determining whether a settlement is ultimately fair, adequate and reasonable, courts in the Eleventh Circuit have looked to six factors: “(1) the likelihood of success at trial; (2) the range of possible recovery; (3) the point on or below the range of possible recovery at which a settlement is fair, adequate and reasonable; (4) the complexity, expense and duration of litigation; (5) the substance and amount of opposition to the settlement; and (6) the stage of the proceedings at which the settlement was achieved.” *Bennett*, 737 F.2d at 986. Courts have, at times, engaged in a “preliminary evaluation” of these factors to determine whether the settlement falls within the range of reason at the preliminary approval stage.⁴

Effective December 1, 2018, amendments to Rule 23(e)(2) added a mandatory but non-exhaustive set of similar final approval criteria:

- (A) the class representatives and class counsel have adequately represented the class;
- (B) the proposal was negotiated at arm's length;
- (C) the relief provided for the class is adequate, taking into account:
 - (i) the costs, risks, and delay of trial and appeal;
 - (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;

⁴ The fifth factor related to objections to the Settlement is not addressed here because, at the preliminary approval stage, notice has not yet been distributed.

- (iii) the terms of any proposed award of attorney's fees, including timing of payment; and
 - (iv) any agreement required to be identified under Rule 23(e)(3); and
- (D) the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2).

Preliminary Approval will allow Settlement Class members to receive Notice of the Settlement terms and of the Final Approval Hearing at which Settlement Class Members may be heard and the Parties may present further evidence and argument concerning the fairness, adequacy, and reasonableness of the Settlement. *See Manual for Compl. Lit.*, §§ 13.14, 21.632. Neither formal notice nor a hearing is required at the preliminary approval stage; the Court may grant such relief upon an informal application by the settling parties and may conduct any necessary hearing in court or in chambers, at the Court's discretion. *Id.* § 13.14. This Motion satisfies Plaintiffs' obligations under Rule 23(e)(1), as amended effective December 1, 2018.

B. The Settlement Satisfies the Criteria for Preliminary Approval

Each of the Rule 23(e)(2) and analogous *Bennett* factors weighs heavily in favor of Preliminary Approval. First, the Settlement is the product of good-faith, informed, and arm's length negotiations by competent counsel with a respected mediator's assistance, reached without collusion. Preliminary review of the fairness, adequacy, and reasonableness factors shows the Settlement fits well within the range of reason.

1. This Settlement Is the Product of Good Faith, Informed and Arm's-Length Negotiations

A class action settlement should be approved so long as a district court finds that the settlement is fair, adequate, and reasonable and is not the product of collusion

between the parties. *See Lipuma v. American Express Co.*, 406 F. Supp. 2d 1298, 318-19 (S.D. Fla. 2005). Here, arm's-length negotiations, free of collusion between experienced attorneys who are familiar with class action litigation and with the legal and factual issues of this Action, aided by a respected mediator, resulted in the Settlement terms. Decl. ¶32; *Bennett*, 737 F.2d at 986. Class Counsel are particularly experienced in the litigation, certification, trial, and settlement of class action cases. Decl. ¶29. They zealously represented Plaintiffs throughout the Actions including, inter alia, defeating Defendant's motions to dismiss, conducting discovery that included review of thousands of pages of documents and electronic data as well as taking and defending depositions, and preparing motions for class certification. *Id.* The negotiations benefited from their years of experience and familiarity with the pertinent legal and factual issues, as well as other cases involving similar claims and defenses. *Id.* Class Counsel thoroughly investigated and analyzed Plaintiffs' claims and engaged in extensive discovery, enabling them to gain an understanding of the evidence related to central questions in the Actions and prepared them for well-informed settlement negotiations. *Id.*; see also *Francisco v. Numismatic Guaranty Corp. of America*, 2008 WL 649124, *11 (S.D. Fla. Jan. 31, 2008) ("Class Counsel had sufficient information to adequately evaluate the merits of the case and weigh the benefits against further litigation" where counsel conducted two 30(b)(6) depositions and obtained "thousands" of pages of documentary discovery). Class Counsel were well-positioned to evaluate the claims' strengths and weaknesses, as well as the proper basis to settle them, from their prosecution of cases against numerous other banks involving identical

legal and factual issues and the ensuing settlements reached with those banks and credit unions. Decl. ¶30. Thus, Rule 23(e)(2)(B) is satisfied.

2. The Facts Support a Preliminary Determination that the Settlement is Fair, Adequate and Reasonable

As noted, this Court may preliminarily review the *Bennett* factors to determine whether the Settlement falls within the “range of reason” such that Notice and a Final Approval Hearing is warranted because the Court is likely to approve the Settlement.

a. Likelihood of Success at Trial

Plaintiffs and Class Counsel are confident in the strength of their claims but are pragmatic in their awareness of the Defendant’s various available defenses and the risks inherent to continued litigation. Decl. ¶37. Plaintiffs avoided dismissal on both theories at the motion to dismiss stage. The success of Plaintiffs’ claims, however, turned on these and other questions likely to arise again in the pending motions for class certification, at summary judgment, at trial, and on post-judgment appeal. *Id.* Under the circumstances, Plaintiffs and Class Counsel appropriately determined the Settlement benefits outweigh the gamble of continued litigation. Decl. ¶31. Even if Plaintiffs prevailed at trial, any recovery could be delayed for years by an appeal. *Lipuma*, 406 F. Supp. 2d at 1322 (likelihood that appellate proceedings could delay class recovery “strongly favor[s]” approval of a settlement). This Settlement provides substantial relief without further delays. Rule 23(e)(2)(C)(i) is satisfied.

b. Range of Possible Recovery

When evaluating “the terms of the compromise in relation to the likely benefits

of a successful trial . . . the trial court is entitled to rely upon the judgment of experienced counsel for the parties.” *Wave Lengths Hair Salons of Florida v. Cbl & Associates Props.*, No. 2:16-cv-206-FtM-PAM-MRM, 2019 U.S. Dist. LEXIS 239522, Sat *28 (M.D. Fla. Apr. 24, 2019) “Indeed, the trial judge, absent fraud, collusion, or the like, should be hesitant to substitute its own judgment for that of counsel.” *Id.*

Settlements may be reasonable even where plaintiffs recover only part of their actual losses. *See Behrens v. Wometco Enterprises, Inc.*, 118 F.R.D. 534, 542 (S.D. Fla. 1988) (“[T]he fact that a proposed settlement amounts to only a fraction of the potential recovery does not mean the settlement is unfair or inadequate”). “The existence of strong defenses to the claims presented makes the possibility of a low recovery quite reasonable.” *Lipuma*, 406 F. Supp. 2d at 1323.

The \$2,650,000.00 cash recovery is outstanding, given the complexity of the litigation and the significant risks and barriers that loomed without Settlement. Based on the analysis of Defendant’s transactional data for mediation, the \$2,650,000.00 Settlement Fund represents a substantial percentage of the Settlement Class’s most-probable damages recovery if Plaintiffs and certified classes were successful in all respects through trial and on plenary appeal. Decl. ¶36. Defendant’s forgiveness of Uncollected Fees, payment of all Settlement Administration Costs, and the practice changes further increase the Value of the Settlement. *Id.* There can be no doubt that this Settlement is a fair and reasonable recovery for the Settlement Class in light of the Defendant’s defenses, and the challenging and unpredictable path of litigation Plaintiffs and the Settlement Class would have faced absent a settlement. The fact that

the Net Settlement Fund is being distributed pro rata based on each Settlement Class Member's Relevant Fees satisfies Rule 23(e)(2)(C)(ii) and (D).⁵

c. Complexity, Expense and Duration of Litigation

The traditional means for handling claims like those here would tax the court system, require a massive expenditure of public and private resources, and, given the relatively small value of the individual class members' claims, would be impracticable. Thus, the Settlement is the best vehicle for the Settlement Class to receive prompt and efficient relief to which they are entitled. Decl. ¶40. These considerations, and others noted above, militate heavily in favor of the Settlement. *See Behrens*, 118 F.R.D. at 542 (noting likely "battle of experts" at trial regarding damages, which would pose "great difficulty" for plaintiffs). Thus, Rule 23(e)(2)(C) is satisfied.

d. Stage of the Proceedings

Courts consider the stage of proceedings at which settlement is achieved "to ensure that Plaintiffs had access to sufficient information to adequately evaluate the merits of the case and weigh the benefits of settlement against further litigation." *Lipuma*, 406 F. Supp. 2d at 1324. Here, the Settlement was reached after extensive discovery and contested motions for class certification were filed and responded to. Decl. ¶30. Class Counsel were extremely well-positioned to confidently evaluate the strengths and weaknesses of Plaintiffs' claims and prospects for success on class certification, at summary judgment, at trial, and in a post-judgment appeal. *Id.*

⁵ The Court should also find that the Agreement's provision regarding Class Counsel attorneys' fees and costs (33.33% of the Value of the Settlement) likely satisfies Rule 23(e)(2)(C)(ii).

C. Certification of the Settlement Class Is Appropriate

Plaintiffs seek provisional certification of the Settlement Class and authorization to send Notice to Settlement Class members. Generally, an action may be certified for class treatment for settlement purposes. *See, e.g., Amchem Prods., Inc. v. Windsor*, 521 U.S. 591 (1997). Further, “[a] class may be certified solely for purposes of settlement where a settlement is reached before a litigated determination of the class certification issue.” *Petersen v Am. Gen. Life Ins. Co.*, No. 3:14-cv-100-J-39JBT], 2019 WL 11093815, at *2 (M.D. Fla. Apr. 4, 2019) (Davis, J.). The Settlement is an opt-out settlement meeting the four Rule 23(a) requirements and two Rule 23(b)(3) requirements, together with other requirements as to notice under Rule 23(e) and, ultimately, is “fair, reasonable and adequate,” as required by Rule 23(e). As detailed below, the proposed Settlement Class and the proposed Settlement meet those standards. Pursuant to Rule 23(e)(1), the Court should conclude it is likely to certify the Settlement Class and approve the Settlement as fair, adequate and reasonable.

1. Numerosity. Rule 23(a)(1) requires a class to be sufficiently numerous such that it would be impractical to join all members. *Petersen*, 2019 WL 11093815, at *3. A class of more than 40 members is adequate. *Cox v. American Cast Iron Pipe Co.*, 784 F.2d 1546, 1553 (11th Cir. 1986); Numerosity is satisfied because each of the Settlement Classes consist of thousands of Accountholders, the exact number of which will be determined prior to sending Notice to the Settlement Classes, all of whom are readily ascertainable and precisely identifiable from Defendant’s electronic records,

and joinder of all such persons is impracticable. Decl. ¶46.

2. Commonality. There are many questions of law or fact common to the Settlement Classes that can be answered for all “in one stroke,” and will “generate common answers apt to drive the resolution of the litigation.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011) (quotation marks and citation omitted). Generally, commonality is a “low hurdle.” *Petersen*, 2019 WL 11093815, at *4. Rule 23(a)(2) commonality is readily satisfied as there are multiple common questions of law and fact concerning the APPSN Fee and Multiple Fee practices alleged to have injured all class members in the same way, which would generate common answers central to the claims’ viability if they were tried. Decl. ¶47.

3. Typicality. “Typicality under Rule 23(a)(3) turns on whether ‘a sufficient nexus exists between the claims of the named representative and those of the class at large.’” *Petersen*, 2019 WL 11093815, at *4 (citation omitted). That “nexus is established if the claims or defenses of the class and the class representative arise from the same event or pattern or practice and are based on the same legal theory.” *See Kornberg v. Carnival Cruise Lines, Inc.*, 741 F.2d 1332, 1337 (11th Cir. 1984); *see also Murray v. Auslander*, 244 F.3d 807, 811 (11th Cir. 2001) (named plaintiffs need “possess the same interest and suffer the same injury as the class members”). Plaintiff Precision Roofing and Plaintiff Grant are typical of the APPSN Fee Class and Multiple Fee Class members, respectively. They were subjected to the same account fee practices, claim the same injuries, and will benefit from the Settlement relief. Decl. ¶48.

4. Adequacy. Under Rule 23(a)(4), the representative party must “fairly and adequately protect the interests of the class.” Adequacy serves to uncover conflicts of interest between the named parties and the class. *Petersen*, 2019 WL 11093815, at *5. The analysis is whether (1) substantial conflicts of interest exist between the representative and the class and (2) the representatives will adequately prosecute the action. *Id.* Plaintiff Precision Roofing’s and Plaintiff Grant’s interests are respectively coextensive and do not conflict with the interests of the APPSN Fee Class and Multiple Fee Class. They have the same interest in the Settlement relief, and the absent Settlement Class members have no diverging interests. Decl. ¶49. Further, Plaintiffs and the proposed Settlement Class are represented by qualified and competent Class Counsel with extensive experience and expertise prosecuting complex class actions, including similar account fee class actions. *Id.* ¶50. They devoted substantial time and resources to vigorous litigation. *Id.* They meet the Rule 23(g)(1)(A)-(B) requirements, and Rule 23(e)(2)(A) is also satisfied.

5. Predominance and Superiority. Rule 23(b)(3) is also satisfied for settlement purposes. Common legal and alleged factual issues here predominate over individualized issues, and resolution of the common issues for thousands of Settlement Class members in a single, coordinated proceeding is superior to thousands of individual small value lawsuits addressing identical issues. *Petersen*, 2019 WL 11093815, at *6 (superiority focuses on efficiency).

The Court determines whether the common fact and legal issues are more

prevalent or important than those affecting individual members. *Id.* at *5. Predominance is readily satisfied. Central liability questions common to all Settlement Class members substantially outweigh any possible issues individual to each member. For example, each Settlement Class member's relationship with Defendant arises from account agreements that are the same or substantially similar in all relevant respects to other members' Account agreements. Decl. ¶47. *See Sacred Heart Health Sys.*, 601 F.3d 1159, 1171 (11th Cir. 2010) ("It is the form contract, executed under like conditions by all class members, that best facilitates class treatment.").

For these reasons, the Court should certify the Settlement Class.

D. The Court Should Approve the Proposed Notice Program

Rule 23(e)(1)(B) states: "The court must direct notice in a reasonable manner to all class members who would be bound by the proposal if giving notice is justified by the parties' showing that the court will likely be able to: (i) approve the proposal under Rule 23(e)(2); and (ii) certify the class for purposes of judgment on the proposal." *See also Manual for Compl. Lit.* § 21.312. Best practicable notice is "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950); *see also Petersen*, 2019 WL 11093815, at *8. "Not only must the substantive claims be adequately described but the notice must also contain information reasonably necessary to make a decision to remain a class member and be bound by the final judgment or opt out of the action." *Twigg v. Sears*,

Roebuck & Co., 153 F.3d 1222, 1227 (11th Cir. 1998) (internal quote marks omitted).

As explained above and in the Agreement, the Notice Program satisfies these criteria as it will (a) inform the Settlement Class of the Settlement's substantive terms; (b) advise members of their options for remaining part of the Settlement Class, for objecting to the Settlement and/or Class Counsel's fee and cost application, or for opting-out of the Settlement; and (c) disclose how to obtain additional information about the Settlement. The Notice Program is designed to reach an extremely high percentage of Settlement Class members by direct email and mail, the best possible form of notice, and exceeds the requirements of constitutional due process. Decl. ¶45. Therefore, the Court should approve the Notice Program and the form and content of the Notices attached to the Agreement as Exhibits 1-2.

III. CONCLUSION

Plaintiffs respectfully request Preliminary Approval of the Settlement. Attached hereto to as *Exhibit C* is a proposed Preliminary Approval Order that includes a table of the deadlines from the Agreement that are reasonably tied to the Final Approval Hearing date. The Court should schedule the Final Approval Hearing for November 7, 2022, or soon thereafter, to allow for Plaintiffs' expert to use Defendant's data to identify the Settlement Class members and their damages to create the Notice lists.

RULE 3.01(g) CERTIFICATION

The undersigned counsel for Plaintiffs hereby certify that they have conferred with counsel for Defendant regarding the subject matter of this Motion and that all Parties agree to the relief sought.

Dated: May 6, 2022

Respectfully submitted,

/s/ Jonathan M. Streisfeld

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Counsel for Plaintiff and the Proposed Settlement Class

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 6, 2022, the foregoing document was filed electronically on the CM/ECF system, which caused all CM/ECF participants to be served by electronic means.

/s/ Jonathan Streisfeld

Jonathan M. Streisfeld

EXHIBIT A

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

ANGELA DENISE GRANT, on behalf of
herself and all persons similarly situated,

Plaintiff,

v.

CENTERSTATE BANK,

Defendant.

Case No.: 8:20-cv-01920-MSS-AAS

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

PRECISION ROOFING OF N. FLORIDA
INC. individually and on behalf of all others
similarly situated,

Plaintiff,

v.

CENTERSTATE BANK,

Defendant.

Case No.: 3:20-cv-352-J-39JRK

SETTLEMENT AGREEMENT AND RELEASES

This Settlement Agreement and Releases (“Settlement” or “Agreement”),¹ dated as of March 30th, 2022, is entered into by Plaintiffs, Angela Denise Grant and Precision Roofing of N.

¹ All capitalized terms herein have the meanings ascribed to them in Section II below or other places in the Agreement.

Florida Inc., both individually and on behalf of the Settlement Classes, and Defendant CenterState Bank, now known as SouthState Bank. The Parties hereby agree to the following terms in full settlement of the Actions, subject to Final Approval, by the Court.

I. Procedural History and Recitals

1. The following summarizes the procedural history of the two putative class actions filed against Defendant that are the subject of this Agreement. Plaintiffs moved to consolidate the Actions following the filing of the *Grant* Action, which was denied. However, as explained below, the Parties did informally coordinate certain discovery efforts and mediation. Once the Parties agreed to this Settlement, the Parties jointly moved to the consolidate the Actions for the purpose of seeking settlement approval, including a single Notice Program to members of the Settlement Classes, which this Court granted.

A. *Precision Roofing of N. Florida v. CenterState Bank*

2. On April 6, 2020, Plaintiff Precision Roofing filed a putative Class Action Complaint in the *Precision* Action asserting a claim for breach of contract, including breach of the covenant of good faith and fair dealing, challenging Defendant's assessment of APPSN Fees on debit card transactions.

3. On July 7, 2020, Defendant moved to dismiss, to which Plaintiff filed its opposition on August 4, 2020, and for which Defendant filed its reply on August 6, 2020. Plaintiff filed several notices of supplemental authority.

4. On February 22, 2021, the Court denied Defendant's Motion to Dismiss.

5. Defendant filed its Answer and Affirmative Defenses to Plaintiff's Complaint on March 12, 2021.

6. On September 3, 2021, following discovery described below, Plaintiff filed its

Motion for Class Certification, supported by the report of Plaintiff's expert, Arthur Olsen.

7. On October 25, 2021, Defendant filed its Response in Opposition to the Motion for Class Certification.

8. With the Parties agreement, and with the Court's approval, the *Precision* Action was stayed to allow the parties to focus their efforts on settlement negotiations via mediation.

B. *Grant v. CenterState Bank*

9. On August 18, 2020, Plaintiff Grant filed a putative Class Action Complaint in the *Grant* Action, asserting a claim for breach of contract, including breach of the covenant of good faith and fair dealing, challenging Defendant's assessment of multiple NSF Fees and/or OD Fees on the same ACH debit or check item.

10. On September 25, 2020, Defendant filed a Motion to Dismiss, to which Plaintiff filed her opposition on October 30, 2020, and for which Defendant filed its reply. Plaintiff filed several notices of supplemental authority.

11. On July 16, 2021, the Court denied Defendant's Motion to Dismiss with respect to the breach of contract claim but dismissed the part of the claim seeking to enforce the covenant of good faith and fair dealing.

12. Defendant filed its Answer and Affirmative Defenses to Plaintiff's Complaint on July 20, 2021.

13. On September 3, 2021, following discovery described below, Plaintiff filed her Motion for Class Certification, supported by the report of Plaintiff's expert, Arthur Olsen.

14. On October 25, 2021, Defendant filed its Response in Opposition to the Motion for Class Certification.

15. With the Parties agreement, and with the Court's approval, the *Precision* Action

was stayed to allow the parties to focus their efforts on settlement negotiations via mediation.

C. Discovery Efforts

16. Throughout the discovery period in each of the Actions, Class Counsel served discovery requests and initiated several meet and confer conferences with Defendant's counsel to discuss discovery responses and objections, and production of electronically stored information, damages data, and other documents and materials subject to discovery. Those efforts led to the production and Class Counsel's analysis of thousands of pages of documents, sample account-level transaction data, and other information to evaluate the claims, defenses, to prepare for depositions taken in the case, and to move for class certification in each of the Actions.

17. Class Counsel worked with the well-known damages expert, Arthur Olsen, for bank account fee class action litigation. Mr. Olsen analyzed the sample transaction data produced for both Actions to arrive at opinions as to methodologies to be employed to determine damages and class membership used in support of the two motions for class certification filed in the Actions.

a. By Plaintiff Precision Roofing

18. On July 26, 2020, Plaintiff Precision Roofing served Defendant with its first set of discovery requests, including document requests and interrogatories, to which Defendant served its responses and objections on October 2, 2020. Defendant produced 2,588 pages of documents and also sample account-level transaction data in response to the discovery requests.

19. On August 16, 2021, Plaintiff served Defendant with its second request for production. On February 15, 2021, Defendant responded producing additional responsive documents.

ii. By Plaintiff Grant

20. On November 11, 2020, Plaintiff served Defendant with her first set of discovery

requests, including document requests and interrogatories, to which Defendant filed its responses and objections on January 11, 2021. Defendant produced 3,710 pages of documents and also sample account-level transaction data in response to the discovery requests.

iii. Depositions

21. The Parties also took depositions. Though the cases were not formally consolidated at the time, the Parties agreed that Defendant's Fed. R. Civ. P. 30(b)(6) designees should be deposed simultaneously in the Actions for efficiency.

22. On June 25, 2021, Plaintiffs took the deposition of Defendant's corporate representative, Matthew Bazo, as to certain topics.

23. On July 9, 2021, Plaintiffs took another deposition of Defendant's corporate representative, Don Stoltz, as to other topics.

24. On August 18, 2021, Plaintiff took a second follow-up deposition of Defendant's corporate representative Mr. Bazo.

25. On October 18, 2021, Defendant deposed Plaintiffs' expert Arthur Olsen.

D. Mediation and Settlement Negotiations

26. The Parties proceeded to court-ordered mediation, electing to simultaneously mediate both Actions with a well-regarded and experienced class action mediator, Rodney Max, of Upchurch Watson White & Max Mediation Group. Class Counsel prepared a detailed, consolidated confidential mediation statement. In advance of mediation, Class Counsel conferred with the mediator, and separately with Defendant's counsel.

27. The Parties participated in a lengthy private mediation session on November 10, 2021. Although the Parties did not agree to settle during this mediation, they agreed to reconvene for a second session on December 13, 2021. They did so, which resulted in an agreement to

continue negotiations following the Parties' exchange of additional information aimed at reaching a settlement. With the benefit of the exchange of that information, the negotiations progressed such that, through numerous back-and-forth sessions, the Parties ultimately agreed to the material terms of this Agreement on February 25, 2022.

28. The Parties now agree to settle the Actions entirely, without any admission of liability, with respect to all Released Claims of the Releasing Parties. Defendant has entered into this Agreement to resolve any and all controversies and disputes arising out of or relating to the allegations made in the Complaints, and to avoid the burden, risk, uncertainty, expense, and disruption to its business operations associated with further litigation. Defendant does not in any way acknowledge, admit to, or concede any of the allegations made in the Complaints, and expressly disclaims and denies any fault or liability, or any charges of wrongdoing that have been or could have been asserted in the Complaints. Nothing contained in this Agreement shall be used or construed as an admission of liability, and this Agreement shall not be offered or received in evidence in any action or proceeding in any court or other forum as an admission or concession of liability or wrongdoing of any nature or for any other purpose other than to enforce the terms of this Agreement. Plaintiffs have entered into this Agreement to liquidate and recover on the claims asserted in the Complaints, and to avoid the risk, delay, and uncertainty of continued litigation. Plaintiffs do not in any way concede the claims alleged in the Complaints lack merit or are subject to any defenses. 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:

29. “Account” means any checking account maintained by Defendant.

30. “Accountholder” means any person who has or had any interest, whether legal or equitable, in an Account during the Class Periods.

31. “Action” or means *Angela Denise Grant v. CenterState Bank*, Case No. 8:20-cv-01920-MSS-AAS (“Grant Action”) and *Precision Roofing of N. Florida Inc. v. CenterState Bank*, 3:20-cv-352-J-39JRK (“Precision Action”), individually, and “Actions” means both the Grant Action and the Precision Action. The Actions are pending in the District Court in the Middle District of Florida.

32. “APPSN Fees” means fees that Defendant charged and did not refund on signature point of sale debit card transactions, where there was a sufficient indicated available balance at the time the transaction was authorized, but an indicated insufficient available balance at the time the transaction was presented to Defendant for payment and posted to a member’s Account.

33. “APPSN Fee Class” means those current or former Accountholders of Defendant who were assessed APPSN Fees.

34. “APPSN Fee Class Period” means the period from April 6, 2015, though and including May 31, 2020.

35. “Complaints” means the Class Action Complaints filed in the Actions.

36. “Class Counsel” means:

KOPELOWITZ OSTROW P.A.
Jeff Ostrow, Esq.
Jonathan M. Streisfeld, Esq.
1 West Las Olas Blvd.

Suite 500
Fort Lauderdale, FL 33301

KALIEL GOLD PLLC
Jeffrey Kaliel, Esq.
1100 15th Street NW, 4th Floor
Washington, DC 20005

37. “Class Periods” means the APPSN Fee Class Period and the Multiple Fee Class Period.

38. “Class Representatives” means Angela Denise Grant and Precision Roofing of N. Florida Inc.

39. “Court” means the United States District Court for the Middle District of Florida.

40. “Current Accountholder” means a Settlement Class Member who is an Accountholder of Defendant as of the date that the Net Settlement Fund is distributed to Settlement Class Members pursuant to this Agreement.

41. “Defendant” means CenterState Bank, now known as SouthState Bank.

42. “Effective Date” means 5 days after the entry of the Final Approval Order provided no objections are made to this Agreement. If there are objections to the Agreement, then the Effective Date shall be the later of: (1) 30 days after entry of the Final Approval Order if no appeals are taken from the Final Approval Order; or (2) if appeals are taken from the Final Approval Order, then the earlier of 30 days after the last appellate court ruling affirming the Final Approval Order or 30 days after entry of a dismissal of the appeal.

43. “Email Notice” means a short form of notice that shall be sent by email to Current Accountholders who agreed to receive Account statements by email substantially in the form attached as *Exhibit 1*.

44. “Final Approval” means the date that the Court enters the Final Approval Order.

45. “Final Approval Hearing” is the hearing held before the Court during which the Court will consider granting Final Approval to the Settlement and further determine the amount of attorneys’ fees and costs awarded to Class Counsel.

46. “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.

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

48. “Multiple Fee” shall mean NSF Fees and OD Fees that were charged and not refunded for Automated Clearing House (ACH) debits and check transactions that were re-submitted by a merchant after being returned by Defendant for insufficient funds.

49. “Multiple Fee Class” shall mean those current or former Accountholders of Defendant who were assessed multiple fees.

50. “Multiple Fee Class Period” means the period from August 18, 2015, through August 21, 2020.

51. “Net Settlement Fund” means the Settlement Fund, minus Court-approved attorneys’ fees and costs awarded to Class Counsel.

52. “Notice” means the Email Notice, Long Form Notice, and Postcard Notice that the Parties will ask the Court to approve in connection with the motion for Preliminary Approval of

the Settlement.

53. “Notice Program” means the methods provided for in this Agreement for giving the Notice and consists of Email Notice, Postcard Notice, and Long Form Notice, which shall be substantially in the forms as the exhibits attached to this Agreement.

54. “NSF Fee” means any non-sufficient funds fee or fees assessed to an Accountholder of an Account for items returned when the Account has insufficient funds.

55. “Objection 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 Objection Period shall be specified in the Notice.

56. “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 shall be specified in the Notice.

57. “Overdraft Fee” or “OD Fee” means any fee or fees assessed to an Accountholder for items paid when the Account had insufficient funds.

58. “Party” means each of the Plaintiffs and Defendant, and “Parties” means Plaintiffs and Defendant collectively.

59. “Past Accountholder” means a Settlement Class Member who is not an Accountholder of Defendant as of the date that the Net Settlement Fund is distributed to Settlement Class Members pursuant to this Agreement.

60. “Plaintiffs” means Angela Denise Grant and Precision Roofing of N. Florida Inc.

61. “Postcard Notice” shall mean the short form of notice that shall be sent by mail to Current Accountholders who have not agreed to receive notices by email, Past Accountholders, or for whom the Settlement Administrator is unable to send Email Notice using the email address

provided by Defendant, substantially in the form attached as *Exhibit 1*.

62. “Preliminary Approval” means the date that the Court enters an order preliminarily approving the Settlement, substantially in the form of the exhibit attached to the motion for Preliminary Approval.

63. “Preliminary Approval Order” means the order granting Preliminary Approval of this Settlement.

64. “Releasing Parties” means Plaintiffs 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.

65. “Relevant Fees” means APPSN Fees and Multiple Fees.

66. “Settlement Administrator” means the Settlement administrator agreed to by the Parties and identified in the Motion for Preliminary Approval. 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 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.

67. “Settlement Administration Costs” means all costs and fees of the Settlement Administrator regarding Notice and Settlement administration.

68. “Settlement Class” or “Settlement Classes” means all current and former Accountholders of Defendant with one or more Accounts, who were charged at least one Relevant Fee during the Class Periods. It includes both the APPSN Fee Class and the Multiple Fee Class.

Excluded from the Settlement Class or Settlement Classes is Defendant, its parents, subsidiaries, affiliates, officers, and directors; all Settlement Class members who make a timely election to be excluded; and all judges assigned to this litigation and their immediate family members.

69. “Settlement Class Member” means any member of one or both of the Settlement Classes who has not opted-out of the Settlement and who is entitled to the benefits of the Settlement, including a Settlement Class Member Payment and/or forgiveness of Uncollected Relevant Fees.

70. “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 allocation terms of the Settlement.

71. “Settlement Fund” means the \$2,650,000.00 common cash fund Defendant is obligated to pay under the terms of this Settlement.

72. “Settlement Website” means the website that the Settlement Administrator will establish as a means for Settlement Class members to obtain notice of and information about the Settlement, through and including hyperlinked access to this Agreement, the Long Form Notice, Preliminary Approval Order, 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 for at least six months after Final Approval.

73. “Uncollected Fees” means the APPSN Fees and Multiple Fees that were assessed, but not paid when an Account was closed and the APPSN Fees or Multiple Fees were charged off during the Class Period.

74. “Value of the Settlement” means the amount of the Settlement Fund, the Uncollected Fees, plus the Settlement Administration Costs and the value of the practice changes,

if quantifiable, related to the cessation of the assessment of APPSN Fees.

III. Change in APPSN Fees Practice and Multiple Fees Disclosure

75. As a result of the litigation, Defendant ceased the assessment of APPSN Fees on May 31, 2020. Defendant agrees not to revert to assessing APPSN Fees for a period of at least 5 years.

76. Also, as a result of this litigation, Defendant modified the Account agreement effective August 21, 2020, to better inform Accountholders and future customers that it would charge Multiple Fees on ACH debits and checks that were resubmitted for payment.

IV. Calculation of APPSN Fees and Multiple Fees

77. Defendant and Plaintiffs shall work cooperatively and in good faith to identify APPSN Fees, Multiple Fees, and Uncollected Fees for the entire Class Periods, as well as the value of the practice changes, if possible. Defendant shall provide Plaintiff's expert with the transactional data in its possession, custody, or control to allow Plaintiff's expert to identify and calculate the APPSN Fees for the APPSN Fee Class Period and the Multiple Fees for the Multiple Fee Class Period.

V. Certification of the Settlement Class

78. Plaintiffs shall propose and recommend to the Court that the Settlement Classes be certified for settlement purposes. Defendant agrees solely for purposes of the Settlement provided for in this Agreement, and the implementation of such Settlement, that this case shall proceed as a class action; provided, however, that if a Final Approval Order is not issued, then Defendant shall retain all rights to object to maintaining this case as a class action. Plaintiffs and Class Counsel shall not reference this Agreement in support of any subsequent motion relating to certification of a liability class in either of the Actions.

VI. Settlement Consideration

79. Settlement consideration consists of:

- a. The cash Settlement Fund in the amount of \$2,650,000.00. The Settlement Fund shall be used to pay: (1) all attorneys' fees and costs awarded to Class Counsel; and (2) all Settlement Class Member Payments.
- b. Forgiveness of all Uncollected Fees during the Class Periods; and
- c. The separate payment of all Settlement Administration Costs.

80. In addition to the foregoing, Defendant further agrees to pay the Plaintiffs \$5,000.00 each in consideration for the closing of their accounts and a general release. The Plaintiffs' accounts shall be closed by the Plaintiffs within 3 days of Final Approval and the payments hereunder shall be payable to either Plaintiffs directly or to Class Counsel on their behalf within 15 days of the Effective Date.

81. Other than the payments described in this, Defendant shall not be required to make another payments in this Settlement.

82. Within 15 days following the Effective Date, Defendant shall transfer to the Settlement Administrator the Net Settlement Fund minus the amount of Settlement Class Member Payments related to Account credits to be made by the Defendant to Settlement Class Members who are Current Accountholders.

83. For avoidance of doubt, it is agreed by the Parties that a Settlement Class Member may be in both Settlement Classes and qualify for a Settlement Class Member Payment as a member of each.

VII. Settlement Approval

84. Upon execution of this Agreement by all Parties, Class Counsel shall promptly

move the Court for a Preliminary Approval Order. The proposed Preliminary Approval Order shall be attached to the motion, or otherwise filed with the Court, and shall be in a form agreed to by Class Counsel and Defendant.

85. The motion for Preliminary Approval shall, among other things, request that the Court: (1) preliminarily approve the terms of the Settlement as being within the range of fair, adequate, and reasonable; (2) provisionally certify the Settlement Classes 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 for members to exclude themselves from the Settlement Classes or for Settlement Class Members 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.

VIII. Settlement Administrator

86. Although the Defendant is paying the Settlement Administration Costs, the Parties shall jointly oversee the Settlement Administrator.

87. The Settlement Administrator shall administer various aspects of the Settlement as described in the next paragraph 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 Net Settlement Fund as provided herein.

88. The duties of the Settlement Administrator are as follows:

a. Use the name and address information for Settlement Class members provided by

Defendant in connection with the Notice Program approved by the Court, for the purpose of distributing the Postcard Notice and Email Notice, and later mailing Settlement Class Member Payments 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 Settlement Class Member Payments by a credit to the Current Settlement Class Members' Accounts;

b. Establish and maintain a post office box for requests for exclusion from the Settlement Class;

c. Establish and maintain the Settlement Website;

d. Establish and maintain an automated toll-free telephone line for Settlement Class members to call with Settlement-related inquiries, and answer the frequently asked questions of Settlement Class members who call with or otherwise communicate such inquiries;

e. Respond to any mailed Settlement Class member inquiries;

f. Process all requests for exclusion from the Settlement Classes;

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

h. In advance of the Final Approval Hearing, prepare a declaration or 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 Settlement Class member who timely and properly requested exclusion from the Settlement Classes, 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 and Current Accountholder Settlement Class Members who are unable to receive credits;

j. Provide to Defendant the amount of the Settlement Class Member Payments to Current Accountholder Settlement Class Members and instruct Defendant to initiate the direct deposit or credit of Settlement Class Member Payments to Current Accountholder Settlement Class Members.

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

l. Any other Settlement Administration function at the instruction of Class Counsel and Defendant, including, but not limited to, verifying that the Settlement Fund has been distributed.

IX. Notice to Settlement Class Members

89. Beginning no later than 90 days following entry of the Preliminary Approval Order, 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 Settlement Class members may exclude themselves, meaning “opt-out” of the Settlement Class; a date by which Settlement Class Members may object to the Settlement and/or to Class Counsel’s application for attorneys’ fees and costs; the date upon which the Final Approval Hearing is scheduled to occur; and the address of the Settlement Website at which Settlement Class members 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 Defendant's logo or trademarks or the return address of Defendant, or otherwise be styled to appear to originate from Defendant. Within a reasonable time before initiating the Email Notice and Postcard Notice, the Settlement Administrator shall establish the Settlement Website.

90. The Long Form Notice also shall include a procedure for Settlement Class members to opt-out of the Settlement Class, and the Email Notice and Postcard Notice shall direct Settlement Class members to review the Long Form Notice to obtain the instructions. A Settlement Class member may opt-out of the Settlement Class at any time during the Opt-Out Period by mailing a request for exclusion to the Settlement Administrator postmarked no later than the last day of the Opt-Out Period. The request for exclusion must state the Settlement Class member's name, the last four digits of the Account number(s), address, telephone number, and email address, and include a statement indicating a request to be excluded from the Settlement Class. Any Settlement Class Member 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 excludes himself, herself, or itself 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.

91. The Long Form Notice also shall include a procedure for Settlement Class Members to object to the Settlement and/or to Class Counsel's application for attorneys' fees and costs, and the Email Notice and Postcard Notice shall direct Settlement Class members to review the Long Form Notice to obtain the instructions. Objections to the Settlement, and to the application for attorneys' fees and costs, must be mailed to the Clerk of the Court, Class Counsel, Defendant's counsel, and the Settlement Administrator. For an objection to be considered by the

Court, the objection must be submitted no later than the last day of the Objection Period, as specified in the Notice. If submitted by mail, an 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.

92. For an objection to be considered by the Court, the objection must also set forth:

- a. the name of the Action;
- b. the objector's full name, mailing address, telephone number, and email address (if any);
- c. all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel;
- d. the number of times the objector has objected to a class action settlement within the five years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector's prior objections that were issued by the trial and appellate courts in each listed case;
- e. the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement or fee application;
- f. the number of times in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the five years preceding the date that of the filed objection, the caption of each case in which counsel or the firm has made such objection and a copy of any orders related to or ruling upon counsel's or the counsel's law firm's prior objections

that were issued by the trial and appellate courts in each listed case in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the preceding five years;

g. any and all agreements that relate to the objection or the process of objecting—whether written or oral—between objector or objector's counsel and any other person or entity;

h. the identity of all counsel (if any) representing the objector who will appear at the Final Approval Hearing;

i. a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection (if any);

j. a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and

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

Class Counsel and/or Defendant may conduct limited discovery on any objector or objector's counsel consistent with the Federal Rules of Civil Procedure.

93. For those Settlement Class members who are Current Accountholders and have agreed to receive Account statements from Defendant electronically, Defendant shall provide the Settlement Administrator with the most recent email addresses it has for these members. The Settlement Administrator shall send the Email Notice to each such member's last known email address, in a manner that is calculated to avoid being caught and excluded by spam filters or other devices intended to block mass email. For any emails that are returned undeliverable, the Settlement Administrator shall send a Postcard Notice in the manner described below. The Email Notice shall inform Settlement Class members how they may request a copy of the Long Form Notice.

94. For those Settlement Class members who are Current Accountholders of Defendant

who have not agreed to receive Account statements from Defendant electronically, or are Past Accountholders, the Postcard Notice shall be mailed to these members by first class United States mail to the best available mailing addresses. Defendant shall provide the Settlement Administrator with last known mailing addresses for these members. Prior to mailing the Postcard Notice, the Settlement Administrator shall run the names and addresses through the National Change of Address Registry and update as appropriate. If a mailed Postcard Notice is returned with forwarding address information, the Settlement Administrator shall re-mail the Postcard Notice to the forwarding address. For all mailed Postcard Notices that are returned as undeliverable, the Settlement Administrator shall use standard skip tracing devices to obtain forwarding address information and, if the skip tracing yields a different forwarding address, the Settlement Administrator shall re-mail the Postcard Notice once to the address identified in the skip trace, as soon as reasonably practicable after the receipt of the returned mail. The Postcard Notice shall inform Settlement Class members how they may request a copy of the Long Form Notice.

95. 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 Parties and the Court upon request. It shall otherwise be confidential and shall not be disclosed to any third party. To the extent the database is provided to Class Counsel, it shall be kept confidential, not be shared with any third party and used only for purposes of implementing the terms of this

Agreement, and not be used for any other purposes.

96. 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. A Spanish language translation of the Long Form Notice shall be available on the Settlement Website and be provided to Settlement Class members who request it from the Settlement Administrator.

X. Final Approval Order and Judgment

97. Plaintiffs shall file their motion for Final Approval of the Settlement, inclusive of Class Counsel's application for attorneys' fees and costs no later than 30 days before the last day of the Opt-Out and Objection Period. At the Final Approval Hearing, the Court will hear argument on Plaintiffs' motion for Final Approval of the Settlement, and on Class Counsel's application for attorneys' fees and costs. 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, provided the objectors submitted timely objections that meet all of the requirements listed in the Agreement.

98. 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 request for attorneys' fees and costs. 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 (defined below); bar and enjoin all Releasing Parties from pursuing any Released Claims (defined below) against Released Parties (defined below) 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 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.

XI. Calculation and Disbursement of Settlement Class Member Payments.

99. Payments shall be made from the Settlement Fund as follows:

a. Class Counsel's Fees and Costs. Class Counsel's reasonable attorneys' fees and costs, as determined and approved by the Court, shall be paid by Defendant to Class Counsel from the Settlement Fund by wire transfer to account designated by Class Counsel within 5 days after the Effective Date. Class Counsel shall apply for an award of attorneys' fees of up to 33.33% of the Value of the Settlement, plus reimbursement of reasonable costs, to be approved by the Court. If the Final Approval Order is reversed on appeal, Class Counsel shall immediately repay all attorneys' fees and costs to the Settlement Administrator. If the award of attorneys' fees and costs is reduced on appeal, Class Counsel shall immediately repay into the Settlement Fund an amount equal to the reduction ordered by the appellate court, which reduced amount shall be added to the Net Settlement Fund for distribution to Settlement Class Members. This Settlement is not contingent on approval of a request for attorneys' fees and costs, and if the Court denies the request or grants it in an amount other than what was requested, the remaining provisions of the Settlement

Agreement shall remain in force. This provision was not negotiated until after the material Settlement terms, including the amount of the Settlement Fund and Settlement Class definition, were negotiated.

b. Settlement Administrator's Fees and Costs. The Settlement Administrator's fees and costs shall be paid separately by the Defendant, payable as they are incurred and upon submission of an invoice from the Settlement Administrator to Defendant's counsel. In the event the Final Approval Order is not entered, or this Agreement is terminated pursuant to the termination provisions hereinbelow, Defendant agrees to cover any costs incurred and fees charged by the Settlement Administrator prior to the denial of Final Approval or the termination of this Agreement.

c. Settlement Class Member Payments. The \$2,650,000.00 Settlement Fund is allocated \$1,457,500.00 (55%) is to the APPSN Fee Class and \$1,192,500.00 (45%) to the Multiple Fee Class. If applicable, Settlement Class Members may receive payments as members of the APPSN Fee Class and the Multiple Fee Class. Based on this allocation, payments from the Net Settlement Fund to the Settlement Class Members shall be calculated as follows:

i. Settlement Class Members of the APPSN Fee Class shall be paid per incurred APPSN Fee calculated as follows:

$(.55 \text{ of the Net Settlement Fund} / \text{Total APPSN Fees}) \times \text{Total number of APPSN Fees charged to and paid by each APPSN Fee Class member.}$

ii. Settlement Class Members of the Multiple Fee Class shall be paid per Multiple Fee calculated as follows:

$(.45 \text{ of the Net Settlement Fund} / \text{Total Multiple Fees}) \times \text{Total number of}$

Multiple Fees charged to and paid by each Multiple Fee Class member.

iii. Settlement Class Member Payments shall be made no later than 30 days after the Effective Date, as follows:

a) For those Settlement Class Members who are Current Accountholders at the time of the distribution of the Net Settlement Fund, a credit in the amount of the Settlement Class Member Payment they are entitled to receive shall be applied to any Account they are maintaining individually at the time of the credit. If by the deadline for Defendant to apply credits of Settlement Class Member Payments to Accounts Defendant is unable to complete certain credit(s), 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 subsection 2 below.

b) For those Settlement Class Members who are Past Accountholders at the time of the distribution of the Net Settlement Fund, they shall be sent a check by the Settlement Administrator at the address used to provide the Notice, or at such other address as designated by the Settlement Class Member. For jointly held Accounts, checks will be payable to all members, and will be mailed to the first member listed on the Account. The Settlement Administrator will make reasonable efforts to locate the proper address for any check returned by the Postal Service as undeliverable 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. The Settlement Class Member shall have 180 days to negotiate the check. Any checks uncashed after 180 days shall be distributed pursuant to Section XII.

- iv. CenterState shall forgive and waive all Uncollected Fees no later than 30 days after the Effective Date. Defendant shall use best efforts to update any negative reporting to Chexsystems or credit reporting agencies with respect to Settlement Class Members who receive forgiveness of Uncollected Fees.
- v. In no event shall any portion of the Settlement Fund revert to Defendant.

XII. Disposition of Residual Funds

100. Within 7 days after the deadline to cash checks sent to Settlement Class Members, any residual funds shall be distributed as follows: (a) first to the Defendant as reimbursement for the payment of Settlement Administration Costs it paid to the Settlement Administrator as of that date; and (b) second by check to all Settlement Class Members who either cashed their checks or received an Account credit, unless the amount of residual funds is so small that it would be economically infeasible or impracticable to perform a secondary distribution. All costs associated with a secondary distribution shall be payable out of the funds remaining in the Net Settlement Fund.

101. If the amount of residual funds, after reimbursement to the Defendant for the payment of Settlement Administration Costs, is so small that it would be economically infeasible or impracticable to perform a secondary distribution, then within 14 days after the deadline cash the checks sent to Settlement Class Members by the Settlement Administrator, Plaintiffs shall apply to the Court for a *cy pres* payment to the recipient agreed to by the Parties. Any remaining

amounts resulting from uncashed checks shall be distributed to the *cy pres* recipient approved by the Court. Similarly, if there are residual funds remaining 90 days following a secondary distribution, then Plaintiffs shall apply to the Court for a *cy pres* payment to the recipient agreed to by the Parties. Any remaining amounts resulting from uncashed checks shall be distributed to the *cy pres* recipient approved by the Court.

XIII. Releases

102. As of the Effective Date, Releasing Parties shall automatically be deemed to have fully and irrevocably released and forever discharged 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 and assigns of each of them (“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 Periods that were or could have been alleged in the Action relating to the assessment of APPSN Fees and Multiple Fees (“Released Claims”).

103. 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.

104. Plaintiffs or any Settlement Class Member may hereafter discover facts other than

or different from those that he/she/it 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/it 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, 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/it shall be bound by this Agreement, including by the release herein and that all of their claims in the Action shall be dismissed with prejudice and 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/it never receives actual notice of the Settlement and/or never receives a distribution of funds or credits from the Settlement.

105. 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 Plaintiffs 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.

XIV. Termination of Settlement

106. This Agreement shall be subject to and is expressly conditioned on the occurrence of all of the following events:

- a. The Court has entered the Preliminary Approval Order;
- b. The Court has entered the Final Approval Order, and all objections, if any, are overruled, and all appeals taken from the Final Approval Order are resolved in favor of approval; and

c. The Effective Date has occurred.

107. If all the conditions specified in the preceding paragraph are not met, then this Agreement shall be cancelled and terminated.

108. Defendant shall have the option to terminate this Agreement if 5% or more of the total Settlement Class Members opt-out. Defendant shall notify Class Counsel and the Court of its intent to terminate this Agreement pursuant to this Section within 10 business days after the end of the Opt-Out Period, or the option to terminate shall be considered waived.

109. In the event this Agreement is terminated or fails to become effective, then the Parties shall be restored to their respective positions in this case as they existed as of the date of the execution of this Agreement. In such event, the terms and provisions of this Agreement shall have no further force and effect with respect to the Parties and shall not be used in this case or in any other action or proceeding for any other purpose, and any order entered by this Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*.

XV. Effect of a Termination

110. 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 Plaintiffs', 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.

111. 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

112. 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 members. 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 Actions.

113. Class Counsel believe that the claims asserted in the Actions 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 Actions. 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 Settlement Class Members.

114. 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.

115. 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 Plaintiffs or Settlement Class Members, 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.

116. 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. Confidentiality

117. None of the Parties shall issue any press release or shall otherwise initiate press coverage of the Settlement, nor shall any Party post about the Settlement on social media or any website other than the fact that the Settlement was reached and that it was a fair and reasonable result. If contacted, the Party may respond generally, either online or in person, by stating that they are happy that the Settlement was reached and that it was a fair and reasonable result.

XX. Miscellaneous Provisions

118. 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.

119. 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.

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

121. 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.

122. 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.

123. 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.

124. 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 Florida, without regard to the principles thereof regarding choice of law.

125. 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.

126. 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 and shall retain jurisdiction for the purpose of enforcing all terms 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.

127. Notices. All notices to Class Counsel provided for herein, shall be sent by email with a hard copy sent by overnight mail to:

KOPELOWITZ OSTROW P.A.
Jeff Ostrow, Esq.
Jonathan M. Streisfeld, Esq.
1 West Las Olas Blvd.
Suite 500
Fort Lauderdale, FL 33301
Class Counsel

KALIELGOLD PLLC
Jeffrey Kaliel, Esq.
1100 15th Street NW, 4th Floor
Washington, DC 20005
Class Counsel

AKERMAN LLP
Christopher S. Carver, Esq.
3 Brickell City Centre
98 Southeast 17th Street, Miami, FL 33131
Email: christopher.carver@akerman.com
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.

128. 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.

129. 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.

130. Authority. Class Counsel (for the Plaintiffs and the Settlement Class Members), and counsel 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 Plaintiffs 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.

131. Agreement Mutually Prepared. Neither Defendant nor Plaintiffs, 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.

132. 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. Both Parties recognize and acknowledge that they and their experts reviewed and analyzed data for a subset of the time at issue and that they and their experts used extrapolation to make certain determinations, arguments, and settlement positions. 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.

133. 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 to Follow

Dated: Apr 2, 2022

Angela Grant
Angela Grant (Apr 2, 2022 13:42 EDT)

DENISE ANGELA GRANT
Plaintiff

Dated: Apr 4, 2022

Marie Fox
Marie Fox (Apr 4, 2022 10:21 EDT)

BY Marie Fox
Title Operations Manager
PRECISION ROOFING OF N. FLORIDA
Plaintiff

Dated: Mar 30, 2022

Jeffrey Ostrow
Jeffrey Ostrow (Mar 30, 2022 22:06 EDT)

JEFF OSTROW, ESQ.
KOPELOWITZ OSTROW P.A.
Class Counsel

Dated: Mar 30, 2022

Jeff Kaniel
Jeff Kaniel (Mar 30, 2022 22:14 EDT)

JEFFREY KALIEL, ESQ.
KALIEL GOLD PLLC
Class Counsel

Dated: Mar 31, 2022

CENTERSTATE BANK N/K/A SOUTHSTATE
BANK, N.A.

William E. Matthews V
William E. Matthews V (Mar 31, 2022 09:00 CDT)

William E. Matthews, Senior Executive Vice
President and Chief Financial Officer, SouthState
Bank, N.A.

Dated: Mar 31, 2022

Lawrence D. Silverman
Lawrence D. Silverman (Mar 31, 2022 10:11 EDT)

LAWRENCE D. SILVERMAN, ESQ.
AKERMAN LLP
Counsel for Defendant

Exhibit 1 – Email and Postcard Notice

Angela Denise Grant v. CenterState Bank
Precision Roofing of N. Florida Inc. v. CenterState Bank

NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT
READ THIS NOTICE FULLY AND CAREFULLY; THE PROPOSED SETTLEMENT
MAY AFFECT YOUR RIGHTS!

IF YOU HAVE OR HAD A CHECKING ACCOUNT WITH CENTERSTATE BANK, NOW KNOWN AS SOUTHSTATE BANK, AND YOU WERE CHARGED CERTAIN OVERDRAFT FEES ON DEBIT CARD TRANSACTIONS BETWEEN APRIL 6, 2015 AND MAY 31, 2020, OR CERTAIN NSF FEES AND OVERDRAFT FEES ON AUTOMATIC CLEARING HOUSE (ACH) DEBITS OR CHECKS BETWEEN AUGUST 18, 2015 AND AUGUST 21, 2020, THEN YOU MAY BE ENTITLED TO A PAYMENT OR ACCOUNT CREDIT FROM A CLASS ACTION SETTLEMENT.

Para una notificación en Español, visitar www.XXXXXXXXXXXXXXXXXXXXXX.com.

The District Court for the Middle District of Florida has authorized this Notice; it is not a solicitation from a lawyer.

You may be a member of the Settlement Classes in *Angela Denise Grant v. CenterState Bank* and/or *Precision Roofing of N. Florida Inc. v. CenterState Bank*, in which the Plaintiffs allege that Defendant CenterState Bank, now known as SouthState Bank improperly assessed certain overdraft fees between August 6, 2015 and May 31, 2020 and/or NSF Fees and overdraft fees between August 18, 2015 and August 21, 2020. The Actions have been consolidated for Settlement approval purposes. If you are a member of one or both of the Settlement Classes, and if the Settlement is approved, you may be entitled to receive a cash payment or account credit from the \$2,650,000.00 Settlement Fund, which is allocated \$_____ for the APPSN Fee Class and \$_____ for the Multiple Fees Class, or the forgiveness of Uncollected Fees which is allocated \$_____ for the APPSN Fee Class and \$_____ for Multiple Fee Class.

The Court has preliminarily approved this Settlement. It will hold a Final Approval Hearing in this case on [INSERT DATE]. At that hearing, the Court will consider whether to grant Final Approval of the Settlement, and whether to approve payment from the Settlement Fund of up to 33.33% of the Value of the Settlement for attorneys' fees and reimbursement of costs to Class Counsel. If the Court grants Final Approval of the Settlement and you do not request to be excluded from the Settlement, you will release your right to bring any claim covered by the Settlement. In exchange, Defendant has agreed to issue a credit to your Account or a cash payment to you if you are no longer an accountholder.

To obtain a more detailed explanation of the Settlement terms and other important documents, including the Long Form Notice, 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 an 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 #].

Exhibit 2 – Long Form Notice

Angela Denise Grant v. CenterState Bank
Precision Roofing of N. Florida Inc. v. CenterState Bank

NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT

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

IF YOU HAVE OR HAD A CHECKING ACCOUNT WITH CENTERSTATE BANK, NOW KNOWN AS SOUTHSTATE BANK, AND YOU WERE CHARGED CERTAIN OVERDRAFT FEES ON DEBIT CARD TRANSACTIONS BETWEEN APRIL 6, 2015 AND MAY 31, 2020, OR CERTAIN NSF FEES AND OVERDRAFT FEES ON AUTOMATIC CLEARING HOUSE (ACH) DEBITS OR CHECKS BETWEEN AUGUST 18, 2015 AND AUGUST 21, 2020, THEN YOU MAY BE ENTITLED TO A PAYMENT OR ACCOUNT CREDIT FROM A CLASS ACTION SETTLEMENT.

Para una notificacion en Espanol, visitar www.XXXXXXXXXXXXXXXXXXXXXX.com.

The District Court for the Middle District of Florida has authorized this Notice; it is not a solicitation from a lawyer.

SUMMARY OF YOUR OPTIONS AND THE LEGAL EFFECT OF EACH OPTION	
DO NOTHING	If you don't do anything, you will receive a payment from the Settlement Fund or the forgiveness of Uncollected Fees so long as you do not opt-out of the settlement (described in the next box).
OPT-OUT FROM THE SETTLEMENT; RECEIVE NO PAYMENT BUT RELEASE NO CLAIMS	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 Defendant, but you will not receive a payment from the Settlement Fund or the forgiveness of Uncollected Fees. If you opt-out of the Settlement, but want to recover against Defendant, you will have to file a separate lawsuit or claim.
OBJECT TO THE SETTLEMENT	You can file an objection with the Court explaining why you Believe the Court should reject the Settlement. If your objection is overruled by the Court, then you may receive a payment or credit or forgiveness of debit and you will not be able to sue Defendant for the claims asserted in the litigation. 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.

BASIC INFORMATION

1. What are the lawsuits about?

The lawsuits that are being settled are entitled *Angela Denise Grant v. CenterState Bank* and *Precision Roofing of N. Florida Inc. v. CenterState Bank*. They are pending in the District Court in the Middle District of Florida. The cases are “class actions” and have case numbers: 8:20-cv-01920-MSS-AAS and 3:20-cv-352-J-39JRK, respectively, and have been consolidated for the purpose of the Court presiding over the Settlement approval process.

That means that the “Class Representatives,” Angela Denise Grant and Precision Roofing of N. Florida Inc., are individually acting on behalf of current and former accountholders who were purportedly improperly assessed APPSN Fees between April 6, 2015 and May 31, 2020 and Multiple Fees between August 18, 2015 and August 21, 2020. The Class Representatives have asserted claims for breach of contract.

Defendant does not deny it charged the fees the Class Representatives are complaining about, but contends it did so properly and in accordance with the terms of its agreements and applicable law. Defendant therefore denies that its practices give rise to claims for damages by the Class Representatives or any Settlement Class members.

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

You received this Notice because Defendant’s records indicate that you were charged one or more APPSN Fees and/or Multiple Fees that are the subject of the Actions. The Court directed that this Notice be sent to all Settlement Class members because each such member has a right to know about the proposed Settlement and the options available to him, her, or it 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 Representatives’ and their 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 Representatives’ lawyers, known as Class Counsel, make this recommendation to the Class Representatives. The Class Representatives have the duty to act in the best interests of the Settlement Class as a whole and, in this case, it is their belief, as well as Class Counsel’s opinion, that this Settlement is in the best interest of all Settlement Class members.

There is legal uncertainty about whether a judge or a jury will find that Defendant was contractually and otherwise legally obligated not to assess the fees at issue. And even if it was contractually wrong to assess these fees, there is uncertainty about whether the Class Representatives’ claims are subject to other defenses that might result in no or less recovery to Settlement Class members. Even if the Class Representatives were to win at trial, there is no assurance that the Settlement Class members would be awarded more than the current settlement amount, and it may take years of litigation before any payments would be made. By settling, the Settlement Class Members will avoid these and other risks and the delays associated with continued litigation.

While Defendant disputes the allegations in the lawsuit and denies any liability or wrongdoing, it enters into the Settlement solely to avoid the expense, inconvenience, and distraction 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 this notice, then Defendant's records indicate that you are a member of one or both of the Settlement Classes and are entitled to receive a payment/credit to your Account or the forgiveness of Uncollected Fees.

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/account credit or forgiveness of Uncollected Fees according to the terms of this Settlement; (2) opt-out from 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 payment/account credit or forgiveness of Uncollected Fees. If you do nothing, then you will get a payment/credit or the forgiveness of Uncollected Fees.

The deadline for sending a letter to opt-out of the Settlement is [REDACTED].

The deadline to file an objection with the Court is also [REDACTED].

7. How do I decide which option to choose?

If you do not like the Settlement and 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 and the Court should reject the Settlement, you can object to the Settlement terms. The Court will decide if your objection is valid. If the Court agrees, then the Settlement may not be approved, and no payments will be made to you or any other member of the Settlement Class. If your objection (and any other objection) is overruled, and the Settlement is approved, then you may still get a payment/credit or the forgiveness of Uncollected Fees and will be bound by the Settlement.

If you want to participate in the Settlement, then you don't have to do anything; you will receive a payment/credit or forgiveness of Uncollected Fees 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 decided to provide Preliminary Approval of the Settlement, which is why you received a Notice. The Court will make a final decision regarding the Settlement at a “Final Approval Hearing,” which is currently scheduled for [REDACTED], 2022.

THE SETTLEMENT PAYMENT

9. How much is the Settlement?

Defendant has agreed to create a Settlement Fund of \$2,650,000.00 and to separately pay the Settlement Administration Costs.

As discussed separately below, attorneys’ fees and litigation costs will be paid out of the Settlement Fund. The Net Settlement Fund will be divided among all Settlement Class Members entitled to Settlement Class Member Payments based on formulas described in the Settlement Agreement.

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

Class Counsel will request the Court to approve payment from the Settlement Fund for attorneys’ fees of not more than 33.33% of the Value of the Settlement and reimbursement for litigation costs incurred in prosecuting the Actions. The Court will decide the amount of the attorneys’ fees and costs after application by Class Counsel which shall be made contemporaneously with the filing of the Motion for Final Approval of the Settlement.

11. Who will pay the Settlement Administrator’s expenses?

The Settlement Administrator’s expenses will be paid separately by the Defendant. None of the fees or costs will be paid from the Settlement Fund; therefore, the payment will not reduce the amount of your payment/credit or amount of forgiven Uncollected Fees.

12. How much will my payment/credit or forgiveness of Uncollected Fees be?

The balance of the Settlement Fund after attorneys’ fees and costs, 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 formulas outlined in the Settlement Agreement for the APPSN Fee Class and Multiple Fee Class. Current Accountholders will receive a credit to their Accounts for the amount they are entitled to receive. Past Accountholders shall receive a check from the Settlement Administrator. Those Settlement Class Members entitled to the forgiveness of Uncollected Fees will receive a discharge of their pro rata share of the Uncollected Fees based upon the number of APPSN Fees or Multiple Fees that were assessed.

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

No. If you received this Notice, then you may be entitled to receive a payment/credit for Relevant Fees or forgiveness of Uncollected Fees without having to make a claim, unless you choose to opt-out of the Settlement.

14. When will I receive my payment/credit or forgiveness of Uncollected Fees?

The Court will hold a Final Approval Hearing on [REDACTED], at [REDACTED] to consider whether the Settlement should be approved. If the Court approves the Settlement, then payments/credits or forgiveness of Uncollected Fees should be issued within 30 days of the Effective Date. However, if someone objects to the Settlement, and the objection is sustained, then there is 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.

EXCLUDING YOURSELF FROM THE SETTLEMENT

15. How do I exclude myself from the Settlement?

If you do not want to receive a payment/credit or forgiveness of Uncollected Fees, and if you want to keep any right you may have to sue Defendant 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 *Angela Denise Grant v. CenterState Bank* and *Precision Roofing of N. Florida Inc. v. CenterState Bank* class actions.” Be sure to include your name, the last four digits of your member number(s) or former member number(s), address, telephone number, and email address. Your opt-out request must be postmarked by [REDACTED], and sent to:

Angela Denise Grant v. CenterState Bank
Precision Roofing of N. Florida Inc. v. CenterState Bank

Attn:

ADDRESS OF THE SETTLEMENT ADMINISTRATOR

16. What happens if I opt-out of the Settlement?

If you opt-out of the Settlement, you will preserve and not give up any of your rights to sue Defendant for the claims alleged in the Actions. However, you will not be entitled to receive a payment from the settlement.

OBJECTING TO THE SETTLEMENT

17. How do I notify the Court that I do not like the Settlement?

You can object to the Settlement or any part of it that you do not like **IF** you do not opt-out from the Settlement. (Settlement Class members who opt-out from the Settlement have no right to object to how other Settlement Class Members are treated.) To object, you **must** send a written document by mail or private courier (e.g., Federal Express) to the Clerk of Court, Settlement Administrator, Class Counsel, and Defendant’s Counsel at the addresses below. Your objection must include the following information:

- a. the name of the Action;

- b. the objector's full name, mailing address telephone number, and email address (if any);
- c. all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel;
- d. the number of times the objector has objected to a class action settlement within the five years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector's prior objections that were issued by the trial and appellate courts in each listed case;
- e. the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement or fee application;
- f. the number of times in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the five years preceding the date that of the filed objection, the caption of each case in which counsel or the firm has made such objection and a copy of any orders related to or ruling upon counsel's or the counsel's law firm's prior objections that were issued by the trial and appellate courts in each listed case in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the preceding five years;
- g. any and all agreements that relate to the objection or the process of objecting—whether written or oral—between objector or objector's counsel and any other person or entity;
- h. the identity of all counsel (if any) representing the objector who will appear at the Final Approval Hearing;
- i. a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection (if any);
- j. a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and
- k. the objector's signature (an attorney's signature is not sufficient).

All objections must be post-marked no later than _____, and must be mailed to the Clerk of the Court, Settlement Administrator, Class Counsel, and Defendant's Counsel as follows:

CLERK OF COURT	SETTLEMENT ADMINISTRATOR	CLASS COUNSEL	DEFENDANT'S COUNSEL
<p>Clerk of the District Court for the Middle District of Florida George C. Young Federal Annex Courthouse 401 West Central Boulevard Orlando, Florida 32801</p>	<p>Angela Denise Grant v. CenterState Bank and Precision Roofing of N. Florida Inc. v CenterState Bank Settlement Administrator Attn: ADDRESS OF THE SETTLEMENT ADMINISTRATOR</p>	<p>Jeff Ostrow Jonathan M. Streisfeld Kopelowitz Ostrow P.A. 1 West Las Olas Blvd. Suite 500 Fort Lauderdale, Florida 33301 and Jeffrey D. Kaliel Kaliel Gold PLLC 1100 15th Street NW, 4th Floor Washington, DC 20005</p>	<p>Christopher S. Carver Akerman LLP 3 Brickell City Centre 98 Southeast 17th St., Miami, FL 33131</p>

18. 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/credit or forgiveness of Uncollected Fees if the Settlement is approved, but you will release claims you might have against Defendant. 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/credit or forgiveness of Uncollected Fees or release claims you might have against Defendant for the claims alleged in this lawsuit.

19. What happens if I object to the Settlement?

If the Court sustains your objection, or the objection of any other member of the Settlement Class, then there is no Settlement. If you object, but the Court overrules your objection and any other objection(s), then you will be part of the Settlement.

THE COURT'S FINAL APPROVAL HEARING

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

The Court will hold a Final Approval Hearing at [redacted] on [redacted], 2022 at the [redacted] Courthouse for District Court for the Middle District of Florida, in Courtroom [redacted] (or such other

courtroom as the Court designates), which is located at [REDACTED]. 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 to the Class Representatives. The hearing may be virtual, in which case the instructions to participate shall be posted on the website at [www.\[REDACTED\]](#).

21. 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.

22. 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 objection, described in Question 17, above, the statement, "I hereby give notice that I intend to appear at the Final Approval Hearing."

THE LAWYERS REPRESENTING YOU

23. 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 Settlement Class Members.

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

No. Class Counsel will be paid directly from the Settlement Fund.

25. Who determines what the attorneys' fees 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 and will specify the amount being sought as discussed above. You may review a physical copy of the fee application in the Motion for Final Approval at the website established by the Settlement Administrator.

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 [\[WEBSITE\]](#).

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

Angela Denise Grant v. CenterState Bank
Precision Roofing of N. Florida v. CenterState Bank
Settlement Administrator
Attn:

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

Jeff Ostrow
Jonathan M. Streisfeld
KOPELOWITZ OSTROW P.A.
One West Las Olas Boulevard
Suite 500
Fort Lauderdale, Florida 33301
954-525-4100
954-525-4300
ostrow@kolawyers.com
streisfeld@kolawyers.com

and

Jeffrey D. Kaliel
KALIEL GOLD PLLC
1100 15th Street NW, 4th Floor
Washington, DC 20005
202-350-4783
jkaliel@kalielpllc.com

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

EXHIBIT B

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

PRECISION ROOFING OF N.
FLORIDA INC. individually and on
behalf of all others similarly situated,

Plaintiff,

v.

CENTERSTATE BANK,

Defendant.

Case No.: 3:20-cv-352-BJD-LLL

ANGELA DENISE GRANT, on behalf
of herself and all persons similarly
situated,

Plaintiff,

v.

CENTERSTATE BANK,

Defendant.

Case No.: 8:20-cv-01920-BJD-AAS
(Administratively Closed)

**JOINT DECLARATION OF CLASS COUNSEL
JEFF OSTROW AND JEFFREY KALIEL**

Jeff Ostrow and Jeffrey Kaliel declare as follows:

1. We are counsel of record for Plaintiffs¹ and the proposed Settlement

¹The capitalized terms used herein shall have the same meanings as those defined in the Settlement Agreement and Releases attached to the Motion for Preliminary Approval as *Exhibit A*.

Class in the above captioned matter. We submit this declaration in support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement and for Certification of Settlement Class. Unless otherwise noted, we have personal knowledge of the facts set forth in this declaration and could and would testify competently to them if called upon to do so.

2. After several rounds of arm's-length negotiation and settlement discussions, including two mediation sessions with mediator Rodney Max of Upchurch Watson White & Max Mediation Group, Plaintiffs, proposed Class Counsel, and Defendant entered into the Settlement Agreement.

3. The firm resume of Kopelowitz Ostrow P.A. is attached as *Exhibit 1* to this declaration.

4. The firm resume of KalieGold PLLC is attached as *Exhibit 2* to this declaration.

Class Counsel's Investigation

5. Before filing each of the Actions, Class Counsel spent many hours investigating the claims of several potential plaintiffs against Defendant. Class Counsel interviewed Plaintiffs and gathered documents and information about Defendant's alleged conduct and its impact on Accountholders, essential to Class Counsel's ability to understand Defendant's alleged conduct, the material Account agreement language, and potential remedies.

6. Class Counsel also expended significant resources researching and developing the legal claims at issue. Class Counsel are familiar with the claims as they

have litigated and resolved several similar cases with the same factual and legal issues. Class Counsel has experience in understanding the damages at issue, what information is critical in determining class membership, and what data is necessary to calculate each Settlement Class Member's respective damages. Class Counsel spent a significant amount of time analyzing data regarding Defendant's OD Fee and NSF Fee revenue with assistance of Plaintiffs' expert, Arthur Olsen, to analyze the damages.

7. Class Counsel, fully informed of the claims' merits, negotiated the Settlement with the assistance of Mr. Max, while zealously advancing the position of Plaintiffs and the members of the Settlement Class and being fully prepared to continue to litigate rather than accept any settlement that was not in the best interest of Plaintiffs and the Settlement Class.

8. In summary, prior to negotiating the Settlement, Class Counsel spent significant time conferring with Plaintiffs, investigating facts, researching the law, preparing well-pleaded complaints, opposing motions to dismiss in both Actions, and engaging in discovery (including depositions, working with an expert witness, and reviewing important documents and data).

Background and Procedural History

9. On April 26, 2022, the Court consolidated the above-styled Actions. Before that, the Parties informally coordinated certain discovery efforts and participated in mediation after the Court denied motions to dismiss in both Actions.

Precision Roofing of N. Florida v. CenterState Bank

10. On April 6, 2020, Plaintiff Precision Roofing filed a putative Class Action

Complaint in the *Precision* Action asserting a claim for breach of contract, including breach of the covenant of good faith and fair dealing, challenging Defendant's assessment of APPSN Fees on debit card transactions. On July 7, 2020, Defendant moved to dismiss, which was fully briefed, following which Plaintiff filed several notices of supplemental authority. On February 22, 2021, the Court denied Defendant's Motion to Dismiss entirely. Defendant filed its Answer and Affirmative Defenses to Plaintiff's Complaint on March 12, 2021. On September 3, 2021, following discovery, Plaintiff Precision Roofing filed its Motion for Class Certification, supported by the expert report of Mr. Olsen. On October 25, 2021, Defendant filed its Response in Opposition to the Motion for Class Certification. With the Parties agreement, and with the Court's approval, the *Precision* Action was stayed for mediation.

Grant v. CenterState Bank

11. On August 18, 2020, Plaintiff Grant filed a putative Class Action Complaint in the *Grant* Action, asserting a claim for breach of contract, including breach of the covenant of good faith and fair dealing, challenging Defendant's assessment of multiple NSF Fees and/or OD Fees on the same ACH debit or check item. On September 25, 2020, which was fully briefed, following which Plaintiff filed several notices of supplemental authority. On July 16, 2021, the Court denied the Motion to Dismiss as to the breach of contract claim but dismissed the part of the claim seeking to enforce the covenant of good faith and fair dealing. Defendant filed its Answer and Affirmative Defenses to Plaintiff's Complaint on July 20, 2021. On

September 3, 2021, following discovery, Plaintiff Grant filed her Motion for Class Certification, supported by Mr. Olsen's expert report. On October 25, 2021, Defendant filed its Response in Opposition to the Motion for Class Certification. With the Parties agreement, and with the Court's approval, the *Grant* Action was stayed for mediation.

Practice Changes

12. CenterState charged OD Fees on APPSN transactions. After the *Precision* Action was filed, CenterState ceased charging such fees. Thus, the APPSN Fee Class Period ends on May 31, 2020.

13. Similarly, CenterState changed its Account agreement effective August 22, 2020, after the *Grant* Action was filed, to specify the possibility of Multiple Fees on an item. Thus, Multiple Fee Class Period ends on August 21, 2020.

Discovery Efforts

14. Class Counsel served interrogatories and document requests in the Actions and initiated several meet and confer conferences to discuss discovery responses and objections, and production of electronically stored information, damages data, and other documents and materials subject to discovery. Those efforts led to the production and Class Counsel's analysis of thousands of pages of documents (2,588 pages for the *Precision* Action and 3,710 pages for the *Grant* Action), sample account-level transaction data, and other information to evaluate the claims, defenses, to prepare for depositions taken in the case, and to move for class certification in the Actions.

15. Class Counsel worked with Mr. Olsen, the preeminent expert for bank

account fee class action litigation. He analyzed sample transaction data produced to arrive at opinions as to methodologies to be employed to determine damages and class membership for the motion for class certification in each of the Actions. Those methods will be used for the Settlement.

16. The Parties also took depositions. Though not formally consolidated at the time, the Parties agreed that Defendant's Fed. R. Civ. P. 30(b)(6) designees should be deposed simultaneously in the Actions for efficiency. Matthew Bazo was deposed on June 25, 2021, and again on August 18, 2021. Don Stoltz was deposed on July 9, 2021. Mr. Olsen was deposed by Defendant on October 18, 2021.

Mediation

17. The Parties proceeded to court-ordered mediation, simultaneously mediating both Actions with a well-regarded and experienced class action mediator, Mr. Max. Class Counsel prepared a detailed, consolidated confidential mediation statement. In advance of mediation, Class Counsel conferred with the mediator, and separately with Defendant's counsel.

18. The Parties participated in a lengthy mediation session on November 10, 2021. Though they did not settle, they agreed to reconvene on December 13, 2021. That session resulted in an agreement to continue negotiations following the Parties' exchange of additional information. Thereafter, the negotiations progressed, and the Parties ultimately agreed settle the Actions on February 25, 2022. Thereafter, the Parties negotiated and executed the Agreement dated March 30, 2022.

19. The Parties then moved to consolidate the Actions for an efficient

Settlement approval process that would include a single Notice Program because some Settlement Class members will be members of APPSN Fee Class and Multiple Fee Class. The Court consolidated the Actions.

Terms of the Settlement

20. CenterState will pay \$2,650,000.00 into a Settlement Fund, allocated \$1,457,500.00 (55%) for the APPSN Fee Class and \$1,192,500.00 (45%) for the Multiple Fee Class. That fund will pay: (a) Settlement Class Member Payments; and (b) attorneys' fees and costs awarded to Class Counsel.

21. Settlement Class Members do not have to submit claims or take any other affirmative step to receive Settlement benefits. Instead, CenterState and the Settlement Administrator will automatically distribute the Net Settlement Fund pro rata via either Account credits or checks. Because each Settlement Class Member's distribution amount is dependent on his, her, or its specific Account activity and Relevant Fees charged and the number of Settlement Class Members, it is not possible to determine the likely recovery of each Settlement Class Member until this calculation is performed by Plaintiffs' expert.

22. Residual funds will be distributed, first, to Defendant as reimbursement for the payment of Settlement Administration Costs it paid to the Settlement Administrator as of that date; and second, by check to all Settlement Class Members who either cashed their checks or received an Account credit, unless the residual amount is so small that it would be economically infeasible or impracticable to perform a secondary distribution. All secondary distribution costs shall be payable out of the

remaining funds in the Net Settlement Fund. If the residual funds, after reimbursing Defendant for Settlement Administration Costs paid, is so small that a second distribution would be economically infeasible or impracticable, then Plaintiffs shall apply to the Court for a *cy pres* payment to the recipient agreed to by the Parties and approved by the Court. Similarly, if there are residual funds remaining following a secondary distribution, then Plaintiffs shall apply to the Court for a *cy pres* payment.

23. CenterState shall forgive and waive all Uncollected Fees (APPSN Fees and Multiple Fees that were assessed, but not paid when an Account was closed and the APPSN Fees or Multiple Fees were charged off). Defendant shall use best efforts to update any negative reporting to Chexsystems or credit reporting agencies with respect to Settlement Class Members who receive forgiveness of Uncollected Fees.

24. In exchange for the Settlement benefits, all Settlement Class Members will be deemed to have released Defendant from the Released Claims. Additionally, Plaintiffs shall provide a separate general release to Defendant for \$5,000.00, along with the closing of their Accounts following Final Approval.

25. Class Counsel has not been paid for their extensive efforts or reimbursed for litigation costs. They are entitled to request, and Defendant will not oppose, attorneys' fees of up to 33.33% of the Value of the Settlement, as well as reimbursement of litigation costs incurred in connection with the Actions to be paid from the Settlement Fund. Such award is subject to this Court's approval and will serve to compensate for the time, risk and expense Class Counsel incurred pursuing claims for the Settlement Class. The Parties did not discuss attorneys' fees and costs or Service

Awards until they agreed on the material terms of the Settlement, the Notice Program, and the scope of the Released Claims.

Risks of Continued Litigation

26. The Settlement Fund represents a substantial percentage of the APPSN Fees and Multiple Fees allegedly wrongly assessed against the Settlement Class. In light of the inherent litigation risks, Plaintiffs and proposed Class Counsel submit that it is a very fair and reasonable recovery, and there are no grounds to doubt the Agreement's fairness. The Settlement benefits fairly and adequately compensate Settlement Class Members for the harm they suffered, and considering the risks of litigation, represents an excellent result for the Settlement Class.

27. Class Counsel weighed a number of factors before deciding to settle. First, Class Counsel considered that Defendant contends that the Account agreements authorize the assessment of the challenged fees. It was a distinct possibility that a jury in each of the Actions could find in Defendant's favor on this issue. Next, Class Counsel considered the possibility that this Court would deny class certification. Class Counsel also considered the amount of the Settlement in comparison to a number of other similar bank fee settlements around the country and found it to be in line with those settlements. Finally, in reaching the conclusion that the Value of the Settlement in the Actions is adequate, Class Counsel also considered that the Settlement Class is receiving real money and forgiveness of Uncollected Fees, without having to take the step of submitting a claim or having to wait years for a trial and potential appeal.

28. The Parties' negotiations were principled, with each side basing their

offers and counteroffers on an analysis of discovery exchanged as well as damage data provided by Defendant. In addition, the negotiations were based on the Parties' respective assessments of the strengths and weaknesses of their positions, and interpretations of the law relative to those positions.

29. Class Counsel are particularly experienced in the litigation, certification, trial, and settlement of class action cases. They zealously represented Plaintiffs throughout the Actions including, inter alia, defeating Defendant's motions to dismiss, conducting discovery that included review of thousands of pages of documents and electronic data as well as taking and defending depositions, and preparing motions for class certification. The negotiations benefited from their years of experience and familiarity with the pertinent legal and factual issues, as well as other cases involving similar claims and defenses. Class Counsel thoroughly investigated and analyzed Plaintiffs' claims and engaged in extensive discovery, enabling them to gain an understanding of the evidence related to central questions in the Actions and prepared them for well-informed settlement negotiations.

30. The Settlement was reached after extensive discovery and contested motions for class certification were filed and responded to. Class Counsel were extremely well-positioned to confidently evaluate the strengths and weaknesses of Plaintiffs' claims and prospects for success on class certification, at summary judgment, at trial, and in a post-judgment appeal.

31. The Parties concluded the benefits of settlement in this case outweigh the risks and uncertainties of continued litigation, as well as the attendant time and

expenses associated with contested class certification proceedings and possible interlocutory appellate review if granted, completing the remaining classwide merits discovery if the classes were certified, pretrial motion practice, trial, and finally appellate review.

32. The Settlement in this case is the product of arm's-length negotiations, free of collusion, between experienced attorneys who are familiar with class action litigation and with the legal and factual issues in this Action, aided by a respected mediator.

33. Plaintiffs maintain that their claims are meritorious; that they would establish liability and recover substantial damages if the case proceeded to trial; and that the final judgment recovered in favor of Plaintiffs and the certified classes would be affirmed on appeal. But Plaintiffs' ultimate success would require them to prevail, in whole or in part, at all of these junctures. Conversely, Defendant's success at any of these junctures could or would have spelled defeat for Plaintiffs and the Settlement Class. Thus, continued litigation posed significant risks and numerous uncertainties, as well as the time, expense, and delay associated with trial and appellate proceedings.

34. On the basis of our investigation into this case and experience with and knowledge of the law and procedure governing the claims of Plaintiffs and the Settlement Class, it is our belief that it is in the best interests of the Settlement Class to enter into this Settlement. Indeed, in light of the risks, uncertainties, and delays associated with continued litigation, the Settlement represents a significant achievement by providing guaranteed benefits to Settlement Class Members in the

form of direct cash compensation and debt forgiveness.

35. With this Settlement, Plaintiffs achieved their desired goal in this litigation—i.e., obtaining repayment of the complained about fees for Defendant’s accountholders. Here, Class Counsel viewed the strength of the claims of each class as essentially equivalent and, in turn, negotiated the same percentage of damages for the cash Settlement Fund. The recovery provided by the Settlement includes a \$2,650,000.00 cash Settlement Fund paid by Defendant, allocated \$1,457,500.00 (55%) is to the APPSN Fee Class and \$1,192,500.00 (45%) to the Multiple Fee Class. The allocation is tied directly to the amount of such fees allegedly wrongfully assessed by Defendant, i.e., the damages to each class from the distinct applicable challenged fee assessment practice. Further, Defendant is forgiving 100% of the Uncollected Fees for both Settlement Classes.

36. Based on the analysis of Defendant’s transactional data for mediation, the \$2,650,000.00 Settlement Fund represents a substantial percentage of the Settlement Class’s most-probable damages recovery if Plaintiffs and certified classes were successful in all respects through trial and on plenary appeal. Defendant’s forgiveness of Uncollected Fees, payment of all Settlement Administration Costs, and the practice changes further increase the Value of the Settlement.

37. Plaintiffs and Class Counsel are confident in the strength of their case but are also pragmatic in their awareness of the various defenses available to Defendant, both on the merits and as to certification of litigation classes, and the risks inherent to litigation of this magnitude. Plaintiffs and the Settlement Class faced significant legal

risks in this case, including Defendant's motions to dismiss in both Actions, even though both were ultimately denied. Though plaintiffs around the country have frequently survived similar motions under the two theories of liability being pursued in this Actions, to date Class Counsel, who regularly litigate these cases around the country, are unaware of any case that has proceeded to trial. Therefore, despite pretrial success in showing that contracts similar to those at issue in this case could reasonably be construed in favor of the accountholders, genuine risks exist that Plaintiffs might not prevail at class certification, or would lose at summary judgment, at trial, or on appeal.

38. Given these risks, a settlement that provides members of the Settlement Class with a substantial percentage of the most likely recoverable damages falls within the range of possible approval.

39. The claims and defenses in this action are complex, as is clear by the record and Class Counsel's efforts in other account fee cases that have been hard fought for years. There is no doubt that continued litigation here would be difficult, expensive, and time consuming. The risks and obstacles in this case are just as great as those in other bank fee cases. This case would likely take many more years as well litigating in this Court and the appellate courts to successfully prosecute.

40. The proposed Settlement is the best vehicle for the Settlement Class Members to receive the relief to which they are entitled in a prompt and efficient manner.

41. The Value of the Settlement and the significant savings related to the

practice changes are fair and reasonable in light of Defendant's defenses and the challenging and unpredictable path of litigation Plaintiffs would have faced absent a settlement.

Class Treatment is Appropriate

42. As stated previously, Class Counsel has significant experience in the litigation, certification, trial, and settlement of national class actions, including numerous claims against banks and credit unions, through their active roles similar class actions throughout the country, many of which have settled and received final approval. *See Exhibits 1-2.*

43. Class Counsel has, collectively, decades of experience in class action litigation and has successfully handled national, regional, and statewide class actions in both state and federal courts. Class Counsel has successfully litigated and resolved many other consumer class actions including dozens against financial institutions related to improper fee assessments, recovering hundreds of millions of dollars for those classes. The experience, resources and knowledge Class Counsel brings to the Actions is extensive and formidable.

44. The Parties recommend Kroll Settlement Administration LLC, as the Settlement Administrator, one of the leading notice administration firms in the United States. The Settlement Administrator will oversee the Notice Program, which is designed to provide the best notice practicable and is tailored to take advantage of the information Defendant has available about the Settlement Class.

45. The Notice and Notice Program constitute sufficient notice to all persons

entitled to notice, satisfying all applicable requirements of law, including Fed. R. Civ. P. 23 and constitutional due process. The Notice Program is reasonably calculated to apprise Settlement Class members of the material Settlement terms; a date by which they may opt-out from the Settlement Class; a date by which Settlement Class Members may object to the Settlement; the Final Approval Hearing date; and the Settlement Website address where the Settlement Class may access the Agreement and other related documents. The Notice Program is designed to reach a high percentage of the Settlement Class and exceeds the requirements of constitutional due process.

46. The numerosity requirement is satisfied because each of the Settlement Classes consist of tens of thousands of Accountholders, the exact number of which will be determined prior to sending Notice to the Settlement Classes, all of whom are readily ascertainable and precisely identifiable from Defendant's electronic records, and joinder of all such persons in each class is impracticable.

47. The Settlement Class members' claims arise from a common nucleus of facts because all Settlement Class members maintained accounts and were assessed APPSN Fees and/or Multiple Fees. Common legal issues also unite the Settlement Class. They include (1) the elements of Plaintiffs' claims and Defendant's defenses, (2) whether Defendant breached its contracts with Plaintiffs and Settlement Class members when it assessed APPSN Fees and/or Multiple Fees, (3) whether Plaintiffs and the Settlement Class members have sustained damages as a result of Defendant's business practices, and (4) the measure of damages owed to Plaintiffs and Settlement Class members. There are no issues of law that affect only individual Settlement Class

members. Thus, commonality and predominance are met.

48. Typicality is also met here. Here, Plaintiffs' claims are based on the same facts and underlying legal theories as those of the APPSN Fee Class and Multiple Fee Class. Plaintiff Precision Roofing's claim is typical of the APPSN Fee Class, and Plaintiff Grant's claim is typical of the Multiple Fee Class. Once the analysis of classwide damages is completed, it may be the case that Plaintiffs are members of both of the Settlement Classes, but it is sufficient that each serve as the Class Representative for one of the Settlement Classes. Like other Settlement Class members, they were subjected to the same APPSN Fee and Multiple Fee practices, claim the same injuries, and will benefit from the Settlement relief.

49. Plaintiffs do not have any claims antagonistic to or in conflict with those of other members of the Settlement Class. As discussed above, they are pursuing the same legal theories as the rest of the Settlement Class members relating to the same course of Defendant's conduct. Plaintiffs and other Settlement Class members' claims turn on the same claims alleged in the Complaint, that Defendant improperly assesses and collects APPSN Fees and Multiple Fees. In addition, Plaintiffs seek remedies equally applicable and beneficial to themselves and all other members of the classes. There is no inter-class conflict between the APPSN Fee Class and Multiple Fee Class. Plaintiff Precision Roofing represents the interests of the APPSN Fee Class as the Class Representative, and Plaintiff Grant represent the interests of the Multiple Fee Class as the Class Representative. The claims for each class do not materially differ in strength and, thus, the settlement value of each claim was essentially the same. Plaintiffs and

proposed Class Counsel were incentivized to maximize the recovery for both classes. Further, the equal strength of the claims also means that the interests of the APPSN Fee Class members and Multiple Fee Class members do not diverge as to the distribution of the allocated Settlement Fund or the forgiveness of Uncollected Fees.

50. Finally, Plaintiffs are represented by qualified and competent counsel who have extensive experience and expertise prosecuting complex litigation and consumer class actions, including consumer actions similar to the instant case, and have been appointed class counsel in prior and similar cases, and have the resources necessary to prosecute the Actions to their conclusion. They have recovered hundreds of millions of dollars for classes they represented in similar cases. Class Counsel are qualified to represent the Settlement Class and will, along with Plaintiffs, vigorously protect the interests of the APPSN Fee Class and Multiple Fee Class. *See Exhibits 1-2.*

I declare under penalty of perjury that the foregoing is true and correct. Executed in Fort Lauderdale, Florida this 6th day of May, 2022.

/s/ Jeff Ostrow
JEFF OSTROW

I declare under penalty of perjury that the foregoing is true and correct. Executed in Washington, D.C. this 6th day of May, 2022.

/s/ Jeffrey Kaliel
JEFFREY KALIEL

EXHIBIT 1



FIRM RESUME

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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.

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 (20th Judicial District Tenn. 2018) - \$1.5 million

Hawkins v. First Tenn. Bank, CT-004085-11 (13th 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

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Jeff Ostrow is the Managing Partner of Kopelowitz Ostrow P.A. He established his own law practice immediately upon graduation from law school in 1997, co-founded the current firm in 2001, and has since grown it to nearly 50 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.

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 \$500,000,000 for tens of millions of bank customers, as well as monumental changes in the way banks assess fees. In addition, Mr. Ostrow has litigated consumer class actions against some of the world's largest clothing retailers, health insurance carriers, technology 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.

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, FoxNews, 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, the NFL, NBA and MLB.

In addition to the law practice, he is the President of ProPlayer Sports LLC, a full-service sports agency and marketing firm. He represents both Olympic swimmers and select NFL athletes and is licensed by both the NFL Players Association and the NBA Players Association as a certified Contract Advisor. Mr. Ostrow handles all player-team negotiations of contracts, represents his clients in legal proceedings, negotiates all marketing 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 United States Anti-Doping Agency.

He is the founder and President of Class Action Lawyers of American, a member of the Public Justice Foundation, and 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 won multi-million dollar verdicts. Additionally, he has been named as one of the top lawyers in Florida by Super Lawyers® for several years running, honored as one of Florida's Legal Elite Attorneys, recognized as a Leader in Law by the Lifestyle Media Group®, and nominated by the South Florida Business Journal® as a finalist for its Key Partners Award. Mr. Ostrow is a recipient of the 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. 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. He has previously sat on the boards of a national banking institution and a national healthcare marketing company.



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

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

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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.



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

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 accountholders 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 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.



JOSH LEVINE

Partner

Bar Admissions

The Florida Bar

Court Admissions

U.S. Court of Appeals for the Fifth Circuit
U.S. Court of Appeals for the Sixth Circuit
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 Illinois

Education

University of Miami School of Law, J.D. - 2011
University of Central Florida, B.A. - 2006

Email: levine@kolawyers.com

Josh Levine is a litigation attorney, and his practice takes him all over the State of Florida and the United States. Mr. Levine focuses on civil litigation and appellate practice, primarily in the areas of class actions and commercial litigation.

Mr. Levine has handled over 175 appeals in all five of Florida's District Courts of Appeal and the Florida Supreme Court, as well as multiple federal appellate courts. Mr. Levine has represented both businesses and individuals in litigation matters, including contractual claims, fraud, breach of fiduciary duty, negligence, professional liability, enforcement of non-compete agreements, trade secret infringement, real estate and title claims, other business torts, insurance coverage disputes, as well as consumer protection statutes.

Mr. Levine is a member of the Florida Bar Appellate Court Rules Committee, currently serving as the vice-chair of the Civil Practice Subcommittee and is an active member of the Appellate Practice Section of the Florida Bar and the Broward County Bar Association. Mr. Levine recently completed a four-year term as a member of the Board of Directors of the Broward County Bar Association Young Lawyers Section.

Mr. Levine received a Juris Doctor degree, Magna Cum Laude, from the University of Miami School of Law. While attending law school, he served as an Articles and Comments Editor on the University of Miami Inter-American Law Review and was on the Dean's List, and a Merit Scholarship recipient. Mr. Levine also was awarded the Dean's Certificate of Achievement in Legal Research and Writing, Trusts & Estates, & Professional Responsibility classes.

Before joining KO, Mr. Levine worked at an Am Law 100 firm where he also focused on civil litigation and appellate practice, primarily representing banks, lenders, and loan servicers in consumer finance related litigation matters.

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



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 *In re: Apple Inc. App Store Simulated Casino-Style Games Litigation* (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 throughout the State of Florida, as well as in the United States District Courts for the Southern District of Florida and the Northern District of Florida. 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



KALIEL GOLD PLLC

Kaliel Gold 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 (1st 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 1st 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^oN 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, Kaliel Gold PLLC is well versed in class action litigation and zealously advocates for its clients. To learn more about Kaliel Gold PLLC, or any of the firm's attorneys, please visit 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 Kaliel Gold 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 Kaliel Gold 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 (1st 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 1st 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

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

PRECISION ROOFING OF N.
FLORIDA INC. individually and on
behalf of all others similarly situated,

Plaintiff,

v.

CENTERSTATE BANK,

Defendant.

Case No.: 3:20-cv-352-BJD-LLL

ANGELA DENISE GRANT, on behalf
of herself and all persons similarly
situated,

Plaintiff,

v.

CENTERSTATE BANK,

Defendant.

Case No.: 8:20-cv-01920-BJD-AAS
(Administratively Closed)

**[PROPOSED] ORDER GRANTING PLAINTIFFS' UNOPPOSED
MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT AND CERTIFYING SETTLEMENT CLASS**

THIS CAUSE is before the Court on the Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement and for Certification of Settlement Class. (Dkt. __.) Defendant agrees to the request in the Motion.

Plaintiffs in the above-captioned class Actions have applied for an order, pursuant to Federal Rule of Civil Procedure 23, preliminarily approving the Settlement

Agreement and Releases entered into between Plaintiffs, Precision Roofing of N. Florida Inc. and Angela Grant, and Defendant, CenterState Bank, now known as SouthState Bank, N.A., in the above-styled consolidated Actions, individually and on behalf of the proposed Settlement Class consisting of the APPSN Fee Class and Multiple Fee Class. This Court having reviewed the Agreement as submitted to the Court **GRANTS** the Motion.

IT IS HEREBY ORDERED as follows:

1. All of the definitions contained in the Settlement Agreement, attached to the Motion for Preliminary Approval as *Exhibit A*, shall apply to this Preliminary Approval Order, and are incorporated by reference, as if fully set forth herein.

2. The Court finds that the Agreement proposed by the Parties is fair, reasonable, and adequate and likely to be approved at a Final Approval Hearing such that giving Notice is justified. The representations, agreements, terms, and conditions of the Settlement, as embodied in the Agreement and the exhibits attached thereto, are preliminarily approved pending a final hearing on the Settlement as provided herein. The Settlement meets the considerations and factors set forth in the amended Rule 23(e), as well as *Bennett v. Behring Corp.*, 737 F.2d 982, 986 (11th Cir. 1984).

3. The Settlement was negotiated with the assistance of neutral Mediator Rodney Max of Upchurch Watson White & Max Mediation Group, and appears to be the result of extensive, arm's-length negotiations between the Parties after Class Counsel and Defendant's Counsel investigated the claims, sufficiently litigated the claims, and became familiar with the strengths and weaknesses of the claims. The

Settlement appears not to be collusive, has no obvious defects, and falls within the range of reasonableness.

4. The Court finds that it will likely certify at the Final Approval stage the Settlement Class for Settlement purposes only, consisting of:

APPSN Fee Class

All of Defendant's current and former accountholders who, from April 6, 2015, through May 31, 2020, were charged OD Fees on APPSN Transactions.

Multiple Fee Class

All of Defendant's current and former accountholders who, from August 18, 2015, through August 21, 2020, were charged Multiple Fees, including NSF Fees and OD Fees, on the same item.

Excluded from the Settlement Class is Defendant, its parents, subsidiaries, affiliates, officers, and directors, all members of the Settlement Class who make a timely election to be excluded, and all judges assigned to this litigation and their immediate family members.

5. The Court finds that the APPSN Fee Class meets the relevant requirements of Federal Rule of Civil Procedure 23(a) and (b)(3) in that: (a) the number of APPSN Fee Class members is so numerous that joinder is impracticable; (b) there are questions of law and fact common to the APPSN Fee Class members; (c) the claim of the Class Representative (Plaintiff Precision Roofing of N. Florida Inc.) is typical of the claims of the APPSN Fee Class members; (d) the Class Representative (Plaintiff Precision Roofing of N. Florida Inc.) is an adequate representative for the APPSN Fee Class, and has retained experienced counsel to represent it as Class Counsel; (e) the questions of law and fact common to the APPSN Fee Class members predominate

over any questions affecting any individual APPSN Fee Class member; and (f) a class action is superior to the other available methods for the fair and efficient adjudication of the controversy. The Court therefore preliminarily certifies the proposed APPSN Fee Class.

6. The Court finds that the Multiple Fee Class meets the relevant requirements of Federal Rule of Civil Procedure 23(a) and (b)(3) in that: (a) the number of Multiple Fee Class members is so numerous that joinder is impracticable; (b) there are questions of law and fact common to the Multiple Fee Class members; (c) the claim of the Class Representative (Plaintiff Angela Grant) is typical of the claims of the Multiple Fee Class members; (d) the Class Representative (Plaintiff Angela Grant) is an adequate representative for the Multiple Fee Class, and has retained experienced counsel to represent her as Class Counsel; (e) the questions of law and fact common to the Multiple Fee Class members predominate over any questions affecting any individual Multiple Fee Class member; and (f) a class action is superior to the other available methods for the fair and efficient adjudication of the controversy. The Court therefore preliminarily certifies the proposed Multiple Fee Class.

7. For purposes of the Settlement only, the Court finds and determines that it will likely find at the Final Approval stage, pursuant to Federal Rule of Civil Procedure Rule 23(a)(4), that Plaintiff, Precision Roofing of N. Florida Inc., will fairly and adequately represent the interests of the APPSN Fee Class in enforcing their rights in the *Precision Roofing* Action, and therefore appoints it as the Class Representative for that APPSN Fee Class.

8. For purposes of the Settlement only, the Court finds and determines that it will likely find at the Final Approval stage, pursuant to Federal Rule of Civil Procedure Rule 23(a)(4), that Plaintiff, Angela Grant, will fairly and adequately represent the interests of the Multiple Fee Class in enforcing their rights in the *Grant* Action, and therefore appoints her as the Class Representative for the Multiple Fee Class.

9. For purposes of the Settlement only, and pursuant to Federal Rule of Civil Procedure 23(a)(1), the Court appoints the following as Class Counsel to act on behalf of the Settlement Class and the Class Representatives with respect to the Settlement:

Jeff Ostrow, Esq.
Jonathan M. Streisfeld, Esq.
KOPELOWITZ OSTROW P.A.
1 West Las Olas Blvd.
Suite 500
Fort Lauderdale, FL 33301

Jeffrey Kaliel, Esq.
KALIEL GOLD PLLC
1875 Connecticut Ave. NW
10th Floor
Washington, DC 20009

10. Kroll Settlement Administration LLC is appointed as Settlement Administrator and shall administer the Notice Program. The Settlement Administrator shall abide by the terms and conditions of the Agreement that pertain to the Settlement Administrator.

11. Pursuant to the 2018 amendment to Federal Rule Civil Procedure 23(e),

the terms of the Agreement (and the Settlement provided for therein) are preliminarily approved and likely to be approved at the Final Approval Hearing because:

(A) the class representative and class counsel have adequately represented the class;

(B) the proposal was negotiated at arm's length;

(C) the relief provided for the class is adequate, taking into account:

(i) the costs, risks, and delay of trial and appeal;

(ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims, if required;

(iii) the terms of any proposed award of attorney's fees, including timing of payment; and

(iv) any agreement required to be identified under Rule 23(e)(3); and

(D) the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2).

12. Having reviewed the proposed Notice Program, including the Email Notice, Postcard Notice, and the Long Form Notice submitted by the Parties as Exhibits 1 and 2 to the Agreement, the Court approves, as to form and content, such Notices for the purpose of notifying the Settlement Class as to the proposed Settlement, the Final Approval Hearing, and the rights of the Settlement Class members. Those Notices contain all of the essential elements necessary to satisfy the requirements of federal law, including the Federal Rules of Civil Procedure and federal and state due process provisions, including the APPSN Fee Class and Multiple Fee Class definitions, the identities of the Parties and their counsel; a summary of the proposed Settlement terms; information regarding opt-out procedures and the Opt-Out Period; information regarding objection procedures and the Objection Period; and the Final

Approval Hearing date and location.

13. The Court directs the Settlement Administrator to cause a copy of the Email Notice or Postcard Notice to be sent to all APPSN Fee Class and Multiple Fee Class members in accordance with the Notice Program. The Notice Program shall be completed before the filing of the Motion for Final Approval, which will include Class Counsel's application for attorneys' fees and costs.

14. The Email Notice, Postcard Notice, and Long Form Notice shall be updated by Class Counsel and Defendant to include the correct dates and deadlines in the Notice before the Notice Program commences, based upon those dates and deadlines set by the Court herein. The Court finds and determines Email Notice and Postcard Notice pursuant to this Order constitutes the best notice practicable under the circumstances, constitutes due and sufficient notice of the matters set forth in the notices to all persons entitled to receive such notices, and fully satisfies the requirements of due process, the Federal Rules of Civil Procedure, and all other applicable law and rules.

15. Any person falling within the definition of the APPSN Fee Class and/or Multiple Fee Class may, upon request, be excluded or opt-out. In the event a APPSN Fee Class and/or Multiple Fee Class member wishes to be excluded and not to be bound by this Agreement, that person must sign and mail a notice of intention to opt-out of the Settlement to the Settlement Administrator. The notice must be postmarked on or before the last day of the Opt-Out Period and must include the name of this Action; the Settlement Class member's name, the last four digits of the Account

number(s), address, telephone number, and email address; and a statement indicating a request to be excluded from the Settlement Class. Any member of the APPSN Fee Class and/or Multiple Fee Class who timely and properly requests to opt-out in compliance with these requirements will thereafter be excluded from the Settlement, will not become a Settlement Class Member, will not have any rights under the Settlement, will not be entitled to receive a Settlement Class Member Payment and/or forgiveness of Uncollected Fees, and will not be bound by the Agreement or the Final Approval Order. Any Settlement Class Member who fails to submit a valid and timely opt-out request shall be bound by all terms of the Agreement and the Final Approval Order. If an Account has more than one Accountholder, and if one Accountholder excludes himself, herself, or itself 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.

16. Any Settlement Class Member who wishes to object to the Settlement or Class Counsel's application for attorneys' fees and costs, or to appear at the Final Approval Hearing and show cause, if any, why the Settlement should not be approved as fair, reasonable, and adequate to the Settlement Class, or why a final judgment should not be entered thereon, may do so, but must proceed as set forth in this paragraph. Only a Settlement Class Member may submit an objection. No Settlement Class Member or other person will be heard on such matters unless they have mailed via U.S. Mail or private courier (e.g., Federal Express) a written objection (together

with any briefs, papers, statements, or other materials that the Settlement Class Member or other person wishes the Court to consider) to the Clerk of the Court, Class Counsel, Defendant's counsel, and the Settlement Administrator on or before the last day of the Objection Period, as set forth in the Notices.

17. Any objection must state: (a) the name of the Action; (b) the objector's full name, mailing address, telephone number, and email address (if any); (c) all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel; (d) the number of times the objector has objected to a class action settlement within the five years preceding the date that the objector submits the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector's prior objections that were issued by the trial and appellate courts in each listed case; (e) the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement or fee application; (f) the number of times in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the 5 years preceding the date of the filed objection, the caption of each case in which counsel or the firm has made such objection and a copy of any orders related to or ruling upon counsel's or the counsel's law firm's prior objections that were issued by the trial and appellate courts in each listed case in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the preceding 5 years; (g) any and all agreements that relate to the objection or the process of

objecting—whether written or oral—between objector or objector’s counsel and any other person or entity; (h) the identity of all counsel (if any) representing the objector who will appear at the Final Approval Hearing; (i) a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection (if any); (j) a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and (k) the objector’s signature (an attorney’s signature is not sufficient).

18. Any Settlement Class Member who does not make his or her objection in the manner and by the date set forth in this Order shall be deemed to have waived any objections and shall be forever barred from raising such objections in this or any other action or proceeding, absent further order of the Court.

19. Prior to the Final Approval Hearing, the Settlement Administrator (i) shall submit a declaration or affidavit to the Court confirming that the Notice Program was completed and providing the names of each APPSN Fee Class member and Multiple Fee Class member who timely and promptly requested exclusion from the APPSN Fee Class and/or Multiple Fee Class and (ii) provide notice of this Settlement as required under the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1715.

20. All pretrial proceedings in this Action are stayed and suspended until further order of this Court, except such actions as may be necessary to implement the Agreement and this Preliminary Approval Order.

21. Upon the entry of this Order, the Class Representatives and all members of the Settlement Class shall be provisionally enjoined and barred from asserting any

claims against Defendant and the Released Parties arising out of, relating to, or in connection with the Released Claims prior to the Court's decision as whether to grant Final Approval of the Settlement.

22. This Settlement, and any and all negotiations, statements, documents, and/or proceedings in connection with the Settlement, shall not be construed or deemed to be evidence of an admission or concession by Defendant of any liability or wrongdoing by Defendant or any of its affiliates, agents, representatives, vendors, or any other person or entity acting on its behalf with respect to the conduct alleged in the Action or that the case was properly brought as a class action, and shall not be construed or deemed to be evidence of an admission or concession that any person suffered compensable harm or is entitled to any relief with respect to the conduct alleged in the Action. Defendant may file the Agreement in any action or proceeding that may be brought against it in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

23. In the event that (a) this Court does not grant Final Approval of the Settlement as provided in the Agreement; (b) this Court does not enter the Final Approval Order in all material respects and substantial form as the Final Approval Order submitted by the Parties with the Motion for Final Approval; or (c) the Settlement does not become final for any other reason, the Agreement shall be null and void and any order or judgment entered by this Court in furtherance of the

Settlement shall be vacated *nunc pro tunc*. In such a case, the Parties shall proceed in all respects as if the Agreement had not been executed and the Parties shall in no way be prejudiced in proceeding with or defending this Action, the provisional class certification effected herein will be null and void, and Defendant shall have the right to oppose and object, on any and all grounds, to certification of the APPSN Fee Class and Multiple Fee Class or any other class at any future time.

24. For the benefit of the Settlement Class and to protect this Court's jurisdiction, this Court retains continuing jurisdiction over the Settlement proceedings to ensure the effectuation thereof in accordance with the Settlement preliminarily approved herein and the related orders of this Court.

25. Class Counsel and Defendant's Counsel are hereby authorized to use all reasonable procedures in connection with approval and administration of the Settlement that are not materially inconsistent with this Order or the Agreement, including making, without the Court's further approval, minor form or content changes to the Notices.

26. A Final Approval Hearing will be held at : **a.m./p.m.** on , **2022**, in Courtroom 12C at the United States Courthouse, 300 North Hogan Street, Jacksonville, Florida 32202¹ at which time the Court will consider whether the

¹ In the event the Court does not hold the Final Approval Hearing by video, all persons entering the Courthouse must present photo identification to Court Security Officers. Although cell phones, laptop computers, and similar electronic devices generally are not permitted in the building, attorneys may bring those items with them upon presentation to Court Security Officers of a Florida Bar card (presentation of the Duval County Courthouse lawyer identification card will suffice) or Order of special admission pro hac vice. However, all cell phones must be turned off while in the courtroom.

proposed Settlement should be finally approved as fair, reasonable, and adequate, and whether a final judgment should be entered. The Court may adjourn and/or continue the Final Approval Hearing without further notice to the proposed Settlement Class.

27. The reasonableness and fairness of a payment to Class Counsel for attorneys' fees and costs shall be determined at the Final Approval Hearing. Affidavits and documentation in support of any requested award of attorneys' fees and costs shall be included with the papers submitted by Class Counsel in support of the Motion for Final Approval of the proposed Settlement.

28. The Court may approve the Settlement with such modifications as the Parties may agree to, if appropriate, without further notice to the Settlement Class. The Parties must file all moving papers and briefs in support of Final Approval, inclusive of Class Counsel's application for attorneys' fees and costs, no later than 45 days before the date set forth herein for the Final Approval Hearing.

29. Any Settlement Class Member may enter an appearance in the Action, at their own expense, individually or through counsel of their own choice. If a Settlement Class Member does not enter an appearance, he or she will be represented by Class Counsel.

30. The Court hereby sets the following schedule of events:

Event	Calendar Days Before Final Approval Hearing
Deadline to Complete Notice Program	(60 before Final Approval Hearing)
Deadline to File Motion for Final Approval and Application for Attorneys' Fees and Costs	(45 before Final Approval Hearing)

Deadline for Settlement Class members to Opt-Out of the Agreement	(30 before Final Approval Hearing)
Deadline for Settlement Class Members to Make Objections	(30 before Final Approval Hearing)
Deadline for Respond to Objections (if any)	(15 before Final Approval Hearing)
Final Approval Hearing	_____, 2022, at __:__ .m.

31. The Court may, for good cause, extend any of the deadlines set forth in this Order without further notice to the Settlement Class.

DONE and **ORDERED** in Jacksonville, Florida this ___ day of _____, 2022.

Honorable BRIAN J. DAVIS
 United States District Judge