

IN THE CIRCUIT COURT OF LONOKE COUNTY, ARKANSAS
THIRD DIVISION

JAMES SMILEY and TONI DAWN FOUTS,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

FIRST NATIONAL BANK,

Defendant.

Cause No. 43CV-20-531

CLASS ACTION COMPLAINT

FINAL APPROVAL ORDER

WHEREAS, Plaintiffs/Class Representatives James Smiley and Toni Dawn Smiley (formerly Toni Dawn Fouts), by their respective counsel, entered into the Class Action Settlement Agreement (“Settlement”);

WHEREAS, Plaintiffs and Defendant applied pursuant to Rule 23 of the Arkansas Rules of Civil Procedure for an order preliminarily approving the proposed Settlement and preliminarily approving the form and plan of notice and distribution as set forth in the Settlement;

WHEREAS, this Court previously certified the Settlement Class.

WHEREAS, on July 12, 2022 the Court entered an order preliminarily approving the Settlement, approving the forms of notice of the Settlement to Class Members, directing that appropriate notice of the Settlement be given to Class Members, and scheduling a hearing on final approval (the “Preliminary Approval Order”);

WHEREAS, in accordance with the Settlement Agreement and the Preliminary Approval Order: (1) Class Counsel caused the Notice of class action settlement to be mailed by United States First Class Mail to all known members of the Class; and (2) the declaration of notice

demonstrates compliance with the Preliminary Approval Order with respect to the mailed notice and, further, that the best notice practicable under the circumstances was, in fact, given;

WHEREAS, Class Counsel filed with the Court a listing of those persons who submitted valid requests for exclusion from the Class;

WHEREAS, on October 20, 2022 this Court held a hearing on whether the Settlement is fair, reasonable, adequate, and in the best interests of the Class (the “Final Approval Hearing”); and

WHEREAS, based upon the foregoing, having heard the statements of Class Counsel and Counsel for Defendant, and of such persons as chose to appear at the Final Approval Hearing; having considered all of the files, records and proceedings in the Lawsuit, the benefits to the Class under the Settlement and the risks, complexity, expense, and probable duration of further litigation; and being fully advised in the premises;

THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

1. Terms capitalized herein and not otherwise defined shall have the meanings ascribed to them in the Settlement Agreement.

2. This Court has jurisdiction over the subject matter of this lawsuit and jurisdiction over the Plaintiffs and Defendant in this case (the “Parties”).

3. The Court hereby adopts and reaffirms the findings and conclusions set forth in the Preliminary Approval Order.

4. For settlement purposes, the Court certifies the following Settlement Class:

All persons who, between August 11, 2015 and February 4, 2022 (the “Class Period”) were customers of Defendant First National Bank and were charged by Defendant during the Class Period an overdraft fee on a debit card transaction that was pre-authorized into a positive balance and settled into a negative balance. Excluded from the class are Defendant’s current and former officers, directors, affiliates, legal representatives, employees, successors, subsidiaries, and assigns. Also excluded are any judges who have

presided over this matter and their immediate families and judicial staff, and any individuals who were not Arkansas citizens at the time this action was commenced.

For the reasons set forth in the Preliminary Approval For Order and in Plaintiffs' Motion for Final Approval, the Court finds that the requirements for certification under Arkansas Rules of Civil Procedure 23(a) and 23(b) are satisfied.

5. The Plaintiffs and Class Counsel fairly and adequately represent the interests of the Class in connection with the Settlement, and the Settlement is the product of good-faith, arm's-length negotiations.

6. The Settlement is the product of good faith, arm's-length negotiations by the Parties and their counsel, and the Class and Defendant were represented by capable and experienced counsel.

7. The form, content, and method of dissemination of the Notice given to members of the Class—individual mailed notice—were adequate and reasonable, constituted the best notice practicable under the circumstances, and satisfied the requirements of Rule 23 and Due Process.

8. For the reasons set forth in the Preliminary Approval Order and Plaintiffs' Motion for Final Approval, the Court finds that the Settlement Agreement is fair, reasonable, and adequate and in the best interests of the Class, and is approved in all respects. The Court hereby directs the Plaintiffs, the Class, Class Counsel, Defendant, and Defendant's counsel to effectuate the Settlement according to its terms.

9. The Settlement Agreement provides for certain benefits to Class Members. The Court approves those benefits and approves the distribution plan for the Settlement Fund set forth in the Settlement Agreement, and the parties are authorized to implement that distribution after deductions for fees, expenses, and service awards as approved by the Court.

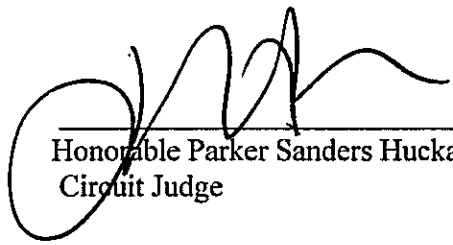
10. The Court shall have continuing jurisdiction over the Settlement Fund.

11. Upon the Effective Date, the Class Representatives and the Settlement Class release and forever discharge Defendant and its insurers, and including but not limited to their successors, assigns, members, current and former officers, directors, employees, attorneys and agents, from all past and present known and unknown claims, demands, damages, causes of action or suits seeking damages or other legal or equitable relief arising out of or in any way related to the claims asserted, or which could have been asserted, in the Lawsuit.

12. This Order is a final judgment because it disposes of all claims against all parties to this lawsuit. The Court retains jurisdiction over the Settlement Agreement, the parties to the Settlement Agreement, and all matters relating to the administration and enforcement of the Settlement Agreement.

THERE BEING NO JUST REASON FOR DELAY, LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: October 20, 2022



Honorable Parker Sanders Huckabee
Circuit Judge

JUDGE HUCKABEE
Date . Div.III
JURY TRIAL
BENCH TRIAL
NON-TRIAL
FINAL /CLOSED
SMALL ESTATE