

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TAWANNA ROBERTS, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

CAPITAL ONE, N.A.,

Defendant.

CASE NO. 1:16-cv-04841-LGS

I, CORINNE TITMUS, hereby declare and state as follows:

I. INTRODUCTION

1. *Personal Information.* My name is Corinne Titmus. I am a Senior Counsel at BrownGreer PLC, located at 250 Rocketts Way, Richmond, Virginia 23231 (“BrownGreer”).

2. *The Capacity and Basis of this Declaration.* I am over the age of 21. Unless otherwise noted, the matters set forth in this Declaration are based upon my personal knowledge, information received from the parties in this proceeding (the “Parties”), and information provided by my colleagues at BrownGreer and our partners.

II. BACKGROUND AND EXPERIENCE

3. *BrownGreer’s Appointment as Settlement Administrator.* On January 10, 2020, the Court entered its Order Granting Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action Settlement, preliminarily approving the Settlement¹ proposed in this litigation, and appointing BrownGreer as the Settlement Administrator (the “Preliminary Approval Order”). (Preliminary Approval Order ¶¶ 6, 7.)

¹ Capitalized terms herein have the same meanings as those defined in the Settlement Agreement.

4. *The Role of the Settlement Administrator.* The Settlement Administrator's primary duties in this program are:

- (a) effecting Notice to the Settlement Class;
- (b) establishing and maintaining a P.O. Box, the Settlement Website, and the toll-free telephone line;
- (c) fielding and responding to Settlement Class member inquiries;
- (d) receiving, processing, and reporting any requests from Settlement Class members to be excluded from the Settlement;
- (e) providing weekly reports to the Parties summarizing the number of exclusion requests and other pertinent information; and
- (f) distributing funds from the Settlement Fund to Class Counsel, the Class Representatives, Settlement Class members, and for *cy pres*.

(Settlement Agreement ¶ 56.) Following the entry of the Preliminary Approval Order, BrownGreer began to implement the Settlement and otherwise carry out its duties as the Settlement Administrator.

5. *The Purpose of this Declaration.* I submit this Declaration to (1) evidence BrownGreer's compliance with the terms of the Preliminary Approval Order, (2) detail BrownGreer's execution of its role as the Settlement Administrator, (3) report relevant program data to the Court for final approval consideration, and (4) opine as to the effectiveness of the Notice Program.

III. ESTABLISHMENT AND OPERATION OF SETTLEMENT CLASS MEMBER RESOURCES

6. *Settlement Post Office Box.* BrownGreer established a dedicated Post Office Box (the "P.O. Box") for the Settlement Program on January 14, 2020. The P.O. Box address is:

Settlement Administrator
Roberts v. Capital One, N.A. Overdraft Settlement Program
P.O. Box 25571

Richmond, VA 23260

This P.O. Box serves as a location for the United States Postal Service (“USPS”) to return undeliverable program mail to BrownGreer and for Settlement Class Members to submit exclusion requests and other Settlement Program correspondence. The P.O. Box address appeared prominently in all Notices and on the Settlement Website. BrownGreer monitors the P.O. Box daily and uses a dedicated mail intake team to process each item received. To date, we have received and processed 12,036 total pieces of mail at the Settlement Program’s P.O. Box.

7. Settlement Website. Pursuant to Paragraph 57 of the Settlement Agreement, BrownGreer developed the Settlement Website in consultation with the Parties and launched it on July 13, 2020. The Settlement Website, available at www.CapitalOneOverdraftLitigation.com, allows Settlement Class Members to view, download, and print Settlement documents, such as the Settlement Agreement and Preliminary Approval Order. The Settlement Website also makes available the complete class notice (the “Notice”) shown as Exhibit 1 to this Declaration, the format and contents of which we finalized in consultation with the Parties following the entry of the Preliminary Approval Order. Additionally, the Settlement Website includes orders from the Court extending certain deadlines and changing the final hearing date. The Settlement Website address appeared prominently in all Notices. The Settlement Website has been visited 5,028 times to date, and visitors have downloaded documents from the Settlement Website 3,279 total times.

8. Toll-Free Number. BrownGreer established a toll-free telephone number, 1-888-312-0063 (the “Toll-Free Number”), and opened it on July 13, 2020. Twenty-four hours per day, Settlement Class members can call and engage with an automated system that provides important Settlement information and gives Settlement Class members the option to leave a voicemail to request a copy of the Long Form Notice. The Toll-Free Number appeared prominently in all

Notices, as well as on the Settlement Website. The system has received 3,831 calls to date, and the Toll-Free Number will remain active through the close of this Settlement Program.

IV. SETTLEMENT CLASS DATA

9. ***The Settlement Class.*** The Settlement Class includes all current or former Capital One customers, except those with Capital One 360 accounts, who were charged an Overdraft Fee on a Debit Card Transaction that was authorized into a positive available balance, but settled against a negative balance, during the Class Period, excluding: (1) Capital One, its parents, subsidiaries, affiliates, officers and directors; (2) all Settlement Class members who make a timely election to be excluded; and (3) all judges assigned to this litigation and their immediate family members (Preliminary Approval Order ¶ 3.)

10. ***The Class Data.*** On June 30, 2020, Capital One provided a data set that contained the following for primary and secondary Account Holders: (1) masked Account IDs, (2) Settlement Class Member names, (3) a unique customer identification numbers, (4) mailing addresses, and (5) email addresses (to the extent available) (collectively, the “Class Data”). We analyzed these records thoroughly and identified 339,048 total records, consisting of 228,654 individually-held accounts and 110,394 jointly-held accounts related to 411,462 unique Account Holders.

11. ***Estimate of Settlement Class Size.*** We understand from the Parties that the Class Data we received includes all primary and secondary Account Holders for all relevant Accounts, and that those Account Holders represent 100% of the Settlement Class.

V. DIRECT NOTICE

12. ***Direct Notice.*** Paragraph 62 of the Settlement Agreement called for sending the Notice directly to Settlement Class members through email (“Email Notice”) or, where email was not possible, U.S. Mail (“Postcard Notice”). Following the entry of the Preliminary Approval

Order, BrownGreer, in consultation with the Parties, finalized the format and contents of the Email Notice and Postcard Notice appearing as Exhibits 2 and 3 to this Declaration, respectively.

13. *The Email Notice Population.* Paragraph 62 of the Agreement required the Settlement Administrator to send Email Notice to Settlement Class members for whom Capital One provided an email address in the Class Data.² The Class Data contained email addresses for Account Holders related to 193,916 Accounts. BrownGreer analyzed these email addresses and removed 992 email addresses that were facially invalid (*i.e.*, the email address was missing a required component, such as the “@” or the “.com,” or was not provided in the required format). Based on the above criteria, we identified 181,481 unique email addresses for 191,628 Accounts belonging to 234,528 Settlement Class members to which we could attempt to send the Email Notice.

14. *Initial Email Attempt.* On July 13, 2020, BrownGreer attempted to send an Email Notice to the primary Account Holder for the 191,628 Accounts described in Paragraph 13. Each Email Notice included a unique message identifier to track instances of “soft” and “hard” bounces. “Soft” bounces are emails that reach the mail server but are returned for temporary reasons that include an unresponsive Internet Service Provider or the recipient’s mailbox being full. “Hard” bounces are emails that are permanently undeliverable for reasons that include a deleted account or the recipient blocking the sender’s server. Over the course of the initial email campaign, 5,044 (2.8%) emails “hard” bounced and 6,613 (3.6%) emails “soft” bounced. These undeliverable emails were related to 4,958 Accounts associated with 5,833 Account Holders.

15. *Subsequent Email Attempts.* We did not send further Email Notices to email addresses where the initial email we sent returned as undeliverable because of a “hard” bounce. For

² After consulting with the Parties, for Accounts with more than one Account Holder, we sent Email Notices to only the first email address associated with an Account rather than an Email Notice to all Settlement Class members for whom an email address existed.

the 6,613 emails that returned from the initial notice attempt because of a “soft” bounce, BrownGreer made two additional attempts to re-send each Email Notice between July 28, 2020 and August 5, 2020. For emails that “soft” bounced three times (the initial attempt and two subsequent attempts), as explained more fully below, we attempted to send these Settlement Class members Postcard Notices instead.

16. *The Postcard Notice Population.* Paragraph 63 of the Settlement Agreement required the Settlement Administrator to send Postcard Notice to all Settlement Class members for whom Capital One does not have an Email Address,³ as well as those Settlement Class members whose Email Notices hard-bounced or soft-bounced three times. There were 146,751 Accounts for which the Class Data never included a facially valid email address (the “Mailing Address-Only Accounts”); and 12,496 Accounts for which the Email Notices “hard” bounced once or “soft” bounced three times (the “Unreachable-by-Email Accounts”) for whom we had a valid mailing address.

17. *Postcard Mailings.* On July 20, 2020, we mailed 142,660 initial Postcard Notices to the 177,494 Account Holders of the 146,751 Mailing Address-Only Accounts. On August 24, 2020, we implemented multiple additional Postcard Notice mailings to: (1) Settlement Class members whose initial Postcard Notices returned as undeliverable but for whom the USPS provided a forwarding address; and (2) Settlement Class members whose initial Postcard Notices returned as undeliverable without a forwarding address but for whom we were able to obtain an alternative mailing address through research using LexisNexis’s commercial compendium of domestic addresses; and (3) the Account Holders of the Unreachable-by-Email Accounts.

³ We consulted with the Parties, and as with the Email Notices, for Accounts with more than one Account Holder, we mailed Postcard Notices to only the first mailing address associated with an Account rather than a Postcard Notice to all Settlement Class members without an Email Address. Although we mailed only one Postcard Notice, we addressed the Postcard Notices to all Account Holders on the Account.

18. Overall Direct Notice Reach. BrownGreer attempted to send direct Notice to 411,462 Settlement Class members related to 339,048 Accounts, and, as of August 31, 2020, 221,615 (53.9%) Settlement Class members were reached by email and 184,051 (44.7%) were reached by postcard. In total, the direct Notice campaign reached 405,666 (98.6%) of all Settlement Class members,⁴ related to 334,090 (98.5%) Accounts.

VI. OPT OUTS AND OBJECTIONS

19. Opt Outs Received. The Court's July 7, 2020 scheduling order set the deadline for Settlement Class members to submit requests for exclusion or Settlement Class members file objections at September 23, 2020. The Preliminary Approval Order required that these exclusion requests be signed, mailed, and "include the name of this Action, the Account Holder's name, address, and telephone number, the last four digits of the account number of the Capital One Account, and a clear request that the individual would like to 'opt-out' or be 'excluded,' by use of those or other words clearly indicating a desire to no longer participate in the Settlement." (Preliminary Approval Order ¶ 12.) To date, BrownGreer has received requests to be excluded from the Settlement from five⁵ (less than .01%) Settlement Class Members, as listed in Exhibit 4 to this Declaration. These Requests for Exclusion are attached to this Declaration as Exhibit 5.

20. Objections Received. To object, Settlement Class members were required to file a written objection with the Court which must state:

- (a) the name of the Action; (b) the objector's full name, address, and telephone number; (c) all grounds for the objection, accompanied by any legal support for the objection known to

⁴ For the purposes of this Declaration, a Settlement Class member is considered "reached" by direct Notice if (1) a Postcard Notice mailed to the Settlement Class member has not been returned by the USPS as undeliverable or (2) an Email Notice sent to the Settlement Class member has not bounced back as undeliverable. These figures may continue to change slightly as more notices return as undeliverable.

⁵ On July 16, 2020, one class member, Grace Maro, submitted an email to the Settlement Inbox (Administrator@CapitalOneOverdraftLitigation.com) that stated, "Please exclude me and entirely." We followed up with Ms. Maro and provided the requirements for requests to be excluded as detailed in the Preliminary Approval Order. Ms. Maro responded again by email and affirmed her request to be excluded. We have included for reference the July 16 email in Exhibit 5 and have forwarded to the Parties the full exchange for their consideration.

the objector or the 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 running 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; (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 5 years; (g) any and all agreements that relate to the objection or the process of objecting – whether written or verbal – between objector and/or objector's counsel and/or any other person or entity; (h) the identity of all counsel 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; (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).

While the Preliminary Approval Order directed that objections be filed with the Court, as of August 31, 2020, BrownGreer has neither received, nor is aware of, any objections from Settlement Class members.

VII. FUNDING AND COST OF NOTICE AND ADMINISTRATION

21. *Funding of Escrow Account.* On January 22, 2020, Capital One deposited into the escrow account a cash Settlement fund of \$17 million from which Settlement Class members will receive payments or account credits, the Class Representative will receive her Service Award, and any court-approved attorneys' fees, expenses, and costs will be paid.

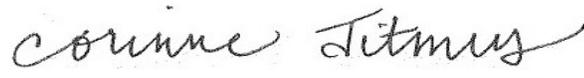
22. *Notice and Administration Costs.* The total cost of the Notice Program and administration of the Settlement is expected to be less than \$675,000, which is the budgeted amount coordinated with the Parties.

VIII. CONCLUSION

23. *The Notice Program is the Best Notice Practicable Under the Circumstances.* The Notice Program provides direct, individual notice by mail to Settlement Class members to the extent reasonably possible. The notice materials are clear, concise, informative, and effective, and each directs Settlement Class members to a suite of support services (the Settlement Website, toll-free call center, and P.O. Box). The Notice Program satisfies due process and the Fed. R. Civ. P 23(c)(2)(B) requirement of the best notice practicable under the circumstances, including giving individual notice to all Settlement Class members who can be identified with reasonable effort. With reach exceeding 98% for all Settlement Class members and Accounts, the Notice Program provides the same or better reach than courts have approved in other similar class action matters. The Notice Program is also generally consistent with the aims of the Federal Judicial Center's *Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide (2010)*, attached as Exhibit 6 to this Declaration, which calls for a notice that will effectively reach the class, come to the attention of the class, and be informative and easy to understand, and a notice plan that makes it easy for class members to act and exercise their rights.

24. *Settlement Success.* The foregoing establishes that the Settlement is being implemented fully, properly, and successfully as of the date of this Declaration.

I, Corinne Titmus, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge. Executed on this 1st day of September, 2020.

Handwritten signature of Corinne Titmus in cursive script, underlined.

Corinne Titmus

Exhibit 1

Class Notice

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

NOTICE REGARDING CLASS ACTION SETTLEMENT

A federal court authorized this notice. This is not a solicitation from a lawyer.

- A Settlement has been reached in a class action lawsuit claiming that Capital One, N.A. (“Capital One”) breached its contract with checking Account Holders and improperly assessed and collected Overdraft Fees on certain transactions. Capital One maintains it did nothing wrong; however, it has agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of litigation. The Court has not decided which side is right.
- A cash Settlement Fund of \$17 million has been established to pay Settlement Class Member Payments and any attorneys’ fees, costs, expenses, and Service Award ordered by the Court, as well as any Settlement Administration Costs in excess of \$750,000, which is the maximum amount of Settlement Administration Costs Capital One has also agreed to separately pay. Current and former Capital One customers who had a Capital One checking account(s) may be eligible for a Settlement Class Member Payment from the Settlement Fund.
- Your legal rights are affected whether you act or don’t act. Read this notice carefully.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
Do Nothing And Receive A Payment Or Account Credit	If you are entitled under the Settlement to a payment or account credit, you do not have to do anything to receive it. If the Court approves the Settlement and it becomes final and effective, and you remain in the Settlement Class (<i>i.e.</i> , you do nothing and do not otherwise exclude yourself from the Settlement), you will automatically receive a payment or account credit.
Exclude Yourself From The Settlement Deadline: September 23, 2020	Instead of doing nothing, you may ask to be excluded from the lawsuit. If you do so, you will receive no benefit from the Settlement, but you retain your right to sue on your own.
Object Deadline: September 23, 2020	You may object to the terms of the Settlement Agreement and have your objections heard at the October 29, 2020 Final Approval Hearing.

- These rights and options – **and the deadlines to exercise them** – are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments and account credits will be provided if the Court approves the Settlement and after any appeals are resolved. Please be patient.

Questions? Call 1-888-312-0063 or visit www.CapitalOneOverdraftLitigation.com

WHAT THIS NOTICE CONTAINS

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17. When and where will the Court decide whether to approve the Settlement?
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20. What happens if I do nothing at all?

GETTING MORE INFORMATION PAGE 8

21. How do I get more information?

BASIC INFORMATION

1. Why is there a Notice?

A Court authorized this notice because you have a right to know about the proposed Settlement of this class action lawsuit and about all of your options, before the Court decides whether to give Final Approval to the Settlement. This notice explains the lawsuit, the Settlement, and your legal rights.

The U.S. District Court for the Southern District of New York is overseeing this case. The case is known as *Tawanna Roberts v. Capital One, N.A.*, Case No. 16-cv-04841-LGS. The person who sued is called the “Plaintiff.” The Defendant is Capital One, N.A.

2. What is this lawsuit about?

The lawsuit claims that Capital One breached its contract with Account Holders and improperly assessed and collected Overdraft Fees on certain Debit Card Transactions.

The [Complaint](#) in this Action is posted on this website and contains all of the allegations and claims asserted against Capital One. Capital One maintains it did nothing wrong, but has agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of litigation. The Court has not decided which side is right.

3. What is an Overdraft fee?

An Overdraft Fee means any fee or fees assessed on an Account Holder for items paid when the Account has insufficient funds.

4. Why is this a class action?

In a class action, one person, called a Class Representative (in this case, one Capital One customer who was assessed Overdraft Fees on certain Debit Card Transactions), sued on behalf of people who have similar claims.

All of the people who have claims similar to the Class Representative are members of the Settlement Class, except for those who exclude themselves from the class.

5. Why is there a Settlement?

The Court has not decided in favor of either the Plaintiff or Capital One. Instead, both sides agreed to the Settlement. By agreeing to the Settlement, the Parties avoid the costs and uncertainty of a trial, and Settlement Class Members receive the benefits described in this Notice. The Class Representative and her attorneys think the Settlement is best for everyone who is affected.

WHO IS IN THE SETTLEMENT?

If you received Notice of the Settlement from a postcard or email addressed to you, then you may be in the Settlement Class. However, even if you did not receive a postcard or email with Settlement notice, you may still be in the Settlement Class, as described below.

6. Who is included in the Settlement?

You are a member of the Settlement class if you are a current or former Capital One customer, with the exception of those with Capital One 360 accounts, who was charged an Overdraft Fee on a Debit Card Transaction that was authorized into a positive available balance, but settled against a negative balance, during the Class Period. Excluded from the Settlement Class is Capital One, 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.

The Class Period means:

- a. for Settlement Class Members who established Accounts in Connecticut, the period from August 16, 2010, through November 7, 2018;
- b. for Settlement Class Members who established Accounts in Delaware, the period from June 22, 2013, through November 7, 2018;
- c. for Settlement Class Members who established Accounts in Louisiana, the period from August 16, 2010, through November 7, 2018;
- d. for Settlement Class Members who established Accounts in Maryland, the period from June 22, 2013, through November 7, 2018;
- e. for Settlement Class Members who established Accounts in New Jersey, the period from August 16, 2010, through November 7, 2018;
- f. for Settlement Class Members who established Accounts in New York, the period from August 16, 2010, through November 7, 2018;
- g. for Settlement Class Members who established Accounts in Texas, the period from June 22, 2012, through November 7, 2018;
- h. for Settlement Class Members who established Accounts in Virginia, the period from June 22, 2011, through November 7, 2018; and
- i. for Settlement Class Members who established Accounts in Washington DC, the period from June 22, 2013, through November 7, 2018.

If this did not happen to you, you are not a member of the Settlement Class. You may contact the Settlement Administrator if you have any questions as to whether you are in the Settlement Class.

THE SETTLEMENT'S BENEFITS

Questions? 1-888-312-0063 or visit www.CapitalOneOverdraftLitigation.com

7. What does the Settlement provide?

Capital One has agreed to establish a cash Settlement fund of \$17 million from which Settlement Class Members will receive payments or account credits. The amount of such payments or account credits cannot be determined at this time. However, it will be based on the number of Settlement Class Members and the amount of Relevant Overdraft Fees each Settlement Class Member was charged as a result of Capital One's assessment of Overdraft Fees on Debit Card Transactions that were authorized and approved into a positive available balance and were settled against a negative balance. In addition to the Settlement Fund, Capital One has agreed to separately pay Settlement Administration Costs up to a maximum of \$750,000. Pursuant to the Court's approval, the Settlement Fund will also be used to pay a Service Award for the Plaintiff, attorneys' fees awarded to Class Counsel, reimbursement of Class Counsel's litigation expenses and costs, and any payment to Capital One for Settlement Administration Costs that exceed \$750,000 incurred as permitted under the Settlement.

Any Residual Funds that are not feasible and practical to distribute to individual Settlement Class Members will be provided to one or more charitable organization ("*cy pres*" recipients). The parties will recommend an organization with their Motion for Final Approval.

8. How do I receive a payment or Account credit?

If you are in the Settlement Class and entitled to receive a payment, you do not need to do anything to receive a payment or account credit. If the Court approves the Settlement and it becomes final and effective, you will automatically receive a payment or account credit.

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

If you stay in the Settlement Class, all of the decisions by the Court will bind you, and you give Capital One a "release." A "release" means you cannot sue, continue to sue, or be part of any other lawsuit against Capital One about the legal issues in this case. Section XII of the [Settlement Agreement](#) contains the release and describes the precise legal claims that you give up if you remain in the Settlement. The Settlement Agreement is available at www.capitaloneoverdraftlitigation.com.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want benefits from the Settlement, and you want to keep the right to sue or continue to sue Capital One on your own about the legal issues in this case, then you must take steps to get out of the Settlement. This is called excluding yourself – or it is sometimes referred to as "opting-out" of the Settlement Class.

10. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must send a letter by mail that includes the following:

- Your name, address, and telephone number; and the last four digits of the account number of the Capital One Account
- A statement with a clear request that you want to "opt-out" or "be excluded" from the Settlement Class in *Tawanna Roberts v. Capital One, N.A.*, 16-cv-04841-LGS, or other words clearly indicating a desire to no longer participate in the Settlement; and

Questions? 1-888-312-0063 or visit www.CapitalOneOverdraftLitigation.com

- Your signature.

You must mail your exclusion request, postmarked no later than **September 23, 2020**, to:

Settlement Administrator
Roberts v. Capital One, N.A. Overdraft Settlement Program
P.O. Box 25571
Richmond, VA 23260

11. If I do not exclude myself, can I sue Capital One for the same thing later?

No. Unless you exclude yourself, you give up the right to sue Capital One for the claims that the Settlement resolves. You must exclude yourself in order to try to pursue your own lawsuit.

12. If I exclude myself from the Settlement, can I still receive a payment?

No. You will not receive a payment or account credit if you exclude yourself from the Settlement.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in this case?

The Court has appointed the following lawyers, known as Class Counsel, to represent you and others:

Jeff Ostrow Jonathan M. Streisfeld Joshua Levine KOPELOWITZ OSTROW PA 1 West Las Olas Blvd., Ste. 500 Fort Lauderdale, FL 33301	Hassan Zavareei TYCKO & ZAVAREEI LLP 1828 L Street NW, Ste. 1000 Washington, DC 20036
Jeffrey Kaliel Sophia Gold KALIEL PLLC 1875 Connecticut Avenue NW, 10 th Floor Washington, DC 20009	

Class Counsel will represent you and others in the Settlement Class. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

14. How will the lawyers be paid?

Class Counsel intends to request up to 30% of the Settlement Fund for attorneys' fees, plus reimbursement of their litigation expenses and costs incurred in connection with prosecuting this case. The fees and expenses awarded by the Court will be paid out of the Settlement Fund. The Court will determine the amount of fees and expenses to award. Class Counsel will make their request for attorney's fees and expenses by September 8, 2020.

Questions? 1-888-312-0063 or visit www.CapitalOneOverdraftLitigation.com

Class Counsel will also request that a Service Award of up to \$15,000.00 for the Class Representative be paid from the Settlement Fund for her service to the entire Settlement Class. Any Service Award is subject to Court approval. The Class Representative will make her request for a Service Award by September 8, 2020.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the Settlement or some part of it.

15. How do I tell the Court that I don't like the Settlement?

If you are a Settlement Class member and have not requested to be excluded from the Settlement Class, you can object to any part of the Settlement; the Settlement as a whole; Class Counsel's requests for fees, costs and expenses; and/or Class Counsel's request for a Service Award for the Plaintiff. To object, you must submit your objection by mail or private courier (*e.g.*, Federal Express) to the Clerk of the Court, Class Counsel, Capital One's counsel, and the Settlement Administrator. Your objection must include the following:

- The name of this case, which is *Tawanna Roberts v. Capital One, N.A.*, 1:16-cv-04841-LGS;
- Your full name, address and telephone number;
- All grounds for the objection, accompanied by any legal support for the objection known to you or your counsel;
- The identity of all counsel who represent you, 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;
- The number of times you have objected to a class action settlement within the five years preceding the date that you file the objection, the caption of each case in which you have made such objection, and a copy of any orders or opinions related to or ruling upon the prior objections that were issued by the trial and appellate courts in each listed case;
- Any and all agreements that relate to the objection or the process of objecting – whether written or verbal – between you or your counsel and any other person or entity;
- The identity of all counsel representing you who will appear at the hearing that the Court has scheduled to determine whether to grant Final Approval to the Settlement and Class Counsel's request for attorneys' fees and Service Award to Plaintiff (the "Final Approval Hearing");
- The number of times in which your counsel and/or counsel's law firm have objected to a class action settlement within the five years preceding the date that you file the 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 firm's prior objections that were issued by the trial and appellate courts in each listed case;
- A list of all persons who will be called to testify at the Final Approval Hearing in support of the objection;
- A statement confirming whether you intend to personally appear and/or testify at the Final Approval Hearing; and
- Your signature (an attorney's signature is not sufficient).

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. If submitted

Questions? 1-888-312-0063 or visit www.CapitalOneOverdraftLitigation.com

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. You must submit your objection to the following addresses no later than **September 23, 2020**:

Clerk of the Court U.S. District Court for the Southern District of New York 40 Foley Square Courtroom 1106 New York, NY 10007	Settlement Administrator Roberts v. Capital One, N.A. Overdraft Settlement Program P.O. Box 25571 Richmond, VA 23260	Jeff Ostrow Kopelowitz Ostrow Ferguson Weiselberg Gilbert 1 West Las Olas Blvd. Suite 500 Fort Lauderdale, FL 33301	James McGuire Buckley LLP 555 California Street Suite 4925 San Francisco, CA 94104
---	---	--	--

16. What's the difference between objecting and excluding?

Objecting is telling the Court that you do not like something about the Settlement. You can object to the Settlement only if you do not exclude yourself from the Settlement. Excluding yourself from the Settlement is telling the Court that you don't want to be part of the Settlement. If you exclude yourself from the Settlement, you have no basis to object to the Settlement because it no longer affects you.

THE COURT'S FINAL APPROVAL HEARING

The Court will hold the Final Approval Hearing to decide whether to approve the Settlement and the request for attorneys' fees, litigation expenses and costs, and a Service Award for Plaintiff. You may attend and you may ask to speak, but you don't have to do so. If you retain your own counsel, they may appear on your behalf.

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

The Court will hold a Final Approval Hearing at 10:50 am ET on October 29, 2020, at the United States District Court for the Southern District of New York, located at 40 Foley Square, Courtroom 1106, New York, NY 10007. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check at www.CapitalOneOverdraftLitigation.com for updates. At this hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. The Court will also consider any request by Class Counsel for attorneys' fees and expenses and for the Service Award for Plaintiff. If there are objections, the Court will consider them at this time. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

18. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. However, you may come at your own expense. If you send an objection, you don't have to come to Court to talk about it. Provided you submitted your written objection on time, to the proper address, and it complies with the requirements set forth above, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

Questions? 1-888-312-0063 or visit www.CapitalOneOverdraftLitigation.com

YOU ARE **NOT** REQUIRED TO ATTEND THIS HEARING TO BENEFIT FROM THE SETTLEMENT.

19. May I speak at the hearing?

If you do not exclude yourself from the Settlement Class, you may ask the Court for permission to speak at the Final Approval Hearing concerning any part of the proposed Settlement by asking to speak in your objection by following the instructions above in Section 15.

IF YOU DO NOTHING

20. What happens if I do nothing at all?

If you do nothing, you will still receive the benefits to which you are entitled. Unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Capital One relating to the issues in this case.

GETTING MORE INFORMATION

21. How do I get more information?

This Long Form Notice summarizes the proposed Settlement. More details can be found in the Settlement Agreement. You can obtain a copy of the Settlement Agreement at www.capitaloneoverdraftlitigation.com. You may also write with questions to the Settlement Administrator, Roberts v. Capital One, N.A. Overdraft Settlement Program, P.O. Box 25571, Richmond, VA 23260 or call the toll-free number, 1-888-312-0063. Do not contact Capital One or the Court for information.

Exhibit 2

Email Notice

Subject: Notice of Class Action – Roberts v. Capital One, N.A. Overdraft Settlement

Email Text:

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

NOTICE REGARDING CLASS ACTION SETTLEMENT

A federal court authorized this notice. This is not a solicitation from a lawyer.

A Settlement has been reached in a class action lawsuit called *Tawanna Roberts v. Capital One, N.A.*, Case No. 16-cv-04841-LGS, claiming that Capital One, N.A. (“Capital One”) breached its contract with Account Holders and improperly assessed and collected Overdraft Fees on certain transactions. Capital One maintains it did nothing wrong, but has agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of litigation. The Court has not decided which side is right. You can read Plaintiff’s [Complaint](#), the [Settlement Agreement](#), and other case documents on www.CapitalOneOverdraftLitigation.com.

Who’s Included?

Capital One’s records show you are a member of the Settlement Class. The Settlement Class means all current and former Capital One customers who were charged an Overdraft Fee on a Debit Card Transaction that was authorized into a positive available balance, but settled against a negative balance, during the Class Period. Excluded from the Settlement Class is Capital One, 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.

What Are the Settlement Terms?

A Settlement Fund of \$17 million has been established to pay Settlement Class Member Payments and any attorneys’ fees, costs, expenses, and/or Service Award ordered by the Court. Additionally, Capital One has agreed to pay up to \$750,000 in Settlement Administration Costs. Once the Court approves the Settlement, you will *automatically* receive a payment or account credit for Relevant Overdraft Fees paid during the period covered by the Settlement.

Your Other Options.

If you do not want to be bound by the Settlement, you must exclude yourself by **September 23, 2020**. If you exclude yourself, you cannot get money from this Settlement. If you do not exclude yourself, you will release your claims against Capital One. Alternatively, if you do not exclude yourself, you may object to the Settlement by **September 23, 2020**. The [Long Form Notice](#) available at the [Settlement Website](#), listed below, explains how to exclude yourself or object. The Court will hold a hearing **October 29, 2020 at 10:50 am ET**, at the United States District Court for the Southern District of New York, located at 40 Foley Square, Courtroom 1106, New York, NY 10007, to consider whether to approve the Settlement, a request by Class Counsel for up to 30% of the Settlement Fund for attorneys’ fees, a request by Class Counsel for costs and expenses for litigating the case, and a request by the Class Representative for a Service Award of up to \$15,000. You may appear at the hearing, but you don’t have to. You may hire your own attorney, at your own expense, to appear or speak for you at the hearing.

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

This email provides limited information about the Settlement. For more information:

www.CapitalOneOverdraftLitigation.com

1-888-312-0063

Exhibit 3

Postcard Notice

~~LEGAL NOTICE~~

*A federal court authorized this Notice.
This is not a solicitation from a lawyer.*

Capital One, N.A.'s ("Capital One") records indicate you are a current or former Capital One customer who was charged an Overdraft Fee on a Debit Card Transaction that was authorized into a positive available balance, but settled against a negative balance, during the Class Period. As such, you may be entitled to benefits from this proposed class action Settlement.

A Settlement has been reached in the Southern District of New York (the "Court") called *Tawanna Roberts v. Capital One, N.A.*, Case No. 16-cv-04841-LGS, claiming that Capital One, N.A. breached its contract with Account Holders and improperly assessed and collected Overdraft Fees on certain transactions. Capital One maintains it did nothing wrong, but has agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of litigation.

POST CLASS
MAIL U.S.
POSTAGE PAID
PERMIT NO
1234

Roberts v. Capital One, N.A. Overdraft Settlement
P.O. Box 25571
Richmond, VA 23260



50983-123456789-001-001-01

John Q. Sample, Jr.
123 Main Street
Apt. #4
New York, NY 12345-6789

www.CapitalOneOverdraftLitigation.com

1-888-312-0063

Who's Included? Capital One's records show you are a member of the Settlement Class. The Settlement Class means all current and former Capital One customers who were charged an Overdraft Fee on a Debit Card Transaction that was authorized into a positive available balance, but settled against a negative balance, during the Class Period. Excluded from the Settlement Class is Capital One, 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.

What are the Settlement terms? A Settlement Fund of \$17 million has been established to pay Settlement Class Member Payments and any attorneys' fees, costs, expenses, and/or Service Award ordered by the Court. Additionally, Capital One has agreed to pay up to \$750,000 in Settlement Administration Costs. Once the Court approves the Settlement, you will *automatically* receive a payment or account credit for Relevant Overdraft Fees paid during the period covered by the Settlement.

Your Other Options. If you do not want to be bound by the Settlement, you must exclude yourself by **September 23, 2020**. If you exclude yourself, you cannot get money from this Settlement. If you do not exclude yourself, you will release your claims against Capital One. Alternatively, if you do not exclude yourself, you may object to the Settlement by **September 23, 2020**. The Long Form Notice available at the Settlement Website, listed below, explains how to exclude yourself or object. The Court will hold a hearing on **October 29, 2020 at 10:50 am ET**, at the United States District Court for the Southern District of New York, located at 40 Foley Square, Courtroom 1106, New York, NY 10007, to consider whether to approve the Settlement, a request by Class Counsel for up to 30% of the Settlement Fund for attorneys' fees, a request by Class Counsel for costs and expenses for litigating the case, and a request by the Class Representative for a Service Award of up to \$15,000. You may appear at the hearing, but you don't have to. You may hire your own attorney, at your own expense, to appear or speak for you at the hearing.

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

This card provides limited information about the Settlement. For more information:

www.CapitalOneOverdraftLitigation.com

1-888-312-0063

Exhibit 4

List of Class Members Requesting Exclusion

Roberts v. Capital One, N.A. Overdraft Settlement Program

Tawanna Roberts v. Capital One, N.A. , Case No. 16-cv-04841-LGS

Row	Postmark Date	Date Received	First Name	Last Name	Last 4 digits of Account	Address	City	State	Postal Code
1	N/A	7/16/2020	Grace	Maro	N/A	N/A	N/A	N/A	N/A
2	7/22/2020	7/31/2020	William	Meehan	6382	147 E. Williston Avenue	East Williston	NY	11596
3	8/10/2020	8/13/2020	Joy	Osemwenkhae	4801	2160 Matthews Avenue, 3E	Bronx	NY	10462
4	8/12/2020	8/18/2020	Joyce	Prier	N/A	613 Richelieu Parkway	Marksville	LA	71351
5	8/18/2020	8/24/2020	Suzanne	Pichon	N/A	3149 Effie Street	Slidell	LA	70458

Exhibit 5

Requests for Exclusion

From: gracemaro@netscape.net <gracemaro@netscape.net>
Sent: Thursday, July 16, 2020 9:15 AM
To: Administrator@CapitalOneOverdraftLitigation.com
Cc: gracemaro@netscape.net
Subject: Re: Notice of Class Action – Roberts v. Capital One, N.A. Overdraft Settlement

Dear Capital One Litigations.

Please exclude me and entirely.

Have a wonderful day.

Sincerely

Grace.

-----Original Message-----

From: Administrator - Capital One Overdraft Litigation <administrator@capitaloneoverdraftlitigation.com>
To: GRACEMARO <GRACEMARO@NETSCAPE.NET>
Sent: Thu, Jul 16, 2020 08:10 AM
Subject: Notice of Class Action – Roberts v. Capital One, N.A. Overdraft Settlement

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

NOTICE REGARDING CLASS ACTION SETTLEMENT

A federal court authorized this notice. This is not a solicitation from a lawyer.

A Settlement has been reached in a class action lawsuit called *Tawanna Roberts v. Capital One, N.A.*, Case No. 16-cv-04841-LGS, claiming that Capital One, N.A. (“Capital One”) breached its contract with Account Holders and improperly assessed and collected Overdraft Fees on certain transactions. Capital One maintains it did nothing wrong, but has agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of litigation. The Court has

not decided which side is right. You can read Plaintiff's [Complaint](#), the [Settlement Agreement](#), and other case documents on www.CapitalOneOverdraftLitigation.com.

Who's Included?

Capital One's records show you are a member of the Settlement Class. The Settlement Class means all current and former Capital One customers who were charged an Overdraft Fee on a Debit Card Transaction that was authorized into a positive available balance, but settled against a negative balance, during the Class Period. Excluded from the Settlement Class is Capital One, 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.

What Are the Settlement Terms?

A Settlement Fund of \$17 million has been established to pay Settlement Class Member Payments and any attorneys' fees, costs, expenses, and/or Service Award ordered by the Court. Additionally, Capital One has agreed to pay up to \$750,000 in Settlement Administration Costs. Once the Court approves the Settlement, you will *automatically* receive a payment or account credit for Relevant Overdraft Fees paid during the period covered by the Settlement.

Your Other Options.

If you do not want to be bound by the Settlement, you must exclude yourself by **September 23, 2020**. If you exclude yourself, you cannot get money from this Settlement. If you do not exclude yourself, you will release your claims against Capital One. Alternatively, if you do not exclude yourself, you may object to the Settlement by **September 23, 2020**. The [Long Form Notice](#) available at the [Settlement Website](#), listed below, explains how to exclude yourself or object. The Court will hold a hearing **at 10:50 am ET on October 29, 2020**, at the United States District Court for the Southern District of New York, located at 40 Foley Square, Courtroom 1106, New York, NY 10007, to consider whether to approve the Settlement, a request by Class Counsel for up to 30% of the Settlement Fund for attorneys' fees, a request by Class Counsel for costs and expenses for litigating the case, and a request by the Class Representative for a Service Award of up to \$15,000. You may appear at the hearing, but you don't have to. You may hire your own attorney, at your own expense, to appear or speak for you at the hearing.

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

This email provides limited information about the Settlement. For more information:

www.CapitalOneOverdraftLitigation.com

1-888-312-0063

Click here to [unsubscribe](#).

To CAPITAL ONE,

My name is William F. Meehan
" address is 147 EAST WILKINSON
AVE. EAST WILKINSON NY 11596
My phone # is 516-238-5116
THE last 4 of my checking acct.
is 6382.

I want out of this settlement case
Tawana Roberts v. Capital One
N.A. case # 16cv 04841-LGS

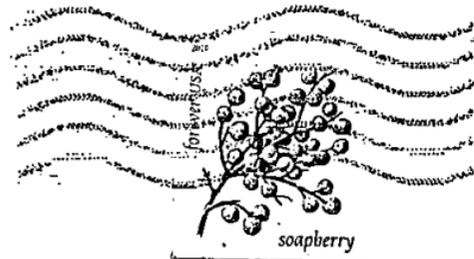
William F. Meehan



Mr. William F. Meehan
147 E. Williston Ave.
East Williston, NY 11596-2561

MID-ISLAND NY 117

77 JUL 2020 PM 5 1



RECEIVED
JUL 31 2020
BrownGreer LLC
Richmond, Va

Roberts v. Capital One
N.A. Overdraft Settlement
P.O. BOX 25571
Richmond, U.A.
23260

23260-557171



August 1, 2020

Settlement Administrator
Roberts v. Capital One, N.A.
Overdraft Settlement Program
P.O. Box 25571
Richmond, VA 23260

To Whom It May Concern:

This letter serves as a notice and request to be excluded from the Settlement Class in Tawanna Roberts v. Capital One, N.A., 16-cv-04841-LGS. Per your request, please find the request information below:

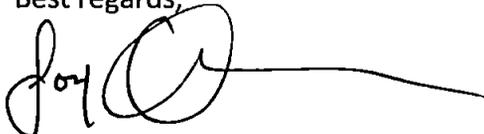
Name: Joy Osemwenkhae

Address: 2160 Matthews Avenue, 3E
Bronx, NY 10462

Phone: (646) 389 – 2532

Account # last 4 digits: 4801

Best regards,

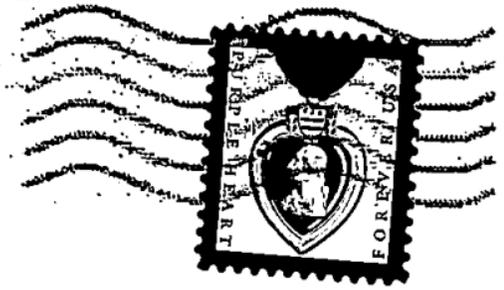
A handwritten signature in black ink, appearing to read "Joy O", with a long horizontal line extending to the right.

Joy Osemwenkhae

Joy Osemwenkhae
2160 Matthews Ave #3E
Bronx, NY 10462

NEW YORK NY 100

10 AUG 2020 PM 9 L



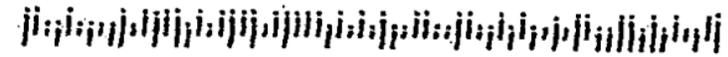
RECEIVED

AUG 13 2020

BrownGreer PLC
Richmond, Va

Settlement Administrator
Roberts v. Capital One, N.A.
Overdraft Settlement Program
P.O. Box 25571
Richmond, VA 23260

23260-557171



8-11-2020
613 Rieheben Pkwy
Marksville, LA. 71351

To whom it May Concern:

My name is Joyce P. Prier I received a notice on over drafted fee's concerning my debit card that was taken out and I had money still on my debit card with Capital one but they still charge me fees.

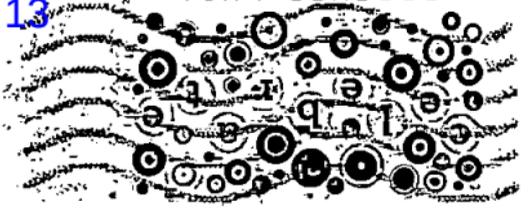
I am 71 yrs old I've been with this bank for many yrs "Good Bank Good Customer Service they help me when I was in a hunc. I want to exclude my self from this settlement I live in Marksville LA. 71351 Many thanks for this input. The Lord will Bless me other ways.

Joyce P. Prier
613 Rieheben Pkwy
Marksville, LA
71351

SHREVEPORT LA 710

12 AUG 2020 PM 3:1

FOREVER / USA



Mrs. Jaye Rice
613 Richelieu Hwy
Muskville, VA 71351

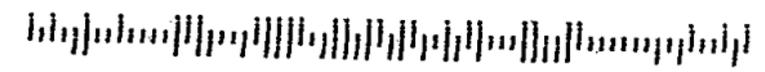
Roberts v. Capital One, NA. Quiddraft Settlement
P.O. Box 25571
Richmond, VA 23260

RECEIVED

AUG 18 2020

BrownGreer PLC
Richmond, Va

29260-557171



LEGAL NOTICE

*A federal court authorized this Notice.
This is not a solicitation from a lawyer.*

Roberts v. Capital One, N.A. Overdraft Settlement
P.O. Box 25571
Richmond, VA 23260

PRESORTED
FIRST-CLASS MAIL
U.S. POSTAGE
PAID
LANCASTER PA
PERMIT NO. 1793

*This is what you sent to me
All copy of All card.*

Capital One, N.A.'s ("Capital One") records indicate you are a current or former Capital One customer who was charged an Overdraft Fee on a Debit Card Transaction that was authorized into a positive available balance, but settled against a negative balance, during the Class Period. As such, you may be entitled to benefits from this proposed class action Settlement.

A Settlement has been reached in the Southern District of New York (the "Court") called *Tawanna Roberts v. Capital One, N.A.*, Case No. 16-cv-04841-LGS, claiming that Capital One, N.A. breached its contract with Account Holders and improperly assessed and collected Overdraft Fees on certain transactions. Capital One maintains it did nothing wrong, but has agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of litigation.

www.CapitalOneOverdraftLitigation.com
1-888-312-0063



50983-412621906-001-001-01

*****AUTO**5-DIGIT 70458

90919

3 T163 P2

SUZANNE P PICHON
3149 EFFIE ST
SLIDELL LA 70458-4613



Who's included? Capital One's records show you are a member of the Settlement Class. The Settlement Class means all current and former Capital One customers who were charged an Overdraft Fee on a Debit Card Transaction that was authorized into a positive available balance, but settled against a negative balance, during the Class Period. Excluded from the Settlement Class is Capital One, 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.

What are the Settlement terms? A Settlement Fund of \$17 million has been established to pay Settlement Class Member Payments and any attorneys' fees, costs, expenses, and/or Service Award ordered by the Court. Additionally, Capital One has agreed to pay up to \$750,000 in Settlement Administration Costs. Once the Court approves the Settlement, you will *automatically* receive a payment or account credit for Relevant Overdraft Fees paid during the period covered by the Settlement.

Your Other Options. If you do not want to be bound by the Settlement, you must exclude yourself by **September 23, 2020**. If you exclude yourself, you cannot get money from this Settlement. If you do not exclude yourself, you will release your claims against Capital One. Alternatively, if you do not exclude yourself, you may object to the Settlement by **September 23, 2020**. The Long Form Notice available at the Settlement Website, listed below, explains how to exclude yourself or object. The Court will hold a hearing at **10:50 am ET on October 29, 2020**, at the United States District Court for the Southern District of New York, located at 40 Foley Square, Courtroom 1106, New York, NY 10007, to consider whether to approve the Settlement, a request by Class Counsel for up to 30% of the Settlement Fund for attorneys' fees, a request by Class Counsel for costs and expenses for litigating the case, and a request by the Class Representative for a Service Award of up to \$15,000. You may appear at the hearing, but you don't have to. You may hire your own attorney, at your own expense, to appear or speak for you at the hearing.

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

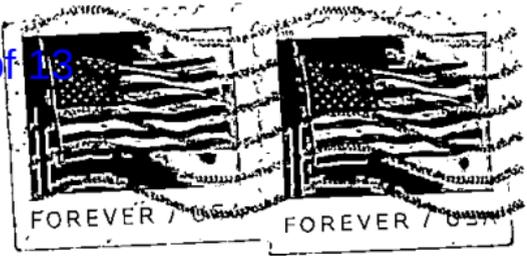
This card provides limited information about the Settlement. For more information:
www.CapitalOneOverdraftLitigation.com
1-888-312-0063

I Suzanne P. Pichon want
to be Exclude myself from
this Settlement with Capital One
that intotake place on September 23, 2020

Capital One N.A

Case # 16-cv-04841 LGS

my phone number is 985 290 1666
3149 8th Street
Slidell, La. 70458



18 AUG 2020 PM 11 L

Suzanne Pukon
3149 Effie Street
Slidell, La. 70459

Roberts v Capital One N.A. Overdraft Settlement
P.O. Box 25571
Richmond, VA 23260

RECEIVED

AUG 24 2020

BrownGreer
Richmond, Va

23260-557171



Exhibit 6

FJC Checklist

Roberts v. Capital One, N.A. Overdraft Settlement Program: Judges' Class Action Notice and Claim Process Checklist

A. MAJOR CHECKPOINTS



Will notice effectively reach the class?

Yes. The direct notice campaign is expected to reach more than 90% of the class. The Federal Judicial Center's Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide targets 70-95% reach among class members and relates that the average reach among approved class actions is 84%.



Will the notices come to the attention of the class?

Yes. Modeled after the sample notices published by the Federal Judicial Center, the notices are designed with headlines and formatting to grab a reader's attention.



Are the notices informative and easy to understand?

Yes. The notices provide all the information needed by a Class Member to make an informed decision regarding the settlement, as required by Rule 23(c)(2)(B) and are written in plain language.



Are all of the rights and options easy to act upon?

Yes. The Long-Form Notice explains the easy steps to remain in the class and assert a claim, to opt out or to object to the settlement.

B. BEFORE CERTIFICATION/PRELIMINARY SETTLEMENT APPROVAL



Can any manageability problems from notice issues be overcome?

The notices to this class do not present any manageability problems.



Can a high percentage of the proposed class be reached (i.e., exposed to a notice)?

Yes. We expect to reach more than 90% of the class through direct notice.

Roberts v. Capital One, N.A. Overdraft Settlement Program: Judges' Class Action Notice and Claim Process Checklist

B. BEFORE CERTIFICATION/PRELIMINARY SETTLEMENT APPROVAL



Is it economically viable to adequately notify the class?

Yes. We have worked with the parties to develop an effective but cost-conscious notice plan that benefits from a high percentage of Settlement Class members being reachable directly by mail and email.



Will unknown Class Members understand that they are included?

Yes. Based on what we currently know, there are no unknown Settlement Class members.

C. UPON CERTIFICATION/PRELIMINARY SETTLEMENT APPROVAL



Do you have a "best practicable" notice plan from a qualified professional?

Yes. BrownGreer is a qualified professional firm with deep expertise in class actions, notices and settlement administration, and has coordinated with the parties to design a Notice Plan that achieves the best practicable notice to the class.



Do you have unbiased evidence supporting the plan's adequacy?

Yes. The parties have engaged BrownGreer as an independent, neutral notice and claims administrator, and have relied upon the advice and opinions of the firm to develop the Notice Plan and assure its sufficiency.



Have plain language forms of notice been created?

Yes. The notices are modeled after the language used in the samples furnished by the Federal Judicial Center, and are written in a reader-friendly, understandable way.

Roberts v. Capital One, N.A. Overdraft Settlement Program: Judges' Class Action Notice and Claim Process Checklist

C. UPON CERTIFICATION/PRELIMINARY SETTLEMENT APPROVAL



Will a qualified firm disseminate notice and administer response handling?

Yes. BrownGreer is fully qualified by its experience and training to disseminate the notices and handle all responses by the class to the notices.

D. NOTICE PLAN



Is the notice plan conducive to reaching the demographics of the class?

Yes. The Notice Plan relies on direct notice reach to Settlement Class members, and therefore, is expected to reach more than 90% of the class, regardless of demographics.



Is the geographic coverage of the notice plan sufficient?

Yes. The Notice Plan will reach persons throughout the United States and appropriate territories.



Is the coverage broad and fair? Does the plan account for mobility?

Yes. The Notice Plan contemplates that mailing addresses for potential Settlement Class members will be updated and verified through the National Change of Address system and the LexisNexis compendium of domestic addresses.



Is there an extra effort where the class is highly concentrated?

Because we have mailing information for 100% of potential Settlement Class members, the direct notice campaign will target all Settlement Class membersequally regardless of location.

Roberts v. Capital One, N.A. Overdraft Settlement Program: Judges' Class Action Notice and Claim Process Checklist

D. NOTICE PLAN



Does the plan include individual notice?

Yes. Based on preliminary data analysis and representations of counsel, the Notice Plan expects to reach more than 90% of the class through direct, individual notice.



Did you receive reliable information on whether and how much individual notice can be given?

Yes. Counsel for the parties have represented that names and mailing addresses are available for 100% of the class.



Will the parties search for and use all names and addresses they have in their files?

Yes. The notices will be sent to every potential Settlement Class member identified in class data.



Will outdated addresses be updated before mailing?

Yes. BrownGreer will cross-reference the initial mailing addresses against the USPS National Change of Address before mailing. For all mail returned as undeliverable, we will re-mail to any different address returned by the USPS or will research better addresses using the LexisNexis compendium of address databases to permit re-mailing.



Has the accuracy of the mailing list been estimated after updating efforts?

Yes. Based on data analysis and representations of counsel, we estimate that the Class Data includes accurate mailing addresses for more than 90% of the class, after the updating and re-mailing efforts contemplated in the Notice Plan.



Has the percentage of the class to be reached by mail been calculated?

Yes. These efforts should yield successful mailing to more than 90% of the class.

Robertson Capital One, N.A. Overdraft Settlement Program: Judges' Class Action Notice and Claim Process Checklist

D. NOTICE PLAN



Are there plans to re-mail notices that are returned as undeliverable?

Yes. The Notice Plan contemplates detailed steps that will be taken to re-mail returned mail.



Will e-mailed notice be used instead of postal mailings?

Yes. where email addresses are available, we will send notice to Settlement Class members by Email Notice rather than Postcard Notice.



Will publication efforts combined with mailings reach a high percentage of the class?

We believe we have mailing addresses for 100% of the class and anticipate successful mailings to more than 90% of them, which eliminates the need to reach Settlement Class members by publication.



Are the reach calculations based on accepted methodology?

Yes. The reach calculations for direct notice draw upon BrownGreer's experience in notice mailings.



Is the net reach calculation thorough, conservative, and not inflated?

Yes. We have been careful not to overstate the reach expected from the Notice Plan efforts.



Do the reach calculations omit speculative reach that only might occur?

Yes. The Notice Plan rests on empirical evidence of likely successful deliveries of the notice and does not contain any speculation regarding only possible delivery.

Roberts v. Capital One, N.A. Overdraft Settlement Program: Judges' Class Action Notice and Claim Process Checklist

D. NOTICE PLAN



Is any Internet advertising being measured properly?

Because we have mailing information for 100% of the class, we have not relied on Internet advertising in this case.



Is non-English notice necessary?

We understand that effectively all Settlement Class members speak and understand English, and therefore, no non-English is necessary.



Does the notice plan allow enough time to act on rights after notice exposure?

Yes. The Judge's scheduling order allows 90 days from the first issuance of class notice for Settlement Class members to opt out or object.



Will key documents be available at a neutral website?

Yes. The official settlement website, www.CapitalOneOverdraftLitigation.com, permits visitors to read, download and print the Settlement, important orders entered by the Court, the notices, and other information.



Can the class get answers from a trained administrator or from class counsel?

Yes. The notices alert Settlement Class members on how to obtain information from the Settlement Program's resources, as well as from Class Counsel.



Are the notices designed to come to the attention of the class?

Yes. The notices contain headlines and concise statements to spike attention and to prompt viewers to continue reading.

Settlement Program: Judges' Class Action Notice and Claim Process Checklist

E. NOTICE DOCUMENTS



Does the outside of the mailing avoid a “junk mail” appearance?

Yes. The mailed notices are Postcards that contain information on their front that clearly indicates that the notice is an official document from a federal court and is not a solicitation from a lawyer.



Do the notices stand out as important, relevant, and reader-friendly?

Yes. They follow the models supplied by the Federal Judicial Center to achieve these goals.



Are the notices written in clear, concise, easily understood language?

Yes. To the extent reasonably possible, the language is non-legalistic and is clear and easy to understand.



Do the notices contain sufficient information for a class member to make an informed decision?

Yes. The Long-Form Notice conveys all the information required by Rule 23(c)(2)(B) on the terms of the settlement, the Class Member's options, how to exercise each option, the deadlines for acting, and the consequences of action/inaction. The Postcard and Email Notices summarize this information.



Do the notices include the Rule 23 elements? Even the summary notice?

Yes. All notices address all seven elements listed in Rule 23(c)(2)(B), including the Postcard and Email Notices.



Have the parties used or considered using graphics in the notices?

Yes. The notices contain graphic tables and directions where possible and appropriate, without becoming distracting.

Roberts v. Capital One, N.A. Overdraft Settlement Program: Judges' Class Action Notice and Claim Process Checklist

E. NOTICE DOCUMENTS



Does the notice avoid redundancy and avoid details that only lawyers care about?

Yes. The notices avoid redundant information to the extent reasonably possible and provide those details most relevant to the Settlement Class member's rights and options.



Is the notice in "Q&A" format? Are key topics included in logical order?

Yes. The notices will be made available to all Settlement Class members on the settlement website or by mail or phone request and follow the Q & A format suggested by Federal Judicial Center model notices.



Are there no burdensome hurdles in the way of responding and exercising rights?

Yes. There are no burdensome hurdles for Settlement Class members to overcome to opt out or object. Each action can be exercised and the notices explain how.



Is the size of the notice sufficient?

Yes. The Long-Form Notice, Postcard Notice, and Email Notice include detailed, but clear, explanations of the critical aspects of the settlement.



Is a claims process actually necessary?

There is no claims process in this program.



Does the claims process avoid steps that deliberately filter valid claims?

There is no claims process in this program.

Roberts v. Capital One, N.A. Overdraft Settlement Program: Judges' Class Action Notice and Claim Process Checklist

F. CLAIMS PROCESS



Are the claim form questions reasonable, and are the proofs sought readily available to the class member?

There is no claims process in this program.



Is the claim form as short as possible?

There is no claims process in this program.



Is the claim form well-designed with clear and prominent information?

There is no claims process in this program.



Have you considered adding an online submission option to increase claims?

There is no claims process in this program.



Have you appointed a qualified firm to process the claims?

There is no claims process in this program.



Are there sufficient safeguards in place to deter waste, fraud, and/or abuse?

Yes. BrownGreer will apply best practices in preventing duplicate payments to the same Settlement Class member and coordinate with the bank that holds the escrow account to prevent payments to unintended recipients.