

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION**

BRENDA C. NOE, on behalf of herself
and all others similarly situated,

Plaintiff,

vs.

CITY NATIONAL BANK OF WEST
VIRGINIA,

Defendant.

Civil Action No. 3:19-cv-00690

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Plaintiff Brenda C. Noe, on behalf of herself and all persons similarly situated alleges the following based on personal knowledge as to allegations regarding Plaintiff and on information and belief as to other allegations.

INTRODUCTION

1. Plaintiff brings this action on behalf of herself and a class of all similarly situated consumers against Defendant City National Bank of West Virginia (“City National” or “Bank”) arising from the Bank’s routine practice of assessing more than one non-sufficient funds fee (“NSF Fee”) of \$36.00 on the same item.

2. This practice breaches contractual promises; violates the covenant of good faith and fair dealing; and/or results in the Bank being unjustly enriched.

3. City National’s customers have been injured by the Bank’s improper practices to the tune of millions of dollars bilked from their accounts in violation of their agreements with City National.

4. On behalf of herself and the Class, Plaintiff seeks damages, restitution, and injunctive relief for Defendant's violations as set forth more fully below.

PARTIES

5. Brenda C. Noe is a resident of Glenwood, West Virginia (Mason County), and holds a City National checking account.

6. Defendant City National is engaged in the business of providing retail banking services to consumers, including Plaintiff and members of the putative Class. City National has \$4.8 billion in assets and provides banking services to customers through 97 bank branches in the states of Kentucky (22 branches), Ohio (4 branches), Virginia (13 branches), and West Virginia (58 branches). City National is the second largest bank in West Virginia based on total deposits. City National is headquartered in Charleston, West Virginia and operates banking centers throughout the State of West Virginia, including in Huntington and Milton, West Virginia, and thus conducts business within this District.

JURISDICTION AND VENUE

7. This Court has original jurisdiction of this action under the Class Action Fairness Act of 2005. Pursuant to 28 U.S.C. §§ 1332(d)(2) and (6), this Court has original jurisdiction because (1) the proposed class is comprised of at least 100 members; (2) proposed class members reside in at least four states, meaning at least one member of the proposed class resides outside of West Virginia; and (3) the aggregate claims of the putative class members exceed \$5 million, exclusive of interest and costs.

8. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because City National is subject to personal jurisdiction here and regularly conducts business in this District,

and because a substantial portion of the events or omissions giving rise to the claims asserted herein occurred in this District.

FACTUAL BACKGROUND AND GENERAL ALLEGATIONS

I. CITY NATIONAL CHARGES MORE THAN ONE NSF FEE ON THE SAME ITEM

9. As alleged herein, City National’s “TERMS AND CONDITIONS OF YOUR ACCOUNT” (“Terms and Conditions”) and its Fee Schedule convey to customers that a *single* \$36 NSF Fee will be assessed when an item, including an electronic payment item, is returned for insufficient funds.

10. For example, the Terms and Conditions inform a customer:

If another transaction is presented for payment in an amount greater than the funds left after the deduction of the temporary hold amount, that *transaction* will be a nonsufficient funds (NSF) transaction if we do not pay it or an overdraft transaction if we do pay it. You will be charged *an NSF or overdraft fee* according to our NSF or overdraft fee policy.

See Terms and Conditions, p. 2 (emphasis added) (**Exh. A** hereto).

11. City National’s Fee Schedule establishes that a \$36 fee will be charged for either an “Non-Sufficient Funds (NSF) or overdraft fee” per item. *See* Fee Schedule (**Exh. B** hereto).

12. City National breaches its contract when it charges more than one \$36 NSF Fee on the same item, since the contract states—and reasonable consumers understand—that the same item can only incur a single NSF Fee.

13. This abusive practice is not universal in the financial services industry. Indeed, major banks like Chase—the largest consumer bank in the country—do not charge more than one NSF Fee on the same item when it is reprocessed. Instead, Chase charges one NSF Fee even if an item is resubmitted for payment multiple times.

14. City National's Terms and Conditions never disclose this practice. To the contrary, the Terms and Conditions indicate it will only charge a single NSF Fee on an item.

A. Plaintiff Noe's Experience.

15. Ms. Noe has been assessed multiple fees that should not have been assessed against her checking account. As alleged below, City National reprocessed a previously declined transaction additional times in order to assess *multiple fees on a single item*.

16. In July 2018, Ms. Noe attempted an electronic payment to Cashland in the amount of \$52.10.

17. City National rejected payment of that transaction due to insufficient funds in Plaintiff's account and charged her a \$36 NSF Fee for doing so. Plaintiff does not dispute the initial fee, as it is allowed by City National's Terms and Conditions.

18. Unbeknownst to Plaintiff, and without her request to City National to reprocess the item, however, weeks later, on August 8, 2018, City National processed the same transaction yet again, which City National referred to as a "RETRY PYMT" on Plaintiff's statement.

19. Again City National rejected the transaction due to insufficient funds and charged Plaintiff *another* \$36 NSF Fee.

20. Unbeknownst to Plaintiff, and without her request to City National to reprocess the item, on August 22, 2018, City National processed the same transaction yet again – and again referred to the item as a "RETRY PYMT".

21. And again, City National rejected the transaction due to insufficient funds and charged Plaintiff *yet another* \$36 NSF Fee for doing so.

22. *In sum, City National assessed Plaintiff \$108 in NSF Fees based on a single payment of \$52.10.*

23. Ms. Noe's payment to Cashland was a single transaction as is laid out in City National's contractual documents, capable at most of receiving a single NSF Fee (if City National returned it) or an overdraft fee (if City National paid it).

24. On May 6, 2019, Ms. Noe attempted a payment to Wal-Mart in the amount of \$25.13.

25. City National rejected payment of this transaction due to insufficient funds in Plaintiff's account and charged her a \$36 NSF Fee for doing so. Once again, Plaintiff does not dispute this initial NSF Fee, as it is allowed by City National's Terms and Conditions.

26. Unbeknownst to Plaintiff, and without her request to do so, City National reprocessed the same item a week later on May 13, 2019. This transaction, like the Cashland example above, was also designated as a "RETRY PYMT" on Plaintiff's statement.

27. Again City National rejected the transaction due to insufficient funds and charged Plaintiff *another* \$36 NSF Fee.

28. Unbeknownst to Plaintiff, and without her request to do so, City National reprocessed the item a third time (another "RETRY PYMT") ten days later on May 24, 2019.

29. Yet again City National rejected the transaction due to insufficient funds and charged Plaintiff *a third* \$36 NSF Fee for doing so.

30. Unbeknownst to Plaintiff, and without her request to do so, City National reprocessed the item a fourth time on June 7, 2019.

31. Yet again City National rejected the transaction due to insufficient funds and charged Plaintiff *a fourth* \$36 NSF Fee for doing so.

32. Unbeknownst to Plaintiff, and without her request to do so, City National reprocessed the item a fifth time two weeks later on June 21, 2019.

33. Yet again City National rejected the transaction due to insufficient funds and charged Plaintiff *a fifth* \$36 NSF Fee for doing so.

34. *In sum, City National assessed Plaintiff \$180 in NSF Fees based on a single payment of \$25.13.*

B. The Imposition of Multiple NSF Fees on a Single Transaction Also Violates City National's Online Representations.

35. Beyond the language found in the Terms and Conditions and Fee Schedule, City National's online disclosures also inform customers that only a singular NSF Fee can be assessed on checks, ACH debits, and electronic payments.

36. City National's website informs its account holders:

If you write a check or make a recurring payment for more money than you have in your account, City will return the item unpaid and a \$36 NSF fee will be assessed against your account.

37. Thus City National does not provide any information to its customers that would inform them that a single check or single recurring payment becomes a new item each time it is rejected for payment then reprocessed, especially when—as here—Plaintiff took no action to resubmit the item.

38. There is zero indication anywhere in the Terms and Conditions, the Fee Schedule, or the City National website that informs its customers that the same check or recurring payment could possibly incur multiple NSF Fees.

39. Even if City National reprocesses an instruction for payment, it is still the same check or recurring payment. The Bank's reprocessing is simply another attempt to effectuate an accountholder's original order or instruction.

40. Indeed, the language noted above makes clear that it is the action of the accountholder, and only the accountholder, that creates an item: "*If you write a check or make a*

recurring payment. . .” As alleged herein, Plaintiff took only a single action to make a single payment; she may therefore be charged only a single fee.

41. Moreover, by expressly linking overdraft fees and NSF Fees in the Fee Schedule, City National bolsters the reasonable assumption that only a single fee can be assessed on an item. Here’s why: For an item charged an “overdraft fee” and thus paid into overdraft, there is no chance it can be subject to reprocessing and thus no chance it could be subject to a second or third fee, since it has already been paid. No reasonable contract reading could allow the *other* fee mentioned in the disclosure—the NSF Fee—to be treated so differently and assessed two or three times on the same item.

42. The disclosures described above never discuss a circumstance where City National may assess multiple NSF Fees for an item that was returned for insufficient funds and later reprocessed one or more times and returned again (incurring an NSF Fee).

43. In sum, City National promises that one \$36 NSF Fee will be assessed per check or recurring payment, and these terms must mean all iterations of the same instruction for payment. As such, City National breached the contract when it charged more than one fee per item.

44. Reasonable consumers understand any given authorization for payment to be one, singular check or recurring payment as those terms are used in City National’s Terms and Conditions.

45. Taken together, the representations and omissions identified above convey to customers that all submissions for payment of the same transaction will be treated as the same “item,” which the Bank will either authorize (resulting in an overdraft item) or reject (resulting in a returned item) when it decides there are insufficient funds in the account. Nowhere does City

National disclose that it will treat each reprocessing of a check or ACH payment as a separate item, subject to additional fees, nor do City National customers ever agree to such fees.

46. Customers reasonably understand that the Bank's reprocessing of checks or recurring payments are simply additional attempts to complete the original order or instruction for payment, and as such, will not trigger additional NSF Fee. In other words, it is always the same item.

47. Banks like City National that employ this abusive multiple fee practice know how to plainly and clearly disclose it. Indeed, other banks and credit unions that do engage in this abusive practice disclose it expressly to their accountholders—something Defendant here never did.

48. For example, First Hawaiian Bank engages in the same abusive practices as Defendant, but at least currently discloses it in its online banking agreement, in all capital letters, as follows:

YOU AGREE THAT MULTIPLE ATTEMPTS MAY BE MADE TO SUBMIT A RETURNED ITEM FOR PAYMENT AND THAT MULTIPLE FEES MAY BE CHARGED TO YOU AS A RESULT OF A RETURNED ITEM AND RESUBMISSION.

(emphasis added).

49. Klein Bank similarly states in its online banking agreement:

[W]e will charge you an NSF/Overdraft Fee each time: (1) a Bill Payment (electronic or check) is submitted to us for payment from your Bill Payment Account when, at the time of posting, your Bill Payment Account is overdrawn, would be overdrawn if we paid the item (whether or not we in fact pay it) or does not have sufficient available funds; or (2) we return, reverse, or decline to pay an item for any other reason authorized by the terms and conditions governing your Bill Payment Account. We will charge an NSF/Overdraft Fee as provided in this section regardless of the number of times an item is submitted or resubmitted to us for payment, and regardless of whether we pay the item or return, reverse, or decline to pay the bill payment.

50. City National provides no such disclosure, and in so doing, deceives its accountholders.

C. The Imposition of Multiple NSF Fees on a Single Transaction Breaches City National's Duty of Good Faith and Fair Dealing.

51. Parties to a contract are required not only to adhere to the express conditions in the contract, but also to act in good faith when they are invested with a discretionary power over the other party. In such circumstances, the party with discretion is required to exercise that power and discretion in good faith. This creates an implied promise to act in accordance with the parties' reasonable expectations and means that the Bank is prohibited from exercising its discretion to enrich itself and gouge its customers. Indeed, the Bank has a duty to honor transaction requests in a way that is fair to Plaintiff and its other customers and is prohibited from exercising its discretion to pile on ever greater penalties. Here—in the adhesion agreements City National foisted on Plaintiff and its other customers—City National has provided itself numerous discretionary powers affecting customers' bank accounts. But instead of exercising that discretion in good faith and consistent with consumers' reasonable expectations, the Bank abuses that discretion to take money out of consumers' accounts without their permission and contrary to their reasonable expectations that they will not be charged multiple fees for the same transaction.

52. City National abuses the power it has over customers and their bank accounts and acts contrary to their reasonable expectations under the Terms and Conditions. This is a breach of the Bank's implied covenant to engage in fair dealing and act in good faith.

53. City National does not disclose that a single item may be charged multiple NSF Fees, but it is the Bank's standard policy to always to do, multiple times on the same item. This is an abuse of discretion.

54. By exercising its discretion in its own favor—and to the prejudice of Plaintiff and other customers—by charging more than one NSF Fee on a single item, City National breaches the reasonable expectation of Plaintiff and other customers and in doing so violates the implied covenant to act in good faith.

55. It was bad faith and totally outside Plaintiff's reasonable expectations for City National to use its discretion to assess multiple NSF Fees for a single attempted payment.

CLASS ACTION ALLEGATIONS

56. Plaintiff brings this action on behalf of himself and on behalf of all others similarly situated pursuant to Federal Rule 23. The Class includes:

All persons who, within the applicable statute of limitations period, were charged multiple NSF Fees for a single transaction in a City National checking account (the "Multiple NSF Fee Class").

57. Excluded from the Class are Defendant, Defendant's subsidiaries and affiliates, their officers, directors, and the members of their immediate families, and any entity in which Defendant has a controlling interest, the legal representatives, heirs, successors, or assigns of any such excluded party, the judicial officer(s) to whom this action is assigned, and the members of their immediate families.

58. Plaintiff reserves the right to modify or amend the definition of the proposed Class and/or to add subclasses if necessary before this Court determines whether certification is appropriate.

59. The questions here are ones of common or general interest such that there is a well-defined community of interest among the members of the Class. These questions predominate over questions that may affect only individual class members because City National

has acted on grounds generally applicable to the Class. Such common legal or factual questions include, but are not limited to:

- a) Whether City National improperly charged more than one NSF Fee on the same item;
- b) Whether City National's conduct violates the contract;
- c) Whether City National's conduct violates the covenant of good faith and fair dealing;
- d) Whether City National's conduct constitutes unjust enrichment;
- e) The appropriate measure of damages.

60. The parties are numerous such that joinder is impracticable. Upon information and belief, and subject to class discovery, the Class consist of thousands of members or more, the identities of whom are within the exclusive knowledge of and can be ascertained only by resort to City National's records. City National has the administrative capability through its computer systems and other records to identify all members of the Class, and such specific information is not otherwise available to Plaintiff.

61. It is impracticable to bring members' of the Class individual claims before the Court. Class treatment permits a large number of similarly situated persons or entities to prosecute their common claims in a single forum simultaneously, efficiently and without the unnecessary duplication of evidence, effort, expense, or the possibility of inconsistent or contradictory judgments that numerous individual actions would engender. The benefits of the class mechanism, including providing injured persons or entities with a method for obtaining redress on claims that might not be practicable to pursue individually, substantially outweigh any difficulties that may arise in the management of this class action.

62. Plaintiff's claims are typical of the claims of the other members of the Class in that they arise out of the same wrongful business practices by City National, as described herein.

63. Plaintiff is more than an adequate representative of the Class in that Plaintiff has a City National checking account and has suffered damages as a result of City National's contract violations, City National's violations of the covenant of good faith and fair dealing, and City National's unjust enrichment. In addition:

- a) Plaintiff is committed to the vigorous prosecution of this action on behalf of himself and all others similarly situated and has retained competent counsel experienced in the prosecution of class actions and, in particular, class actions on behalf of consumers against financial institutions;
- b) There is no conflict of interest between Plaintiff and the unnamed members of the Class;
- c) Plaintiff anticipates no difficulty in the management of this litigation as a class action; and
- d) Plaintiff's legal counsel has the financial and legal resources to meet the substantial costs and legal issues associated with this type of litigation.

64. Plaintiff knows of no difficulty to be encountered in the maintenance of this action that would preclude its maintenance as a class action.

65. City National has acted or refused to act on grounds generally applicable to each of the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

66. All conditions precedent to bringing this action have been satisfied and/or waived.

CAUSES OF ACTION

COUNT I

BREACH OF CONTRACT AND BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING (On Behalf of Plaintiff and the Class)

67. Plaintiff repeats, realleges, and incorporates by reference each of the foregoing paragraphs of this Petition as if fully set forth herein.

68. Plaintiff and City National contracted for checking account services, as embodied in the Terms and Conditions and Fee Schedule.

69. City National breached the terms of the Terms and Conditions and Fee Schedule.

70. Plaintiff and members of the putative Class have performed all of the obligations on them pursuant to the Bank's Terms and Conditions and Fee Schedule.

71. Plaintiff and members of the putative Class have sustained monetary damages as a result of each of Defendant's breaches.

72. Plaintiff and City National contracted for checking account services, as embodied in the Terms and Conditions and Fee Schedule.

73. All of the relevant states (with the possible exception of Texas) mandate that an implied covenant of good faith and fair dealing govern every contract. For banking transactions, this is also mandated by the Uniform Commercial Code that has been adopted in each state. The covenant of good faith and fair dealing constrains Defendant's discretion to abuse self-granted contractual powers.

74. This good faith requirement extends to the manner in which a party employs discretion conferred by a contract.

75. Good faith and fair dealing, in connection with executing contracts and discharging performance and other duties according to their terms, means preserving the spirit—not merely the letter—of the bargain. Put differently, the parties to a contract are mutually obligated to comply with the substance of their contract in addition to its form. Evading the spirit of the bargain and abusing the power to specify terms constitute examples of bad faith in the performance of contracts.

76. Subterfuge and evasion violate the obligation of good faith in performance even when an actor believes his conduct to be justified. A lack of good faith may be overt or may consist of inaction, and fair dealing may require more than honesty. Other examples of violations of good faith and fair dealing are willful rendering of imperfect performance, abuse of a power to specify terms, and interference with or failure to cooperate in the other party's performance.

77. City National breached the covenant of good faith and fair dealing as explained herein.

78. Each of Defendant's actions was done in bad faith and was arbitrary and capricious.

79. Plaintiff and members of the putative Class have performed all of the obligations imposed on them pursuant to the Terms and Conditions.

80. Plaintiff and members of the putative Class have sustained monetary damages as a result of each of Defendant's breaches of the covenant of good faith and fair dealing.

COUNT II
UNJUST ENRICHMENT
(In the Alternative to COUNT I)
(On Behalf of Plaintiff and the Class)

81. Plaintiff repeats, realleges, and incorporates by reference each of the foregoing paragraphs of this Petition as if fully set forth herein.

82. This Count is brought solely in the alternative. Plaintiff acknowledges that his breach of contract claim cannot be tried along with unjust enrichment.

83. To the detriment of Plaintiff and the Class, Defendant has been, and continues to be, unjustly enriched as a result of its wrongful conduct alleged herein.

84. Plaintiff and the Class conferred a benefit on Defendant when they paid Defendant the fees that were not disclosed or allowed for in the in the Terms and Conditions and Fee Schedule.

85. Defendant unfairly, deceptively, unjustly, and/or unlawfully accepted said benefits, which under the circumstances, would be unjust to allow Defendant to retain.

86. Plaintiff and the Class, therefore, seek disgorgement of all wrongfully obtained fees received by Defendant as a result of its inequitable conduct as more fully stated herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the Class, demands a jury trial on all claims so triable and judgment as follows:

A. Certifying the proposed Class pursuant to Federal Rule of Civil Procedure 23, appointing the Plaintiff as representative of the Class, and appointing counsel for Plaintiff as lead counsel for the respective Class;

B. Declaring that Defendant's policies and practices as described herein constitute a breach of contract and a breach of the covenant of good faith and fair dealing or unjust enrichment;

C. Enjoining Defendant from the wrongful conduct as described herein;

D. Awarding restitution of all fees at issue paid to Defendant by Plaintiff and the Class as a result of the wrongs alleged herein in an amount to be determined at trial;

E. Compelling disgorgement of the ill-gotten gains derived by Defendant from its misconduct;

F. Awarding actual and/or compensatory damages in an amount according to proof;

G. Awarding pre-judgment interest at the maximum rate permitted by applicable law;

H. Reimbursing all costs, expenses, and disbursements accrued by Plaintiff in connection with this action, including reasonable attorneys' fees, costs, and expenses, pursuant to applicable law and any other basis; and

I. Awarding such other relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff and all others similarly situated hereby demand trial by jury on all issues in this Class Action Complaint that are so triable.

Dated: September 20, 2019.

Respectfully submitted,

By: /s/ Jason E. Causey
James G. Bordas III #8518
Jason E. Causey #9482
BORDAS & BORDAS, PLLC
1358 National Road
Wheeling, WV 26003
(304) 242-8410
jbordasIII@bordaslaw.com
jcausey@bordaslaw.com

E. Adam Webb*
G. Franklin Lemond, Jr.*
WEBB, KLASE & LEMOND, LLC
1900 The Exchange, S.E., Suite 480
Atlanta, GA 30339
(770) 444-0773
Adam@WebbLLC.com
Franklin@WebbLLC.com

Tiffany M. Yiatras*
Francis J. "Casey" Flynn, Jr.*
CONSUMER PROTECTION LEGAL, LLC
308 Hutchinson Road
Ellisville, MO 63011
tiffany@consumerprotectionlegal.com
casey@consumerprotectionlegal.com

Attorneys for Plaintiff

* *Pro hac vice* application to be promptly filed

Exhibit “A”

TERMS AND CONDITIONS OF YOUR ACCOUNT

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT - To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account.

What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

AGREEMENT - This document, along with any other documents we give you pertaining to your account(s), is a contract that establishes rules which control your account(s) with us. Please read this carefully and retain it for future reference. If you sign the signature card or open or continue to use the account, you agree to these rules. You will receive a separate schedule of rates, qualifying balances, and fees if they are not included in this document. If you have any questions, please call us.

This agreement is subject to applicable federal laws, the laws of the state of the branch in which your account is located and other applicable rules such as the operating letters of the Federal Reserve Banks and payment processing system rules (except to the extent that this agreement can and does vary such rules or laws). The body of state and federal law that governs our relationship with you, however, is too large and complex to be reproduced here. The purpose of this document is to:

- (1) summarize some laws that apply to common transactions;
- (2) establish rules to cover transactions or events which the law does not regulate;
- (3) establish rules for certain transactions or events which the law regulates but permits variation by agreement; and
- (4) give you disclosures of some of our policies to which you may be entitled or in which you may be interested.

If any provision of this document is found to be unenforceable according to its terms, all remaining provisions will continue in full force and effect. We may permit some variations from our standard agreement, but we must agree to any variation in writing either on the signature card for your account or in some other document. Nothing in this document is intended to vary our duty to act in good faith and with ordinary care when required by law.

As used in this document the words "we," "our," and "us" mean the financial institution and the words "you" and "your" mean the account holder(s) and anyone else with the authority to deposit, withdraw, or exercise control over the funds in the account. However, this agreement does not intend, and the terms "you" and "your" should not be interpreted, to expand an individual's responsibility for an organization's liability. If this account is owned by a corporation, partnership or other organization, individual liability is determined by the laws generally applicable to that type of organization. The headings in this document are for convenience or reference only and will not govern the interpretation of the provisions. Unless it would be inconsistent to do so, words and phrases used in this document should be construed so the singular includes the plural and the plural includes the singular.

Throughout this document, when a provision is identified as being applicable to a certain state (for example, "in West Virginia"), it means that the provision is only applicable if your account is held at a branch located in that particular state. Any provision which is not described as applying to a particular state, applies to your account.

LIABILITY - You agree, for yourself (and the person or entity you represent if you sign as a representative of another) to the terms of this account and the schedule of charges. You authorize us to deduct these charges, without notice to you, directly from the account balance as accrued. You will pay any additional reasonable charges for services you request which are not covered by this agreement.

Each of you also agrees to be jointly and severally (individually) liable for any account shortage resulting from charges or overdrafts, whether caused by you or another with access to this account. This liability is due immediately, and can be deducted directly from the account balance whenever sufficient funds are available. You have no right to defer payment of this liability, and you are liable regardless of whether you signed the item or benefited from the charge or overdraft.

You will be liable for our costs as well as for our reasonable attorneys' fees, to the extent permitted by law, whether incurred as a result of collection or in any other dispute involving your account. This includes, but is not limited to, disputes between you and another joint owner; you and an authorized signer or similar party; or a third party claiming an interest in your account. This also includes any action that you or a third party takes regarding the account that causes us, in good faith, to seek the advice of an attorney, whether or not we become involved in the dispute. All costs and attorneys' fees can be deducted from your account when they are incurred, without notice to you.

DEPOSITS - We will give only provisional credit until collection is final for any items, other than cash, we accept for deposit (including items drawn "on us"). Before settlement of any item becomes final, we act only as your agent, regardless of the form of indorsement or lack of indorsement on the item and even though we provide you provisional credit for the item. We may reverse any provisional credit for items that are lost, stolen, or returned. Unless prohibited by law, we also reserve the right to charge back to your account the amount of any item deposited to your account or cashed for you which was initially paid by the payor bank and which is later returned to us due to an allegedly forged, unauthorized or missing indorsement, claim of alteration, encoding error or other problem which in our judgment justifies reversal of credit. You authorize us to

attempt to collect previously returned items without giving you notice, and in attempting to collect we may permit the payor bank to hold an item beyond the midnight deadline. Actual credit for deposits of, or payable in, foreign currency will be at the exchange rate in effect on final collection in U.S. dollars. We are not responsible for transactions by mail or outside depository until we actually record them. We will treat and record all transactions received after our “daily cutoff time” on a business day we are open, or received on a day we are not open for business, as if initiated on the next business day that we are open. At our option, we may take an item for collection rather than for deposit. If we accept a third-party check for deposit, we may require any third-party indorsers to verify or guarantee their indorsements, or indorse in our presence.

WITHDRAWALS -

Generally - Unless clearly indicated otherwise on the account records, any of you, acting alone, who signs to open the account or has authority to make withdrawals may withdraw or transfer all or any part of the account balance at any time. Each of you (until we receive written notice to the contrary) authorizes each other person who signs or has authority to make withdrawals to indorse any item payable to you or your order for deposit to this account or any other transaction with us.

Postdated checks - A postdated check is one which bears a date later than the date on which the check is written. We may properly pay and charge your account for a postdated check even though payment was made before the date of the check, unless we have received written notice of the postdating in time to have a reasonable opportunity to act. Because we process checks mechanically, your notice will not be effective and we will not be liable for failing to honor your notice unless it precisely identifies the number, date, amount and payee of the item.

Checks and withdrawal rules - If you do not purchase your check blanks from us, you must be certain that we approve the check blanks you purchase. We may refuse any withdrawal or transfer request which you attempt on forms not approved by us or by any method we do not specifically permit. We may refuse any withdrawal or transfer request which is greater in number than the frequency permitted, or which is for an amount greater or less than any withdrawal limitations. We will use the date the transaction is completed by us (as opposed to the date you initiate it) to apply the frequency limitations. In addition, we may place limitations on the account until your identity is verified.

Even if we honor a nonconforming request, we are not required to do so later. If you violate the stated transaction limitations (if any), in our discretion we may close your account or reclassify it as a transaction account. If we reclassify your account, your account will be subject to the fees and earnings rules of the new account classification.

If we are presented with an item drawn against your account that would be a “substitute check,” as defined by law, but for an error or defect in the item introduced in the substitute check creation process, you agree that we may pay such item.

See the funds availability policy disclosure for information about when you can withdraw funds you deposit. For those accounts to which our funds availability policy disclosure does not apply, you can ask us when you make a deposit when those funds will be available for withdrawal. An item may be returned after the funds from the deposit of that item are made available for withdrawal. In that case, we will reverse the credit of the item. We may determine the amount of available funds in your account for the purpose of deciding whether to return an item for insufficient funds at any time between the time we receive the item and when we return the item or send a notice in lieu of return. We need only make one determination, but if we choose to make a subsequent determination, the account balance at the subsequent time will determine whether there are insufficient available funds.

A temporary debit authorization hold affects your account balance - On debit card purchases, merchants may request a temporary hold on your account for a specified sum of money, which may be more than the actual amount of your purchase. When this happens, our processing system cannot determine that the amount of the hold exceeds the actual amount of your purchase. This temporary hold, and the amount charged to your account, will eventually be adjusted to the actual amount of your purchase, but it may be up to three days before the adjustment is made. Until the adjustment is made, the amount of funds in your account available for other transactions will be reduced by the amount of the temporary hold. If another transaction is presented for payment in an amount greater than the funds left after the deduction of the temporary hold amount, that transaction will be a nonsufficient funds (NSF) transaction if we do not pay it or an overdraft transaction if we do pay it. You will be charged an NSF or overdraft fee according to our NSF or overdraft fee policy. You will be charged the fee even if you would have had sufficient funds in your account if the amount of the hold had been equal to the amount of your purchase.

Here is an example of how this can occur – assume for this example the following: (1) you have opted-in to our overdraft services for the payment of overdrafts on ATM and everyday debit card transactions, (2) we pay the overdraft, and (3) our overdraft fee is \$35 per overdraft, but we do not charge the overdraft fee if the transaction overdraws the account by less than \$10.

You have \$120 in your account. You swipe your card at the card reader on a gasoline pump. Since it is unclear what the final bill will be, the gas station’s processing system immediately requests a hold on your account in a specified amount, for example, \$80. Our processing system authorizes a temporary hold on your account in the amount of \$80, and the gas station’s processing system authorizes you to begin pumping gas. You fill your tank and the amount of gasoline you purchased is only \$50. Our processing system shows that you have \$40 in your account available for other transactions ($\$120 - \$80 = \$40$) even though you would have \$70 in your account available for other transactions if the amount of the temporary hold was equal to the amount of your purchase ($\$120 - \$50 = \$70$). Later, another transaction you have authorized is presented for payment from

your account in the amount of \$60 (this could be a check you have written, another debit card transaction, an ACH debit or any other kind of payment request). This other transaction is presented before the amount of the temporary hold is adjusted to the amount of your purchase (remember, it may take up to three days for the adjustment to be made). Because the amount of this other transaction is greater than the amount our processing system shows is available in your account, our payment of this transaction will result in an overdraft transaction. Because the transaction overdraws your account by \$20, your account will be assessed the overdraft fee of \$35 according to our overdraft fee policy. You will be charged this \$35 fee according to our policy even though you would have had enough money in your account to cover the \$60 transaction if your account had only been debited the amount of your purchase rather than the amount of the temporary hold or if the temporary hold had already been adjusted to the actual amount of your purchase.

Overdrafts - You understand that we may, at our discretion, honor withdrawal requests that overdraw your account. However, the fact that we may honor withdrawal requests that overdraw the account balance does not obligate us to do so later. So you can NOT rely on us to pay overdrafts on your account regardless of how frequently or under what circumstances we have paid overdrafts on your account in the past. We can change our practice of paying overdrafts on your account without notice to you. You can ask us if we have other account services that might be available to you where we commit to paying overdrafts under certain circumstances, such as an overdraft protection line-of-credit or a plan to sweep funds from another account you have with us. You agree that we may charge fees for overdrafts. For consumer accounts, we will not charge fees for overdrafts caused by ATM withdrawals or one-time debit card transactions if you have not opted-in to that service. We may use subsequent deposits, including direct deposits of social security or other government benefits, to cover such overdrafts and overdraft fees.

Multiple signatures, electronic check conversion, and similar transactions - An electronic check conversion transaction is a transaction where a check or similar item is converted into an electronic fund transfer as defined in the Electronic Fund Transfers regulation. In these types of transactions the check or similar item is either removed from circulation (truncated) or given back to you. As a result, we have no opportunity to review the check to examine the signatures on the item. You agree that, as to these or any items as to which we have no opportunity to examine the signatures, you waive any requirement of multiple signatures.

Notice of withdrawal - Withdrawals from a time account prior to maturity or prior to any notice period may be restricted and may be subject to penalty. See your notice of penalty for early withdrawal.

In Kentucky, Release-of-funds procedure - We reserve the right to prevent withdrawal from this account upon the death of any owner until all required release-of-funds procedures are completed.

In West Virginia, OWNERSHIP OF ACCOUNT AND BENEFICIARY DESIGNATION - These rules apply to this account depending on the form of ownership and beneficiary designation, if any, specified on the account records. We make no representations as to the appropriateness or effect of the ownership and beneficiary designations, except as they determine to whom we pay the account funds.

Individual Account - is an account in the name of one person.

Joint Account - With Survivorship - If such an account ownership is selected, each joint tenant intends and agrees that the account balance upon his or her death shall be the property of the surviving joint tenant, and if more than one survives, they shall remain as joint tenants with right of survivorship between them.

Joint Account - No Survivorship (As Tenants In Common) - is owned by two or more persons, but none of you intend (merely by opening this account) to create any right of survivorship in any other person. We encourage you to agree and tell us in writing of the percentage of the deposit contributed by each of you. This information will not, however, affect the "number of signatures" necessary for withdrawal.

Revocable Trust or Pay-On-Death Account - If two or more of you create this type of account, you own the account jointly with survivorship. Beneficiaries cannot withdraw unless: (1) all persons creating the account die, and (2) the beneficiary is then living. If two or more beneficiaries are named and survive the death of all persons creating the account, beneficiaries will own this account in equal shares, without right of survivorship. The person(s) creating either of these account types may: (1) change beneficiaries, (2) change account types, and (3) withdraw all or part of the account funds at any time.

In West Virginia, NOTICE TO JOINT ACCOUNT HOLDERS - This provision does not apply to joint accounts if the signatures of all of the account owners are required to make a withdrawal.

This joint account is payable in both your name "or" in the name of the other person(s) listed on the account (Example "Mr. Smith or Mrs. Smith").

Please be advised and forewarned that:

- All the money in this joint account may be withdrawn by anyone named on this account; or may be pledged as security for a loan or debt by anyone named on the account.
 - UNLESS, prior written notice is given to the bank not to permit it.
- Despite any notification to the bank
 - The bank may pay the entire account balance to a creditor or other legal claimant pursuant to legal process.

In Kentucky, OWNERSHIP OF ACCOUNT AND BENEFICIARY DESIGNATION - These rules apply to this account depending on the form of ownership and beneficiary designation, if any, specified on the account records. We make no representations as to the appropriateness or effect of the ownership and beneficiary designations, except as they determine to whom we pay the account funds.

Individual Account - is an account in the name of one person.

Joint Account - With Survivorship (And Not As Tenants In Common) - is an account in the name of two or more persons. Each of you intend that when you die the balance in the account (subject to any previous pledge to which we have agreed) will belong to the survivor(s). If two or more of you survive, you will own the balance in the account as joint tenants with survivorship and not as tenants in common.

Joint Account - No Survivorship (As Tenants In Common) - is owned by two or more persons, but none of you intend (merely by opening this account) to create any right of survivorship in any other person. We encourage you to agree and tell us in writing of the percentage of the deposit contributed by each of you. This information will not, however, affect the "number of signatures" necessary for withdrawal.

Revocable Trust or Pay-On-Death Account - If two or more of you create such an account, you own the account jointly with survivorship. Beneficiaries cannot withdraw unless: (1) all persons creating the account die, (2) the beneficiary is then living, and (3) any required release-of-funds procedures have been completed. If two or more beneficiaries are named and survive the death of all persons creating the account, such beneficiaries will own this account in equal shares, without right of survivorship. The person(s) creating either of these account types reserves the right to: (1) change beneficiaries, (2) change account types, and (3) withdraw all or part of the account funds at any time.

In Ohio, OWNERSHIP OF ACCOUNT AND BENEFICIARY DESIGNATION - These rules apply to this account depending on the form of ownership and beneficiary designation, if any, specified on the account records. We make no representations as to the appropriateness or effect of the ownership and beneficiary designations, except as they determine to whom we pay the account funds.

Individual Account - is an account in the name of one person.

Joint Account - With Survivorship (And Not As Tenants In Common) - is an account in the name of two or more persons. Each of you intend that when you die the balance in the account (subject to any previous pledge to which we have agreed) will belong to the survivor(s). If two or more of you survive, you will own the balance in the account as joint tenants with survivorship and not as tenants in common.

Joint Account - No Survivorship (As Tenants In Common) - is owned by two or more persons, but none of you intend (merely by opening this account) to create any right of survivorship in any other person. We encourage you to agree and tell us in writing of the percentage of the deposit contributed by each of you. This information will not, however, affect the "number of signatures" necessary for withdrawal.

Revocable Trust or Pay-On-Death Account - If two or more of you create this type of account, you own the account jointly with survivorship. Beneficiaries cannot withdraw unless: (1) all persons creating the account die, and (2) the beneficiary is then living. If two or more beneficiaries are named and survive the death of all persons creating the account, beneficiaries will own this account in equal shares, without right of survivorship. The person(s) creating either of these account types may: (1) change beneficiaries, (2) change account types, and (3) withdraw all or part of the account funds at any time.

In Virginia, OWNERSHIP OF ACCOUNT AND BENEFICIARY DESIGNATION - These rules apply to this account depending on the form of ownership and beneficiary designation, if any, specified on the account records. We make no representations as to the appropriateness or effect of the ownership and beneficiary designations, except as they determine to whom we pay the account funds.

Individual Account - is an account in the name of one person.

Joint Account - With Survivorship (And Not As Tenants In Common) - is an account in the name of two or more persons. Each of you intend and agree that on the death of a party to the account, the deceased party's ownership in the account passes to the surviving party or parties to the account. This is subject to any previous pledge to which we have agreed. If two or more of you survive, you will own the balance in the account as joint tenants with survivorship and not as tenants in common.

Joint Account - No Survivorship (As Tenants In Common) - is owned by two or more persons, but none of you intend (merely by opening this account) to create any right of survivorship in any other person. Each of you intend that when you die your interest in this account will pass as a part of your estate under a will, trust, or by intestacy. We encourage you to agree and tell us in writing of the percentage of the deposit contributed by each of you. This information will not, however, affect the "number of signatures" necessary for withdrawal.

Revocable Trust or Pay-On-Death Account - If two or more of you create this type of account, you own the account jointly with survivorship. Beneficiaries cannot withdraw unless: (1) all persons creating the account die, and (2) the beneficiary is then living. If two or more beneficiaries are named and survive the death of all persons creating the account, beneficiaries will own this account in equal shares, without right of survivorship. The person(s) creating either of these account types may: (1) change beneficiaries, (2) change account types, and (3) withdraw all or part of the account funds at any time.

BUSINESS, ORGANIZATION AND ASSOCIATION ACCOUNTS - Earnings in the form of interest, dividends, or credits will be paid only on collected funds, unless otherwise provided by law or our policy. You represent that you have the authority to open and conduct business on this account on behalf of the entity. We may require the governing body of the entity opening the account to give us a separate authorization telling us who is authorized to act on its behalf. We will honor the authorization until we actually receive written notice of a change from the governing body of the entity.

In West Virginia, Ohio and Virginia, STOP PAYMENTS - Unless otherwise provided, the rules in this section cover stopping payment of items such as checks and drafts. Rules for stopping payment of other types of transfers of funds, such as consumer electronic fund transfers, may be established by law or our policy. If we have not disclosed these rules to you elsewhere, you may ask us about those rules.

We may accept an order to stop payment on any item from any one of you. You must make any stop-payment order in the manner required by law and we must receive it in time to give us a reasonable opportunity to act on it before our stop-payment cutoff time. Because stop-payment orders are handled by computers, to be effective, your stop-payment order must precisely identify the number, date, and amount of the item, and the payee. You may stop payment on any item drawn on your account whether you sign the item or not. Generally, if your stop-payment order is given to us in writing it is effective for six months. Your order will lapse after that time if you do not renew the order in writing before the end of the six-month period. If the original stop-payment order was oral your stop-payment order will lapse after 14 calendar days if you do not confirm your order in writing within that time period. We are not obligated to notify you when a stop-payment order expires. A release of the stop-payment request may be made only by the person who initiated the stop-payment order.

If you stop payment on an item and we incur any damages or expenses because of the stop payment, you agree to indemnify us for those damages or expenses, including attorneys' fees. You assign to us all rights against the payee or any other holder of the item. You agree to cooperate with us in any legal actions that we may take against such persons. You should be aware that anyone holding the item may be entitled to enforce payment against you despite the stop-payment order.

Our stop-payment cutoff time is one hour after the opening of the next banking day after the banking day on which we receive the item. Additional limitations on our obligation to stop payment are provided by law (e.g., we paid the item in cash or we certified the item).

In Kentucky, STOP PAYMENTS - Unless otherwise provided, the rules in this section cover stopping payment of items such as checks and drafts. Rules for stopping payment of other types of transfers of funds, such as consumer electronic fund transfers, may be established by law or our policy. If we have not disclosed these rules to you elsewhere, you may ask us about those rules.

We may accept an order to stop payment on any item from any one of you. You must make any stop-payment order in the manner required by law and we must receive it in time to give us a reasonable opportunity to act on it before our stop-payment cutoff time. Because stop-payment orders are handled by computers, to be effective, your stop-payment order must precisely identify the number, date, and amount of the item, and the payee. You may stop payment on any item drawn on your account whether you sign the item or not. Your stop payment order is effective for six months if it is given to us in writing or by another type of record (Generally, a "record" is information that is stored in such a way that it can be retrieved and can be heard or read and understood – you can ask us what type of stop payment records you can give us). Your order will lapse after that time if you do not renew the order in writing before the end of the six-month period. If the original stop-payment order was oral your stop-payment order will lapse after 14 calendar days if it is not confirmed in writing or by another type of record within that time period. We are not obligated to notify you when a stop-payment order expires. A release of the stop-payment request may be made only by the person who initiated the stop-payment order.

If you stop payment on an item and we incur any damages or expenses because of the stop payment, you agree to indemnify us for those damages or expenses, including attorneys' fees. You assign to us all rights against the payee or any other holder of the item. You agree to cooperate with us in any legal actions that we may take against such persons. You should be aware that anyone holding the item may be entitled to enforce payment against you despite the stop-payment order.

Our stop-payment cutoff time is one hour after the opening of the next banking day after the banking day on which we receive the item. Additional limitations on our obligation to stop payment are provided by law (e.g., we paid the item in cash or we certified the item).

TELEPHONE TRANSFERS - A telephone transfer of funds from this account to another account with us, if otherwise arranged for or permitted, may be made by the same persons and under the same conditions generally applicable to withdrawals made in writing. Unless a different limitation is disclosed in writing, we restrict the number of transfers from a savings account to another account or to third parties, to a maximum of six per month (less the number of "preauthorized transfers" during the month). Other account transfer restrictions may be described elsewhere.

AMENDMENTS AND TERMINATION - We may change any term of this agreement. Rules governing changes in interest rates are provided separately in the Truth-in-Savings disclosure or in another document. For other changes, we will give you reasonable notice in writing or by any other method permitted by law. We may also close this account at any time upon reasonable notice to you and tender of the account balance personally or by mail. Items presented for payment after the account is closed may be dishonored. When you close your account, you are responsible for leaving enough money in the account to cover any outstanding items to be paid from the account. Reasonable notice depends on the circumstances, and in

some cases such as when we cannot verify your identity or we suspect fraud, it might be reasonable for us to give you notice after the change or account closure becomes effective. For instance, if we suspect fraudulent activity with respect to your account, we might immediately freeze or close your account and then give you notice. If we have notified you of a change in any term of your account and you continue to have your account after the effective date of the change, you have agreed to the new term(s).

NOTICES - Any written notice you give us is effective when we actually receive it, and it must be given to us according to the specific delivery instructions provided elsewhere, if any. We must receive it in time to have a reasonable opportunity to act on it. If the notice is regarding a check or other item, you must give us sufficient information to be able to identify the check or item, including the precise check or item number, amount, date and payee. Written notice we give you is effective when it is deposited in the United States Mail with proper postage and addressed to your mailing address we have on file. Notice to any of you is notice to all of you.

STATEMENTS - Your duty to report unauthorized signatures, alterations and forgeries - You must examine your statement of account with "reasonable promptness." If you discover (or reasonably should have discovered) any unauthorized signatures or alterations, you must promptly notify us of the relevant facts. As between you and us, if you fail to do either of these duties, you will have to either share the loss with us, or bear the loss entirely yourself (depending on whether we used ordinary care and, if not, whether we substantially contributed to the loss). The loss could be not only with respect to items on the statement but other items with unauthorized signatures or alterations by the same wrongdoer.

You agree that the time you have to examine your statement and report to us will depend on the circumstances, but will not, in any circumstance, exceed a total of 30 days from when the statement is first sent or made available to you.

You further agree that if you fail to report any unauthorized signatures, alterations or forgeries in your account within 60 days of when we first send or make the statement available, you cannot assert a claim against us on any items in that statement, and as between you and us the loss will be entirely yours. This 60-day limitation is without regard to whether we used ordinary care. The limitation in this paragraph is in addition to that contained in the first paragraph of this section.

Your duty to report other errors - In addition to your duty to review your statements for unauthorized signatures, alterations and forgeries, you agree to examine your statement with reasonable promptness for any other error - such as an encoding error. In addition, if you receive or we make available either your items or images of your items, you must examine them for any unauthorized or missing indorsements or any other problems. You agree that the time you have to examine your statement and items and report to us will depend on the circumstances. However, this time period shall not exceed 60 days. Failure to examine your statement and items and report any errors to us within 60 days of when we first send or make the statement available precludes you from asserting a claim against us for any errors on items identified in that statement and as between you and us the loss will be entirely yours.

Errors relating to electronic fund transfers or substitute checks - For information on errors relating to electronic fund transfers (e.g., computer, debit card or ATM transactions) refer to your Electronic Fund Transfers disclosure and the sections on consumer liability and error resolution. For information on errors relating to a substitute check you received, refer to your disclosure entitled Substitute Checks and Your Rights.

ACCOUNT TRANSFER - This account may not be transferred or assigned without our prior written consent.

DIRECT DEPOSITS - If we are required for any reason to reimburse the federal government for all or any portion of a benefit payment that was directly deposited into your account, you authorize us to deduct the amount of our liability to the federal government from the account or from any other account you have with us, without prior notice and at any time, except as prohibited by law. We may also use any other legal remedy to recover the amount of our liability.

TEMPORARY ACCOUNT AGREEMENT - If the account documentation indicates that this is a temporary account agreement, each person who signs to open the account or has authority to make withdrawals (except as indicated to the contrary) may transact business on this account. However, we may at some time in the future restrict or prohibit further use of this account if you fail to comply with the requirements we have imposed within a reasonable time.

SETOFF - We may (without prior notice and when permitted by law) set off the funds in this account against any due and payable debt any of you owe us now or in the future. If this account is owned by one or more of you as individuals, we may set off any funds in the account against a due and payable debt a partnership owes us now or in the future, to the extent of your liability as a partner for the partnership debt. If your debt arises from a promissory note, then the amount of the due and payable debt will be the full amount we have demanded, as entitled under the terms of the note, and this amount may include any portion of the balance for which we have properly accelerated the due date.

This right of setoff does not apply to this account if prohibited by law. For example, the right of setoff does not apply to this account if: (a) it is an Individual Retirement Account or similar tax-deferred account, or (b) the debt is created by a consumer credit transaction under a credit card plan (but this does not affect our rights under any consensual security interest), or (c) the debtor's right of withdrawal only arises in a representative capacity, or (d) setoff is prohibited by the Military Lending Act or its implementing regulations. We will not be liable for the dishonor of any check when the dishonor occurs because we set off a debt against this account. You agree to hold us harmless from any claim arising as a result of our exercise of our right of setoff.

AUTHORIZED SIGNER (Individual Accounts only) - A single individual is the owner. The authorized signer is merely designated to conduct transactions on the owner's behalf. The owner does not give up any rights to act on the account, and the authorized signer may not in any manner affect the rights of the owner or beneficiaries, if any, other than by withdrawing funds from the account. The owner is responsible for any transactions of the authorized signer. We undertake no obligation to monitor transactions to determine that they are on the owner's behalf.

The owner may terminate the authorization at any time, and the authorization is automatically terminated by the death of the owner. However, we may continue to honor the transactions of the authorized signer until: (a) we have received written notice or have actual knowledge of the termination of authority, and (b) we have a reasonable opportunity to act on that notice or knowledge. We may refuse to accept the designation of an authorized signer.

RESTRICTIVE LEGENDS OR INDORSEMENTS - The automated processing of the large volume of checks we receive prevents us from inspecting or looking for restrictive legends, restrictive indorsements or other special instructions on every check. Examples of restrictive legends placed on checks are "must be presented within 90 days" or "not valid for more than \$1,000.00." The payee's signature accompanied by the words "for deposit only" is an example of a restrictive indorsement. For this reason, we are not required to honor any restrictive legend or indorsement or other special instruction placed on checks you write unless we have agreed in writing to the restriction or instruction. Unless we have agreed in writing, we are not responsible for any losses, claims, damages, or expenses that result from your placement of these restrictions or instructions on your checks.

In Virginia, GUARDIAN OR CUSTODIAL ACCOUNTS - This account is not subject to dormant service charges if the deposit was made: (1) by a court or (2) by a guardian pursuant to order of a court or (3) by any other person for the benefit of a person who was an infant at the time of the making of such deposit and which deposit is subject to withdrawal only upon the further order of such court or such guardian or other person. This account may become subject to dormant service charges one year after such infant attains the age of eighteen years or one year after the death of such infant, whichever occurs sooner. At our option, we may require proof of guardian or custodial status.

FACSIMILE SIGNATURES - Unless you make advance arrangements with us, we have no obligation to honor facsimile signatures on your checks or other orders. If we do agree to honor items containing facsimile signatures, you authorize us, at any time, to charge you for all checks, drafts, or other orders, for the payment of money, that are drawn on us. You give us this authority regardless of by whom or by what means the facsimile signature(s) may have been affixed so long as they resemble the facsimile signature specimen filed with us, and contain the required number of signatures for this purpose. You must notify us at once if you suspect that your facsimile signature is being or has been misused.

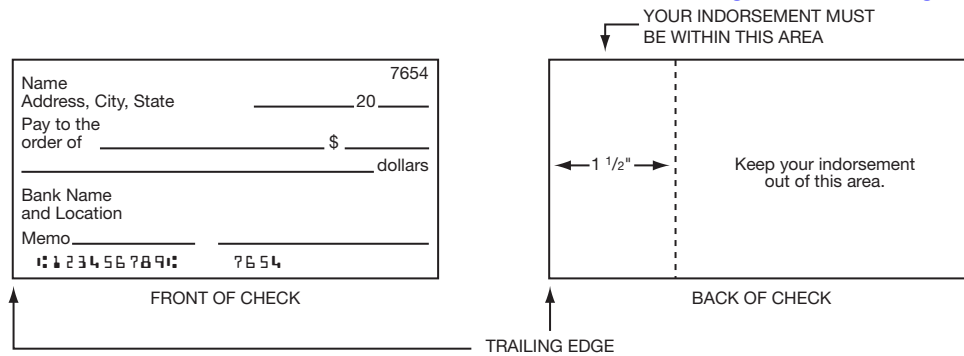
CHECK PROCESSING - We process items mechanically by relying solely on the information encoded in magnetic ink along the bottom of the items. This means that we do not individually examine all of your items to determine if the item is properly completed, signed and indorsed or to determine if it contains any information other than what is encoded in magnetic ink. You agree that we have exercised ordinary care if our automated processing is consistent with general banking practice, even though we do not inspect each item. Because we do not inspect each item, if you write a check to multiple payees, we can properly pay the check regardless of the number of indorsements unless you notify us in writing that the check requires multiple indorsements. We must receive the notice in time for us to have a reasonable opportunity to act on it, and you must tell us the precise date of the check, amount, check number and payee. We are not responsible for any unauthorized signature or alteration that would not be identified by a reasonable inspection of the item. Using an automated process helps us keep costs down for you and all account holders.

CHECK CASHING - We may charge a fee for anyone that does not have an account with us who is cashing a check, draft or other instrument written on your account. We may also require reasonable identification to cash such a check, draft or other instrument. We can decide what identification is reasonable under the circumstances and such identification may be documentary or physical and may include collecting a thumbprint or fingerprint.

INDORSEMENTS - We may accept for deposit any item payable to you or your order, even if they are not indorsed by you. We may give cash back to any one of you. We may supply any missing indorsement(s) for any item we accept for deposit or collection, and you warrant that all indorsements are genuine.

To ensure that your check or share draft is processed without delay, you must indorse it (sign it on the back) in a specific area. Your entire indorsement (whether a signature or a stamp) along with any other indorsement information (e.g. additional indorsements, ID information, driver's license number, etc.) must fall within 1 $\frac{1}{2}$ " of the "trailing edge" of a check. Indorsements must be made in blue or black ink, so that they are readable by automated check processing equipment.

As you look at the front of a check, the "trailing edge" is the left edge. When you flip the check over, be sure to keep all indorsement information within 1 $\frac{1}{2}$ " of that edge.



It is important that you confine the indorsement information to this area since the remaining blank space will be used by others in the processing of the check to place additional needed indorsements and information. You agree that you will indemnify, defend, and hold us harmless for any loss, liability, damage or expense that occurs because your indorsement, another indorsement or information you have printed on the back of the check obscures our indorsement.

These indorsement guidelines apply to both personal and business checks.

DEATH OR INCOMPETENCE - You agree to notify us promptly if any person with a right to withdraw funds from your account(s) dies or is adjudicated (determined by the appropriate official) incompetent. We may continue to honor your checks, items, and instructions until: (a) we know of your death or adjudication of incompetence, and (b) we have had a reasonable opportunity to act on that knowledge. You agree that we may pay or certify checks drawn on or before the date of death or adjudication of incompetence for up to ten (10) days after your death or adjudication of incompetence unless ordered to stop payment by someone claiming an interest in the account.

FIDUCIARY ACCOUNTS - Accounts may be opened by a person acting in a fiduciary capacity. A fiduciary is someone who is appointed to act on behalf of and for the benefit of another. We are not responsible for the actions of a fiduciary, including the misuse of funds. This account may be opened and maintained by a person or persons named as a trustee under a written trust agreement, or as executors, administrators, or conservators under court orders. You understand that by merely opening such an account, we are not acting in the capacity of a trustee in connection with the trust nor do we undertake any obligation to monitor or enforce the terms of the trust or letters.

CREDIT VERIFICATION - You agree that we may verify credit and employment history by any necessary means, including preparation of a credit report by a credit reporting agency.

LEGAL ACTIONS AFFECTING YOUR ACCOUNT - If we are served with a subpoena, restraining order, writ of attachment or execution, levy, garnishment, search warrant, or similar order relating to your account (termed "legal action" in this section), we will comply with that legal action. Or, in our discretion, we may freeze the assets in the account and not allow any payments out of the account until a final court determination regarding the legal action. We may do these things even if the legal action involves less than all of you. In these cases, we will not have any liability to you if there are insufficient funds to pay your items because we have withdrawn funds from your account or in any way restricted access to your funds in accordance with the legal action. Any fees or expenses we incur in responding to any legal action (including, without limitation, attorneys' fees and our internal expenses) may be charged against your account. The list of fees applicable to your account(s) provided elsewhere may specify additional fees that we may charge for certain legal actions.

SECURITY - It is your responsibility to protect the account numbers and electronic access devices (e.g., an ATM card) we provide you for your account(s). Do not discuss, compare, or share information about your account number(s) with anyone unless you are willing to give them full use of your money. An account number can be used by thieves to issue an electronic debit or to encode your number on a false demand draft which looks like and functions like an authorized check. If you furnish your access device and grant actual authority to make transfers to another person (a family member or coworker, for example) who then exceeds that authority, you are liable for the transfers unless we have been notified that transfers by that person are no longer authorized.

Your account number can also be used to electronically remove money from your account, and payment can be made from your account even though you did not contact us directly and order the payment.

You must also take precaution in safeguarding your blank checks. Notify us at once if you believe your checks have been lost or stolen. As between you and us, if you are negligent in safeguarding your checks, you must bear the loss entirely yourself or share the loss with us (we may have to share some of the loss if we failed to use ordinary care and if we substantially contributed to the loss).

Except for consumer electronic funds transfers subject to Regulation E, you agree that if we offer you services appropriate for your account to help identify and limit fraud or other unauthorized transactions against your account, such as positive pay or commercially reasonable security procedures, and you reject those services, you will be responsible for any fraudulent or unauthorized transactions which could have been prevented by the services we offered, unless we acted in bad faith or to the extent our negligence contributed to the loss. If we offered you a commercially reasonable security procedure which you

reject, you agree that you are responsible for any payment order, whether authorized or not, that we accept in compliance with an alternative security procedure that you have selected.

TELEPHONIC INSTRUCTIONS - Unless required by law or we have agreed otherwise in writing, we are not required to act upon instructions you give us via facsimile transmission or leave by voice mail or on a telephone answering machine.

MONITORING AND RECORDING TELEPHONE CALLS AND CONSENT TO RECEIVE COMMUNICATIONS - Subject to federal and state law, we may monitor or record phone calls for security reasons, to maintain a record and to ensure that you receive courteous and efficient service. You consent in advance to any such recording.

To provide you with the best possible service in our ongoing business relationship for your account we may need to contact you about your account from time to time by telephone, text messaging or email. However, we must first obtain your consent to contact you about your account because we must comply with the consumer protection provisions in the federal Telephone Consumer Protection Act of 1991 (TCPA), CAN-SPAM Act and their related federal regulations and orders issued by the Federal Communications Commission (FCC).

- Your consent is limited to your account, and as authorized by applicable law and regulations.
- Your consent does not authorize us to contact you for telemarketing purposes (unless you otherwise agreed elsewhere).

With the above understandings, you authorize us to contact you regarding your account throughout its existence using any telephone numbers or email addresses that you have previously provided to us or that you may subsequently provide to us.

This consent is regardless of whether the number we use to contact you is assigned to a landline, a paging service, a cellular wireless service, a specialized mobile radio service, other radio common carrier service or any other service for which you may be charged for the call. You further authorize us to contact you through the use of voice, voice mail and text messaging, including the use of pre-recorded or artificial voice messages and an automated dialing device.

If necessary, you may change or remove any of the telephone numbers or email addresses at any time using any reasonable means to notify us.

CLAIM OF LOSS - If you claim a credit or refund because of a forgery, alteration, or any other unauthorized withdrawal, you agree to cooperate with us in the investigation of the loss, including giving us an affidavit containing whatever reasonable information we require concerning your account, the transaction, and the circumstances surrounding the loss. You will notify law enforcement authorities of any criminal act related to the claim of lost, missing, or stolen checks or unauthorized withdrawals. We will have a reasonable period of time to investigate the facts and circumstances surrounding any claim of loss. Unless we have acted in bad faith, we will not be liable for special or consequential damages, including loss of profits or opportunity, or for attorneys' fees incurred by you.

You agree that you will not waive any rights you have to recover your loss against anyone who is obligated to repay, insure, or otherwise reimburse you for your loss. You will pursue your rights or, at our option, assign them to us so that we may pursue them. Our liability will be reduced by the amount you recover or are entitled to recover from these other sources.

EARLY WITHDRAWAL PENALTIES (and involuntary withdrawals) - We may impose early withdrawal penalties on a withdrawal from a time account even if you don't initiate the withdrawal. For instance, the early withdrawal penalty may be imposed if the withdrawal is caused by our setoff against funds in the account or as a result of an attachment or other legal process. We may close your account and impose the early withdrawal penalty on the entire account balance in the event of a partial early withdrawal. See your notice of penalty for early withdrawals for additional information.

ADDRESS OR NAME CHANGES - You are responsible for notifying us of any change in your address or your name. Unless we agree otherwise, change of address or name must be made in writing by at least one of the account holders. Informing us of your address or name change on a check reorder form is not sufficient. We will attempt to communicate with you only by use of the most recent address you have provided to us. If provided elsewhere, we may impose a service fee if we attempt to locate you.

RESOLVING ACCOUNT DISPUTES - We may place an administrative hold on the funds in your account (refuse payment or withdrawal of the funds) if it becomes subject to a claim adverse to (1) your own interest; (2) others claiming an interest as survivors or beneficiaries of your account; or (3) a claim arising by operation of law. The hold may be placed for such period of time as we believe reasonably necessary to allow a legal proceeding to determine the merits of the claim or until we receive evidence satisfactory to us that the dispute has been resolved. We will not be liable for any items that are dishonored as a consequence of placing a hold on funds in your account for these reasons.

WAIVER OF NOTICES - To the extent permitted by law, you waive any notice of non-payment, dishonor or protest regarding any items credited to or charged against your account. For example, if you deposit a check and it is returned unpaid or we receive a notice of nonpayment, we do not have to notify you unless required by federal Regulation CC or other law.

ACH AND WIRE TRANSFERS - This agreement is subject to Article 4A of the Uniform Commercial Code - Fund Transfers as adopted in the state in which you have your account with us. If you originate a fund transfer and you identify by name and number a beneficiary financial institution, an intermediary financial institution or a beneficiary, we and every receiving or beneficiary financial institution may rely on the identifying number to make payment. We may rely on the number even if it identifies a financial institution, person or account other than the one named. You agree to be bound by automated clearing house association rules. These rules provide, among other things, that payments made to you, or originated by you, are

provisional until final settlement is made through a Federal Reserve Bank or payment is otherwise made as provided in Article 4A-403(a) of the Uniform Commercial Code. If we do not receive such payment, we are entitled to a refund from you in the amount credited to your account and the party originating such payment will not be considered to have paid the amount so credited. Credit entries may be made by ACH. If we receive a payment order to credit an account you have with us by wire or ACH, we are not required to give you any notice of the payment order or credit.

STALE-DATED CHECKS - We are not obligated to, but may at our option, pay a check, other than a certified check, presented for payment more than six months after its date. If you do not want us to pay a stale-dated check, you must place a stop-payment order on the check in the manner we have described elsewhere.

TRUNCATION, SUBSTITUTE CHECKS, AND OTHER CHECK IMAGES - If you truncate an original check and create a substitute check, or other paper or electronic image of the original check, you warrant that no one will be asked to make payment on the original check, a substitute check or any other electronic or paper image, if the payment obligation relating to the original check has already been paid. You also warrant that any substitute check you create conforms to the legal requirements and generally accepted specifications for substitute checks. You agree to retain the original check in conformance with our internal policy for retaining original checks. You agree to indemnify us for any loss we may incur as a result of any truncated check transaction you initiate. We can refuse to accept substitute checks that have not previously been warranted by a bank or other financial institution in conformance with the Check 21 Act. Unless specifically stated in a separate agreement between you and us, we do not have to accept any other electronic or paper image of an original check.

REMOTELY CREATED CHECKS - Like any standard check or draft, a remotely created check (sometimes called a telecheck, preauthorized draft or demand draft) is a check or draft that can be used to withdraw money from an account. Unlike a typical check or draft, however, a remotely created check is not issued by the paying bank and does not contain the signature of the account owner (or a signature purported to be the signature of the account owner). In place of a signature, the check usually has a statement that the owner authorized the check or has the owner's name typed or printed on the signature line.

You warrant and agree to the following for every remotely created check we receive from you for deposit or collection: (1) you have received express and verifiable authorization to create the check in the amount and to the payee that appears on the check; (2) you will maintain proof of the authorization for at least 2 years from the date of the authorization, and supply us the proof if we ask; and (3) if a check is returned you owe us the amount of the check, regardless of when the check is returned. We may take funds from your account to pay the amount you owe us, and if there are insufficient funds in your account, you still owe us the remaining balance.

UNLAWFUL INTERNET GAMBLING NOTICE - Restricted transactions as defined in Federal Reserve Regulation GG are prohibited from being processed through this account or relationship. Restricted transactions generally include, but are not limited to, those in which credit, electronic fund transfers, checks, or drafts are knowingly accepted by gambling businesses in connection with the participation by others in unlawful Internet gambling.

TRANSACTION ACCOUNT ORGANIZATION - We have organized your transaction account in a nontraditional way. Your transaction account consists of two subaccounts. One of these is a transaction subaccount (e.g., a checking subaccount). You will transact business on this subaccount. The other is a nontransaction subaccount (e.g., a savings subaccount). You cannot directly access the nontransaction subaccount, but you agree that we may automatically, and without a specific request from you, initiate individual transfers of funds between subaccounts from time to time at no cost to you. This account organization will not change the amount of federal deposit insurance available to you, your available balance, the information on your periodic statements, or the interest calculation, if this is an interest-bearing account. You will not see any difference between the way your transaction account operates and the way a traditionally organized transaction account operates, but this organization makes us more efficient and helps to keep costs down.

DORMANT ACCOUNTS - If you have not made a withdrawal from, or a deposit to, your Account for an extended period of time and we have been unable to contact you, your Account may be classified by us as dormant. When a checking account remains inactive for 18 months or a savings account remains inactive for 36 months the account is considered dormant. Subject to applicable law, we may charge a dormant account fee on the Account, and the Account will be presumed to be abandoned. In accordance with state law, funds in abandoned accounts will be remitted to the custody of the applicable state agency, and we will have no further liability to you for such funds. We reserve the right not to send statements on accounts we consider dormant, subject to applicable law.

Exhibit “B”

City National Bank
 Important Information
 For Our Customers

At City National Bank, we strive to provide you with the best in personal service for the lowest fees possible. The chart below displays fees effective March 19, 2018.

Account Reconciliation (per hour)	\$ 20.00
Cashier's Checks - Customer	\$ 6.00
Cashier's Checks - Non-Customer	Not available
Check Printing	varies on style of checks ordered
Coin Wrapping - Customer	Free
Collection Item Fee	\$ 10.00
Counter Check	\$ 0.50
Debit Card Annual Fee	Free
Debit Card Replacement	Free
Deposit Item Returned Unpaid	\$ 12.00
Dormant Account Fee (per month)	\$ 5.00
Early Account Closing Fee (if closed with 180 days of account opening)	\$ 25.00
Foreign ATM Fee (each)*	\$ 2.00
IRA Termination Fee	\$ 50.00
Legal Process Fee	\$125.00
Night Depository Bags - Zipped.....	\$ 5.00
Non-Sufficient Funds (NSF) or overdraft fee per item**.....	\$ 36.00
Notary Fees (per signature)	\$ 2.00
Overdraft Line of Credit - annual fee	\$ 25.00
Overdraft Protection Transfer from Savings.....	Free
Photocopy	\$ 0.25
Research (per hour)	\$ 20.00
Returned Statement Fee	\$ 5.00
Safe Deposit Box	
Key Replacement	\$ 50.00
Drilling Box	\$150.00
Stop Payment Request	\$ 34.00
Telephone Transfer	\$ 5.00
Wire Transfer - Incoming	\$ 15.00
Wire Transfer - Outgoing	\$ 25.00

*Fee waived on some account types: see your Truth in Savings Disclosure for more information.

**Fee applies to overdrafts created by check, in-person withdrawal, ATM withdrawal or other electronic means.

Note: Some fees may be subject to Consumer Sales Tax

Member FDIC

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Brenda C. Noe

(b) County of Residence of First Listed Plaintiff Mason (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Jason E. Causey, Bordas & Bordas, PLLC, 1358 National Road, Wheeling, WV 26003 (304) 242-8410

DEFENDANTS

City National Bank of West Virginia

County of Residence of First Listed Defendant Kanawha (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and business location (This State, Another State, Foreign Nation).

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, PRISONER PETITIONS, TORTS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S. Code Sec. 1332(d)(2) Brief description of cause: Class Action Fairness Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 09/20/2019 SIGNATURE OF ATTORNEY OF RECORD /s/ Jason E. Causey

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action: City National Bank Improperly Charged Multiple Non-Sufficient Funds Fees for Single Transactions](#)
