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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

KRISTEN SCHERTZER, MEAGAN HICKS, and BRITTANY COVELL, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

BANK OF AMERICA, N.A., CARDTRONICS, INC., FCTI, INC., CASH DEPOT, LTD., N.A., and DOES 1–50, inclusive,

Defendants.

Case No. 3:19-cv-00264-DMS-MSB

**ORDER GRANTING PLAINTIFF COVELL’S MOTION FOR PRELIMINARY APPROVAL OF CLASS SETTLEMENT**

Courtroom: 13A  
Judge: Hon. Dana M. Sabraw

The Court, having heard Plaintiff Covell’s Motion for Preliminary Approval of Class Settlement, reviewed the Settlement Agreement and Release (“Settlement Agreement”),<sup>1</sup> and good cause appearing, hereby **GRANTS** the motion and **ORDERS** as follows:

1. The Settlement Agreement appears to be the product of serious, informed, non-collusive negotiations with Defendant Bank of America, N.A. (“BANA”) and falls within the range of possible approval as fair, reasonable, and adequate.

<sup>1</sup> All undefined, capitalized terms have the same meaning as set forth in the Settlement Agreement.

1           2.     The Email Notice, Postcard Notice, Long Form Notice, and Claim Form:  
2 (a) constitute the best such forms and notice practicable under the circumstances; (b) the  
3 method for providing notice to Settlement Class Members set forth in the Settlement  
4 Agreement constitutes valid, due, and sufficient notice to all Settlement Class Members;  
5 and (c) the Notice Program complies fully with the requirements of Federal Rule of  
6 Civil Procedure 23, the United States Constitution, and other applicable law.

7           3.     For purposes of the Settlement only, the Settlement Class is so numerous  
8 that joinder of all Settlement Class Members is impracticable.

9           4.     For purposes of the Settlement only, Plaintiff’s claims are typical of the  
10 Settlement Class’s claims.

11           5.     For purposes of the Settlement only, there are questions of law and fact  
12 common to the Settlement Class, which predominate over any questions affecting only  
13 individual Settlement Class Members.

14           6.     For purposes of the Settlement only, class adjudication is superior to other  
15 available methods for the fair and efficient adjudication of the controversy.

16           **IT IS ORDERED THAT:**

17           1.     **Settlement Approval.** The Settlement Agreement, including the Notice  
18 Program, is preliminarily approved.

19           2.     **Provision of Notice.** Class Counsel, through the Settlement Administrator,  
20 will notify Settlement Class Members of the Settlement in the manner specified in the  
21 Settlement Agreement.

22           3.     **Settlement Class Payment.** Each Settlement Class Member will be  
23 entitled to receive a pro-rata distribution of the Net Settlement Fund based on the  
24 number of Current Accountholders and Past Accountholders who submitted a Valid  
25 Claim.

26           4.     **Objections to the Settlement.** To object to the Settlement, a Settlement  
27 Class Member must submit their objection no later than the Objection Deadline, as  
28 specified in the Long Form Notice. The objection must be filed with or mailed to the

1 Clerk of the Court and mailed to the Settlement Administrator. If submitted by mail, a  
2 written objection shall be deemed to have been submitted when posted if received with  
3 a postmark date indicated on the envelope if mailed first-class postage prepaid and  
4 addressed in accordance with the instructions. If submitted by private courier (e.g.,  
5 Federal Express), an objection shall be deemed to have been submitted on the shipping  
6 date reflected on the shipping label.

7 For an objection to be considered by the Court, the objection must also set forth:  
8 (i) the objector's full name, address, telephone number, and e-mail address (if any);  
9 (ii) information identifying the objector as a Settlement Class Member in this Action,  
10 including evidence that the objector is a member of the Settlement Class; (iii) a written  
11 statement of all grounds for the objection, accompanied by any legal support for the  
12 objection the objector believes applicable; (iv) the identity of all counsel representing  
13 or assisting the objector, if any; (v) the identity of all counsel representing the objector  
14 who will appear at the Final Fairness Hearing, if any; (vi) a list of all persons who will  
15 be called to testify at the Final Fairness Hearing in support of the objection, if any;  
16 (vii) a statement confirming whether the objector intends to personally appear and/or  
17 testify at the Final Fairness Hearing; (viii) the objector's signature and the signature of  
18 the objector's duly authorized attorney or other duly authorized representative (along  
19 with documentation setting forth such representation), if any; (ix) a list, by case name,  
20 court, and docket number, of all other cases in which the objector (directly or through  
21 counsel) has filed an objection to any proposed class action settlement within the last  
22 three (3) years; (x) a list, by case name, court, and docket number, of all other cases in  
23 which the objector's counsel (on behalf of any person or entity) has filed an objection  
24 to any proposed class action settlement within the last 3 years; and (xi) a list, by case  
25 name, court, and docket number, of all other cases in which the objector has been a  
26 named plaintiff in any class action or served as a lead plaintiff or class representative.

27 5. **Failure to Object to the Settlement.** Settlement Class Members who fail  
28 to timely object to the Settlement in the manner specified will: (a) be deemed to have

1 waived their right to object to the Settlement; (b) be foreclosed from objecting (whether  
2 by a subsequent objection, intervention, appeal, or any other process) to the Settlement;  
3 and (c) not be entitled to speak at the Final Approval Hearing.

4       **6. Requesting Exclusion from the Settlement.** To be excluded, a member  
5 of the Settlement Classes must send an opt-out request by U.S. Mail or private courier  
6 (e.g., Federal Express) to the Settlement Administrator, stating the wish to be excluded  
7 from the Settlement Classes. The opt-out request must be personally signed by them  
8 and contain their name, postal address, and a statement that indicates a desire to be  
9 excluded from the Settlement Class. The opt-out request must be postmarked by the last  
10 day of the Opt-Out Period. If submitted by mail, the opt-out request shall be deemed to  
11 have been submitted when posted if received with a postmark date indicated on the  
12 envelope if mailed first-class postage prepaid and addressed in accordance with the  
13 instructions. If submitted by private courier (e.g., Federal Express), an exclusion request  
14 shall be deemed to have been submitted on the shipping date reflected on the shipping  
15 label.

16       **7. Claims Provision.** Past Accountholders may submit a Claim Form online  
17 through the Settlement Website or in paper copy through U.S. mail by sending them to  
18 the Settlement Administrator at the post office box mailing address designated in the  
19 Notice no later than the Claims Deadline. Past Accountholders have 75 days after the  
20 entry of this order to submit a Claim through the procedures outlined in the Settlement  
21 Agreement, but the parties may agree to extend the deadline to provide additional time  
22 for Past Accountholders to submit Claims.

23       **8. Provisional Certification.** The Settlement Class is provisionally certified  
24 as: all BANA Accountholders in the United States who were assessed more than one  
25 out-of-network (“OON”) balance inquiry fee during the same visit to a FCTI, Inc.-  
26 owned ATM located in a 7-Eleven store from May 1, 2018, to November 16, 2021, and  
27 who did not make a valid claim and receive payment in Weiss. Excluded are BANA’s  
28 Counsel, Defendant’s officers and directors, and the judges presiding over the Action.

1           9.     **Conditional Appointment of Class Representatives and Class Counsel.**

2 Plaintiff is conditionally certified as the Class Representative to implement the  
3 Settlement in accordance with the Agreement. Todd D. Carpenter, Jae K. Kim, and  
4 Tiffine E. Malamphy of Lynch Carpenter, LLP, are conditionally appointed as Class  
5 Counsel. Plaintiff and Class Counsel must fairly and adequately protect the interests of  
6 the Settlement Classes.

7           10.   **Termination.** In the event of termination, the Agreement shall be  
8 considered null and void; all of Plaintiff's, Class Counsel's, and BANA's obligations  
9 under the Settlement shall cease to be of any force and effect; and the Parties shall return  
10 to the status quo ante in the Action as if the Parties had not entered into this Settlement  
11 Agreement. In addition, in the event of such a termination, all of the Parties' respective  
12 pre-Settlement rights, claims and defenses will be retained and preserved. If this  
13 Settlement Agreement terminates or is nullified, the provisional Settlement Class  
14 certification shall be vacated by its terms, and the Action shall revert to the status that  
15 existed before execution of this Settlement Agreement. Thereafter, Plaintiff shall be free  
16 to pursue any claims available to her, and BANA shall be free to assert any defenses  
17 available to it. Nothing in this Settlement Agreement shall be argued or deemed to estop  
18 any party from the assertion of such claims and defenses.

19           11.   **No Admission.** Nothing in this Order is, or may be construed as, an  
20 admission or concession on any point of fact or law by or against any party.

21           12.   **Stay of Proceedings.** All discovery and pre-trial proceedings, and  
22 deadlines, are stayed and suspended until further notice from the Court, except for such  
23 actions as are necessary to implement the Settlement Agreement and this Order.

24           13.   **Further Procedures.** Counsel for the parties are hereby authorized to  
25 agree to utilize all reasonable procedures in connection with the administration of the  
26 Settlement which are not materially inconsistent with either this Order or the terms of  
27 the Settlement Agreement.

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1           14.   **Final Approval Hearing.** On **August 21, 2026**, at **1:30 p.m.** this Court  
 2 will hold a Final Approval Hearing to determine whether the Agreement should be  
 3 finally approved as fair, reasonable, and adequate. Based on the date of this Order and  
 4 the date of the Final Approval Hearing, the following are certain associated deadlines  
 5 in this Settlement.

Event	Proposed Date
Last day to issue Notice and publish the Settlement Website	40 days after entry of this Order
Claim deadline	75 days after entry of this Order
Last day for Plaintiff to file Application for Attorneys’ Fees, Costs, and Service Award	30 days before the Opt-Out Deadline
Last day for Plaintiff to file Motion for Final Approval	45 days before the Final Approval Hearing
Last day for Settlement Class Members to file an objection or opt out of the Settlement	45 days before the Final Approval Hearing

14           This Court may order the Final Approval Hearing to be postponed, adjourned, or  
 15 continued. If that occurs, the updated hearing date shall be posted on the Settlement  
 16 Website, but other than the website posting, Plaintiff will not be required to provide any  
 17 additional notice to Settlement Class Members.

18           Consistent with Paragraph 3.2 of the Settlement Agreement: (1) If Final Approval  
 19 of the Settlement is not obtained, the Settlement is null and void, and the Parties will  
 20 revert to their positions ex ante without prejudice to their rights, claims, or defenses, (2)  
 21 the Court appoints and approves Kroll Settlement Administration LLC as the Settlement  
 22 Administrator; (3) any appeal of the Court’s order on the Fee and Costs Award or the  
 23 motion for Service Award shall have no effect on the Court’s Final Approval of the  
 24 Settlement; and (4) the Class Representative, all Settlement Class Members (except  
 25 those who are Successful Opt-Outs), and Class Counsel are prohibited and preliminarily

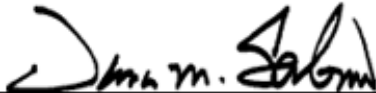
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enjoined from commencing, prosecuting, or assisting in any lawsuit against the Released Parties that asserts or purports to assert matters within the scope of the Release during the date this Order is entered and the Court’s decision on final approval.

**IT IS SO ORDERED.**

Dated: March 12, 2026

  
\_\_\_\_\_  
Hon. Dana M. Sabraw  
United States District Judge