

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA**

CHARLES W. SIRAGUSA, individually and on)	
behalf of all others similarly situated,)	
)	
Plaintiff,)	
)	CAUSE NO. 2:09-CV-328-TLS
v.)	
)	
ADVANCE FINANCIAL FEDERAL CREDIT)	
UNION,)	
)	
Defendant.)	

PRELIMINARY APPROVAL ORDER

This matter is before the Court on the Joint Motion for Preliminary Approval of a Class Action Settlement [DE 17], filed by the parties on March 8, 2010. The Court, being duly advised, GRANTS the parties' Joint Motion. Based upon the papers submitted to the Court and all of the proceedings had in this matter to date, the Court ORDERS:

1. Solely for purposes of settlement, the following Settlement Class is certified pursuant to Fed. R. Civ. P. 23(b)(3): All persons who, from October 7, 2008 through October 6, 2009, were charged a transaction fee for the use of automated teller machine number XE2319 located at 1544 W. 36th Ave., Gary, IN 46408.

2. Based on the parties' stipulations, and for settlement purposes only: (A) the class as defined is sufficiently numerous such that joinder is impracticable; (B) common questions of law and fact predominate over any questions affecting only individual Class Members, and include whether or not the ATM identified above violated the fee notice requirements of the Electronic Funds Transfer Act, 15 U.S.C. § 1693 *et seq.*, and its implementing regulation, 12 C.F.R. § 205.1 *et seq.*; (C) the claims of Plaintiff Charles Siragusa are typical of the Class Members' claims; (D) Plaintiff Charles Siragusa is an appropriate and adequate representative

for the Class and his attorneys, Lance A. Raphael, Stacy M. Bardo and Allison A. Krumhorn of The Consumer Advocacy Center, P.C. are hereby appointed as Class Counsel; and (E) a class action is the superior method for the fair and efficient adjudication of the claims of the Class Members.

3. The Court finds that the proposed settlement is within the range of fairness and reasonableness and adequacy and grants preliminary approval to it. In the event that the proposed settlement is not finally approved for any reason, the Defendant shall, pursuant to the Settlement Agreement, retain its right to contest certification of the Class.

4. The Court approves the proposed forms of notice to the Class, and directs that notice be implemented in accordance with Paragraph 2.4 of the Settlement Agreement. Counsel will file an affidavit with the Court, at least 5 business days prior to the Final Approval Hearing, attesting that notice has been so published and posted.

5. The Court finds that the notice proposed in Paragraph 2.4 of the Settlement Agreement is the only notice to the Class Members that is required and further finds that such notice satisfies all of the requirements of due process and Fed. R. Civ. P. 23(b)(3).

6. Class Members shall have sixty (60) days after today's date to send in a claim form, opt out or object to the proposed Settlement Agreement. The Settlement Fund is to be established within 7 days of today's date (as provided in Paragraph 2.2 of the Settlement Agreement), and Class Notice is to be issued within 14 days of today's date.

7. Any Class Member who wants to receive a monetary portion of the Settlement Fund shall file a Claim Form, which will be available for download at www.caclawyers.com/advancefinancial or by contacting Class Counsel. To be timely, a Claim

Form must be sent to the Class Settlement Administrator and postmarked within 60 days after today's date.

8. Any Class Member who desires to exclude himself or herself from the Class shall not be bound by the Settlement Agreement and shall not be entitled to any of its benefits. To be timely, a request for exclusion must be sent to the Class Settlement Administrator and postmarked within 60 days after today's date. To be effective, the request for exclusion must make clear that exclusion is sought by stating: "I WANT TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN *CHARLES SIRAGUSA VS. ADVANCE FINANCIAL FEDERAL CREDIT UNION*. I UNDERSTAND THAT BY OPTING OUT OF THE SETTLEMENT, I WILL NOT RECEIVE ANY BENEFITS THAT I WOULD OTHERWISE BE ENTITLED TO IF I PARTICIPATED IN THE SETTLEMENT CLASS." The request for exclusion must also contain the excluded Class Member's name, address, and signature.

9. Any Class Member who objects to the Settlement contemplated by the Settlement Agreement shall have a right to appear and be heard at the Final Approval Hearing provided that such Class Member files with the Clerk's Office and delivers to Class Counsel and Defendant's Counsel a written notice of objection together with a statement of reasons for the objection, postmarked within 60 days after today's date. Class Counsel and Defendant's Counsel may, but need not, respond to the objections, if any, by means of a memorandum of law served no later than 5 days prior to the Final Approval Hearing.

10. Within ten (10) days of the entry of this Order, the Class Action Fairness Act of 2005 (CAFA) Notice shall be served on government officials, and a period of ninety (90) days

shall be allowed to pass before the parties submit the Final Approval Order and Judgment for entry.

11. A Final Approval Hearing on the fairness and reasonableness of the Settlement Agreement will be held before this Court on July 8, 2010, at 11:00 a.m. (C.S.T.), at the United States District Court, 5400 Federal Plaza, Hammond, Indiana 46320.

SO ORDERED on March 16, 2010.

s/ Theresa L. Springmann
THERESA L. SPRINGMANN
UNITED STATES DISTRICT COURT
FORT WAYNE DIVISION