

**IN THE UNITED STATES DISTRICT COURT
FOR NORTHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION**

STEVEN BRUNER,)	
)	
Plaintiff,)	No. 08 C 124
)	
v.)	
)	
AMERICAUNITED BANK & TRUST)	Magistrate Judge Nolan
COMPANY,)	(Consent Filed)
)	
Defendant.)	

PRELIMINARY APPROVAL ORDER

This matter coming before the Court on the joint request of the parties for preliminary approval of a Class Action Settlement Agreement and Release, and based upon the papers submitted to the Court and all of the proceedings had in this matter to date, IT IS HEREBY ORDERED:

1. Solely for the purpose of settlement, the following Settlement Class is certified pursuant to Fed. R. Civ. P. 23(b)(3): all persons who, from January 6, 2007 to January 7, 2008, were charged a transaction fee for the use of ATM EP094609461001, located at AmericaUnited Bank & Trust, 321 West Golf Road, Schaumburg, Illinois 60196.

2. Based on the parties' stipulations, and for settlement purposes only: (A) the class as defined is sufficiently numerous such that joinder of all members is impracticable; (B) common questions of law and fact predominate over any questions affecting only individual Class Members, and include whether or not the absence of a posted notice at the ATM machine located at AmericaUnited Bank & Trust, 321 West Golf Road, Schaumburg, Illinois 60196 violated the requirements of the Electronic Funds Transfer Act, 15 U.S.C. § 1693 *et seq.*; (C) the claims of

Plaintiff Steven Bruner are typical of the Class Members' claims; (D) Plaintiff Steven Bruner is an appropriate and adequate representative for the Class; (E) Plaintiff Steven Bruner's attorneys, Lance A. Raphael, Stacy M. Bardo, and Allison A. Krumhorn are hereby appointed as Class Counsel; and (F) 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 grants preliminary approval to it. In the event that the proposed settlement is not finally approved for any reason, 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 8 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 8 of the Settlement Agreement is the only notice to the Class Members that is required and further finds that such notice satisfies the requirements of due process and Fed. R. Civ. P. 23.

6. Class Members shall have forty-five days after the date notice is published to send in a claim form, opt-out or object to the proposed Settlement Agreement.

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, by contacting Class Counsel by sending a request to Lance Raphael, The Consumer Advocacy Center, P.C., 180 West Washington Street, Suite 700, Chicago, Illinois 60602, or by calling Class Counsel at (312)

782-5808. To be timely, a Claim Form must be sent to Class Counsel and postmarked by _____, 45 days after the first date Notice is published.

8. Any Class Member who desires to exclude himself or herself from the Class shall not be bound by the Settlement and shall not be entitled to any of its benefits. To be timely, a request for exclusion must be sent to Class Counsel and postmarked by _____, 45 days after the first date Notice is published. To be effective, the request for exclusion must make clear that exclusion is sought by stating: “EXCLUDE ME FROM THE *BRUNER V. AMERICAUNITED SETTLEMENT*.” 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 Agreement shall have a right to appear and be heard at the Final Approval Hearing provided that such Class Member files with the Court and delivers to Class Counsel and Defendant’s Counsel a written notice of objection together with a statement of reasons for the objection, postmarked no later than _____, which shall be at least 14 days before the Final Approval Hearing date. Class Counsel and Defendant’s Counsel may, but need not, respond to the objections, if any, by means of a memorandum of law filed and served no later than 5 days prior to the Final Approval Hearing.

10. A Final Approval Hearing on the fairness and reasonableness of the Settlement Agreement will be held before this Court on _____ at ____ a.m./p.m.

SO ORDERED:

Magistrate Judge Nan R. Nolan
United States District Court Judge