

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

THOMAS STONE,)	
	Plaintiff,)	No. 08 C 1746
)	
v.)	Judge Bucklo
)	
CORUS BANK, N.A.,)	Magistrate Judge Denlow
	Defendant.)	
GLORIA RODRIGUEZ,)	
	Plaintiff,)	No. 08 C 2254
)	(consolidated with 08 C 1746)
v.)	
)	
CORUS BANK, N.A.,)	
	Defendant.)	
JOAN KISTNER,)	
	Plaintiff,)	No. 08 C 2797
)	(consolidated with 08 C 1746)
v.)	
)	
CORUS BANK, N.A.,)	
	Defendant.)	
VICTOR RODRIGUEZ,)	
	Plaintiff,)	No. 08 C 3511
)	(consolidated with 08 C 1746)
v.)	
)	
CORUS BANK, N.A.,)	
	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 purposes of settlement, the following Settlement Class is certified pursuant to Fed. R. Civ. P. 23(b)(3): All persons who, from March 26, 2007 to March 27, 2008,

were charged a transaction fee for the use of any of the following automated teller machines operated by Corus Bank, N.A.:

Branch	Address	Type	ATM No.
Calumet City	925 Burnham, Calumet City, IL	Drive-up	S862009/BI000307
Calumet City	530 Torrence, Calumet City, IL	Drive-up	S862010/BI000323
Downtown	10 S. Riverside, Chicago, IL	Lobby	S862011/BI000309
Downtown	10 S. Riverside, Chicago, IL	Street	S862012/BI000310
Lakeview	3179 N. Clark, Chicago, IL	Drive-up	S862001/BI000306
Lakeview	3179 N. Clark, Chicago, IL	Vestibule	S862002/BI000009
Lakeview	3179 N. Clark, Chicago, IL	Street	S862003/BI000302
Lincoln Park	2401 N. Halsted, Chicago, IL	Vestibule	S862004/BI000305
Lincoln Park	2401 N. Halsted, Chicago, IL	Drive-up	S862005/BI000286
Lincoln Square	2420 W. Lawrence, Chicago, IL	Drive-up	S862018/BI000343
Lincoln Square	2420 W. Lawrence, Chicago, IL	Lobby	S862019/BI000304
Niles	9190 W. Golf Rd., Niles, IL	Vestibule	S862014/BI000339
Niles	9190 W. Golf Rd., Niles, IL	Drive-up	S862013/BI000024
North Center Remote	3940 N. Damen, Chicago, IL	Drive-up	S862022/BI000325
North Center Remote	3940 N. Damen, Chicago, IL	Lobby	S862021/BI000030
River Forest	7727 W. Lake St., River Forest, IL	Vestibule	S862015/BI000303
Wheeling	125 McHenry Rd., Wheeling, IL	Vestibule	S862008/BI000326
Wrigleyville	3604 N. Southport, Chicago, IL	Vestibule	S862006/BI000308
Wrigleyville	3604 N. Southport, Chicago, IL	Drive-up	S862007/BI000023

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 absence of a posted notice at the ATM machines identified above violated the 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 Plaintiffs Thomas Stone, Gloria Rodriguez, Joan Kistner and Victor Rodriguez are typical of the Class Members' claims; (D) Plaintiffs Thomas Stone, Gloria Rodriguez, Joan Kistner and Victor Rodriguez are appropriate and adequate representatives for the Class and their attorneys, Lance A. Raphael, Stacy M. Bardo, and Allison A.

Krumhorn 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 hereby orders that Section 2.3 (B) (4) of the proposed Settlement Agreement be amended in its entirety, to read as follows:

The lesser of (a) \$75,000.00 or (b) any money remaining in the Settlement Fund, if any, after payments are made pursuant to Sections 2.3(A), 2.3(B)(1), (2), and (3) above shall be paid as a *cy pres* award equally to the following three entities: Legal Assistance Fund of Metropolitan Chicago, the Chicago Bar Foundation, and the Coordinated Advice and Referral Program for Legal Services (“CARPLS”).

4. The Court hereby orders that the proposed Published Notice, Exhibit B to the Settlement Agreement, be amended to reflect the three *cy pres* beneficiary entities listed in Paragraph 3 of this Preliminary Approval Order.

5. Other than as ordered in Paragraphs 3 and 4 of this Preliminary Approval Order, 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.

6. The Court approves the proposed forms of notice to the Class, and directs that notice be implemented in accordance with Section 2.5 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.

7. The Court finds that the notice proposed in Section 2.5 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.

8. 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 in part within 5 days of today's date, with the balance to be established within 14 days of today's date (as provided in Section 2.2 of the Class Action Settlement Agreement and Release), and Class Notice is to be issued within 14 days of today's date.

9. 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 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.

10. 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 *STONE V. CORUS BANK*." The request for exclusion must also contain the excluded Class Member's name, address, and signature.

11. 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 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.

12. A Final Approval Hearing on the fairness and reasonableness of the Settlement Agreement will be held before this Court on June 29, 2009 at 9:30 a.m.

April 9, 2009

SO ORDERED:

Morton Denlow
Honorable Morton Denlow
United States Magistrate Judge