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20 UNITED STATES DISTRICT COURT
21 NORTHERN DISTRICT OF CALIFORNIA
22 SAN FRANCISCO DIVISION

23 JEFFREY CHEN,

24 Plaintiff,

25 v.

26 CHASE BANK USA, N.A., and DOES 1-
27 100,

28 Defendants.

Case No. 3:19-cv-01082-JSC

**JOINT DECLARATION OF RAY E. GALLO,
ALEXANDER DARR, AND DOMINIC
VALERIAN IN SUPPORT OF PLAINTIFF'S
MOTION FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT**

1 We, Ray Gallo, Alexander Darr, and Dominic Valerian, declare as follows:

2 1. Ray Gallo is a member in good standing of the California State Bar and a partner
3 in the law firm Gallo LLP, counsel for Plaintiff and the Class in this action.

4 2. Alexander Darr is a member in good standing of the Ohio State Bar and a member
5 in the law firm Darr Law LLC, counsel for Plaintiff and the Class in this action.

6 3. Dominic Valerian is a member in good standing of the California State Bar and a
7 partner in the law firm Valerian Law, P.C., counsel for Plaintiff and the Class in this action.

8 4. We submit this declaration jointly in support of Plaintiff's Motion for Final
9 Approval of Class Action Settlement.

10 5. Except as otherwise noted, we have personal knowledge of the facts set forth
11 herein with respect to the information provided regarding our respective law firms, and if called
12 to testify thereto, could and would do so competently.

13 **The Settlement Process**

14 6. On June 18, 2019, the parties scheduled a full day of mediation with Hon. Wayne
15 D. Brazil (Ret.) for July 17, 2019 at JAMS in San Francisco. To facilitate the mediation and
16 conserve resources, the parties agreed to stay formal discovery and informally exchange
17 information. As part of this exchange, Chase produced approximately 650 pages of records
18 pertaining to its relationship with Mr. Chen and provided the size of the class and the number of
19 at-issue letters it sent during the class period. This case turns primarily on the content of identical
20 form letters, so knowing the content of the letters and number of letter recipients enabled the
21 parties to reasonably assess its strengths and value. A week before the mediation, the parties
22 submitted and exchanged detailed mediation statements, which thoroughly analyzed the relevant
23 law, facts, and the litigation risks both sides face.

24 7. On July 17, the parties spent a full day in mediation with Judge Brazil. The parties
25 did not reach an agreement that day but made substantial progress and continued to negotiate over
26 the following weeks. The parties reached a settlement in principle on August 9, 2019. Chase
27 prepared the first draft of the settlement agreement and sent it to us on September 18, 2019. Two
28 months of extensive negotiations concerning the final terms of the Settlement followed. On

1 November 22, 2019, the parties executed a comprehensive Class Action Settlement Agreement
2 and Release. At all times, the negotiation of the Settlement was in good faith and at arm's-length.

3 8. Plaintiff filed his Motion for Preliminary Approval (Dkt No. 43) on November 22,
4 2019 and the Court heard the motion on December 12, 2019. At the preliminary approval hearing,
5 the Court requested several revisions to the settlement agreement and expressed concern with the
6 cost of settlement administration.

7 9. After the preliminary approval hearing, the parties revised the settlement
8 agreement to address the Court's concerns and obtained additional settlement administration bids.
9 On January 13, 2020, Plaintiff submitted a revised Class Action Settlement Agreement and
10 Release (the "Agreement") (Dkt. No. 51, Exh. 1), a revised Notice (Dkt. No. 51 at 49), and a
11 summary of an updated bid from Kurtzman Carson Consultants LLC ("KCC"), the proposed
12 Settlement Administrator (Dkt. No. 51 ¶ 9).¹ In its updated bid, KCC agreed to cap administration
13 costs at \$52,000 contingent upon no significant changes to the scope of work, a class size of
14 18,183 members, 95% of the class receiving email notification, mailed notification being sent to
15 approximately 7,000 class members, and a claims filing rate of 10%.

16 10. On January 16, 2020, having considered Plaintiff's supplemental submission, the
17 Court granted preliminary approval of the Settlement. (Dkt. No 52.)

18 11. On March 24, 2020, Plaintiff filed his Motion for an Award of Attorneys' Fees and
19 Costs and Class Representative Incentive Award seeking attorneys' fees of \$176,473.93, costs of
20 \$8,526.07, and a \$5,000 Class Representative Incentive Award. (Dkt. No. 53.) That motion is
21 noticed for the same date as the final approval hearing. (*Id.*)

22 **Assessment of the Settlement**

23 12. The Settlement provides for Chase to pay "Settlement Class Consideration" of
24 \$244,659 for: (1) payments to the Settlement Class ("Net Settlement Class Consideration"), (2) a
25 Class Representative Incentive Award of up to \$5,000, and (3) Notice and Settlement
26 Administration Costs. (Agreement §§ 2.3, 3.2, 3.3.) The funds remaining after deducting the
27 _____

28 ¹ Unless otherwise noted, capitalized terms have the meaning ascribed to them in the Agreement (Dkt. No. 51, Exh. 1).

1 Class Representative Incentive Award and Notice and Settlement Administration Costs from the
2 Settlement Class Consideration (the “Net Settlement Class Consideration”) will be divided in
3 equal shares among the claiming Settlement Class Members. (*Id.* § 4.10(b).)

4 13. Assuming a \$5,000 Class Representative Incentive Award and Notice and
5 Settlement Administration Costs of \$59,242.46, the Net Settlement Class Consideration will be
6 \$180,416.54. Dividing this amount evenly between the 2,963 Settlement Class Members that
7 have submitted valid claims would result in individual payments of \$60.89 per claiming
8 Settlement Class Member.

9 14. Under 15 U.S.C. § 1691e(b), Chase’s potential liability on Settlement Class
10 Members’ punitive damages claims is capped at \$500,000, so Net Settlement Class Consideration
11 of \$180,416.54 would amount to approximately 36% of the Settlement Class’s potential monetary
12 recovery.

13 15. The Court will also enjoin Chase, for five years from the date of final approval,
14 from using the phrases “‘previous unsatisfactory relationship with this bank’ and ‘previous
15 unsatisfactory relationship with us or one of our affiliates’ in adverse action notices as the sole
16 reason for denying credit card applications or otherwise taking an adverse action in connection
17 with a Chase credit card account.” (Agreement § 3.5.)

18 16. Based on our experience, our familiarity with the factual and legal issues in this
19 case, the novelty of multiple legal questions in this case, the risk, delay, and uncertainty of
20 continued litigation, the maximum potential monetary recovery, and the significant relief
21 obtained, we believed the Settlement is fair, reasonable, and adequate.

22
23 I declare under penalty of perjury under the laws of the United States of America that the
24 foregoing is true and correct. Executed on May 21, 2020 at Bronxville, New York.

25
26 /s/ Ray E. Gallo

Ray E. Gallo

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on May 21, 2020 at Fremont, Ohio.

/s/ Alexander Darr
Alexander Darr

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on May 21, 2020 at Albany, California.

/s/ Dominic Valerian
Dominic Valerian

ATTESTATION

1 I, Dominic Valerian, am the ECF user whose identification and password are being used
2 to file this Joint Declaration. I hereby attest that Ray Gallo and Alexander Darr have concurred in
3 this filing.
4

5 */s/ Dominic Valerian*

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Dominic Valerian

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