

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

REGINA C. FILANNINO-RESTIFO, on
Behalf of Herself and All Others
Similarly Situated,

Plaintiff,

-vs.-

TD BANK, N.A.,

Defendant.

Case No.: 16-2374 (JBS-JS)

DAVID DIAZ and RYAN FRANCO,
Individually and on Behalf of All
Others Similarly Situated,

Plaintiffs,

-vs.-

TD BANK, N.A.,

Defendant.

Case No.: 16-2395 (JBS-JS)

NONA LUCE, on Behalf of Herself and
All Others Similarly Situated,

Plaintiff,

-vs.-

TD BANK, N.A.,

Defendant.

Case No.: 16-2621 (JBS-JS)

DAVID SPECTOR, on Behalf of
Himself and All Others Similarly
Situated,

Plaintiff,

-vs.-

TD BANK, N.A.,

Defendant.

Case No.: 16-2682 (JBS-JS)

DAVID McENERNEY, on Behalf of
Himself and All Others Similarly
Situated,

Plaintiff,

-vs.-

TD BANK, N.A.,

Defendant.

Case No.: 16-2918 (JBS-JS)

CHRISTINE KRULAN, Individually and
on Behalf of All Other Persons
Similarly Situated,

Plaintiffs,

-vs.-

TD BANK, N.A.,

Defendant.

Case No.: 16-2919 (JBS-JS)

JUAN CARLOS MACIAS, Individually
and on Behalf of All Other Persons
Similarly Situated,

Plaintiffs,

-vs.-

TD BANK, N.A.,

Defendant.

Case No.: 16-3420 (JBS-JS)

JEFFREY FEINMAN, Individually and
on Behalf of All Other Persons
Similarly Situated,

Plaintiffs,

-vs.-

TD BANK, N.A.,

Defendant.

Case No.: 16-3435 (JBS-JS)

CERTIFICATION OF STEPHEN P. DeNITTIS, ESQ. IN SUPPORT OF
PRELIMINARY APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT

I, Stephen P. DeNittis, upon my oath certify as follows:

1. I am an attorney-at-law in the State of New Jersey and a shareholder with DeNittis Osefchen Prince, P.C.

2. I am certified by the State of New Jersey as a certified civil trial attorney and currently serve as Liaison Counsel in these Consolidated Actions.

3. I received my Juris Doctor degree from Widener University School of Law in 1997.

4. I am admitted to practice before the Supreme Court of the United States, the Federal District Courts of New Jersey, the Eastern District of Pennsylvania, the Western District of Tennessee, the Supreme Court of New Jersey, and the Commonwealth of Pennsylvania.

5. I have extensive experience in class actions. I have successfully participated in over 150 class actions as lead or co-lead counsel, including actions involving consumer fraud, violations of the Real Estate Settlement Procedures Act (RESPA), construction defects, wage and hour violations, and environmental torts including, but not limited to, the following class actions:

Federal Class Actions: Poole v. Merrill Lynch, Civil Action No. 06-cv-1657 (D. Or.) (I was co-lead counsel in a nationwide wage and hour class action that settled for \$43.5 million); Kaufman

v. JP Morgan Chase, Civil Action No. 05-cv-9750 (S.D.N.Y.) (\$5 million wage and hour class settlement); Telliho v. American Traffic Solutions, Civil Action No. 3:12-cv-4800-SGS (D.N.J.) (\$4.2 million settlement regarding New Jersey red light cameras); Anderson v. Redflex, Civil Case No. 3:12-cv-5198 (\$2.1 million settlement regarding New Jersey red light cameras); Bernhard v. TD Bank, Civil Action No. 08-4392-RBK-AMD (D.N.J.) (\$375,000 wage and hour settlement); Kaufmann v. Commerce Bancorp., Civil Action No. 06-cv-4664-RBK-RMD (D.N.J.) (\$600,000 wage and hour settlement); Jones v. Commerce Bancorp. Inc., Civil Action No. 05-cv-05600-RBK-AMD (D.N.J.) (injunctive relief settlement); DeMarco v. National Collector's Mint, Inc., 229 F.R.D. 73 (S.D.N.Y. 2005) (I was lead counsel in a matter of first impression which resulted in a settlement valued at \$9 million); Carnival, et al. v. WMX, Technologies, et al., Civil Action No. 97-5122 (D.N.J.) (\$5.1 million settlement); Arnold, et al. v. Ambassadors International, Inc., et al., Civil Action No. 01-CV-2020 (RBK) (D.N.J.) (settlement valued at \$5 million in addition to injunctive relief);

State Court Class Actions: Jones, et al. v. EEG, Inc., et al., Phila. Ct. Comm. Pls. No. 160800812 (August Term, 2016) (\$6.75 million settlement for alleged violations of various New Jersey and Pennsylvania consumer fraud statutes by a beauty school for allegedly overcharging its paying customers); Krivy v. Jean Madeline Educ. Ctr. of Cosmetology, Inc., Phila. Ct. Comm. Pls.

No. 2603, (Feb. Term 2014) (\$1.35 million consumer fraud settlement); Barkers v. PSEG, Docket No. BUR-C-39-03 (settlement resulted in PSEG repairing 3,000 defective gas meter sets throughout the State of New Jersey and resulted in the Board of Public Utilities adopting new gas meter regulations); Felderstein v. Orleans, Docket No. BUR-L-479-02 (\$345,000 settlement); Melnick v. Orleans, Docket No. BUR-L-152-01 (\$1.4 million settlement); Spectracom, Inc. v. Cell Direct Corporation and Fax.com, Inc., Docket No. CAM-C-116-02 (injunctive relief settlement); Ward and Decker v. York International, et al., Docket No. BUR-L-2693-03; Schmoll, et al. v. Hovnanian, Docket No. BUR-C-141-02; Staub v. Hoeganaes, Docket No. BUR-L-2080-03 (\$1.4 million settlement); Blasini v. Weichert South Jersey, Inc., Docket No. BUR-L-736-11 (\$525,000 for a class of 8,000 home buyers charged an allegedly illegal \$200 administrative fee by Weichert in violation of the New Jersey CFA); Blasini v. Prudential Fox & Roach, Docket No. BUR-989-11 (\$270,000 for a class of 4,000 home buyers charged an allegedly illegal \$275 administrative fee by Prudential in violation of the New Jersey CFA); Baraldi v. Surety Title, Docket No. BUR-L-3379-11 (a settlement on behalf of 36,000 Surety customers who were allegedly overcharged deed and mortgage recording fees and were refunded 100% of the overcharge through a claims process); Blasini v. Trident Land Transfer Company of New Jersey, LLP; Trident Insurance Agency Company, LP; Trident

Insurance Agency Company, LP; Trident Abstract Title Agency, LLC; and Trident Group, Inc., Docket No. CAM-L-2355-11 (a settlement on behalf of 17,000 Trident customers who were allegedly overcharged mortgage recording fees and were refunded 100% of the overcharge through a claims process).

6. I have presented and/or lectured to attorneys on the following class action topics at the following Continuing Legal Education seminars:

- Lecturer, "Fair Labor Standards Act (FLSA) Collective Actions," Camden County Bar Association Labor & Employment Law Committee, November 12, 2008
- Lecturer, "Private Practice Professional Development Symposium - Class Action Litigation," Rutgers-Camden University School of Law, February 28, 2009
- Lecturer, "Anticipating Class Actions," Camden County Bar Association Class Action Practice Committee, March 23, 2010
- Lecturer, "The Impact of Recent Developments in Class Action Law in the Interests of Plaintiffs and Defendants - New Jersey and Beyond," Camden County Bar Association Class Action Practice Committee, April 19, 2011
- Lecturer, "Challenges for Plaintiffs and Defendants Posed by Recent NJ Class Action Decisions," Camden County Bar Association Class Action Practice Committee, May 16, 2012
- Lecturer, "Consumer Fraud Product Labeling Class Actions: One Label, Very Different Perspectives - Plaintiffs, Defendants and the Government," Perrin Conferences, November 15, 2012
- Lecturer, "Ascertainable Loss Under the NJ CFA - More than Just Out-of-Pocket Damages," New Jersey Association for Justice, Meadowlands Seminar, November 15, 2013

- Lecturer, "Identifying Consumer Class Actions," New Jersey Association of Justice, Boardwalk Seminar, April 9, 2015
- Lecturer and Co-Chair, "Consumer Law - Boardwalk Seminar 2016 - Identify Class Actions in Your Practice", NJAJ Educational Foundation, Inc.'s Boardwalk Seminar 2016, April 8, 2016
- Lecturer, "Insights into Federal Practice: Perspectives of the Bench and Bar", The United States District Court for the District of New Jersey, in conjunction with the Association of the Federal Bar of New Jersey, February 24, 2017
- Lecturer and Co-Chair, "Consumer Law - Boardwalk Seminar 2017 - Update on Arbitration Decisions and Aspects of the TCPA", NJAJ Educational Foundation, Inc.'s Boardwalk Seminar, April 26, 2017

7. I am co-author of the following publication relating to class actions:

- Co-author, "A Plaintiff's Perspective of the New "Ascertainability" Requirement in Federal Class Actions," New Jersey Lawyer Magazine, March 2015

8. Interim Class Counsel have been appointed in these Consolidated Actions, and I have been appointed Liaison Counsel. Interim Class Counsel and I fully support the proposed settlement in the case at bar, and believe it is fair, reasonable and adequate, and in the best interest of the class. The named Representative Plaintiffs also fully support the proposed settlement.

9. Interim Class Counsel and I have conducted extensive factual and legal research into the claims and various potential defenses in this matter.

10. Specifically, Plaintiffs have conducted substantial discovery prior to entering into the Settlement and have fully investigated the facts and law relevant to the subject matter of the Actions. Plaintiffs propounded discovery requests upon TD. In response, TD produced bank-wide information, for most of the class period, disclosing the number of Penny Arcade transactions, how many of those transactions were conducted by TD customers as opposed to non-customers, the aggregate value of the redeemed receipts, and the aggregate amount of fees that TD collected from non-customers on their transactions.

11. Plaintiffs also obtained data disclosing: (a) all of the Bank's stores that had one or more Penny Arcade machines, including store addresses as of July 22, 2016; (b) the serial numbers of each Penny Arcade machine in each store; (c) the average value of coins deposited in the Penny Arcade machines at each store, from November 2010 to March 2016; and (d) the value of the coins of each denomination counted at each store from May 2015 through April 2016.

12. Plaintiffs also obtained the Bank's policies and procedures for collecting, counting and reconciling coins with receipts and for checking the accuracy of the machines. The Bank

also disclosed the number of consumer complaints concerning alleged miscounting by the Penny Arcade machines over the past three and a half years; information concerning how the Penny Arcade machines were manufactured, operated, and maintained; and information concerning how the coins were collected from the Penny Arcade Machines.

13. In addition, Plaintiffs responded to discovery requests propounded by TD.

14. Plaintiffs also retained several experts including David Sise as an expert regarding the Penny Arcade machines. Mr. Sise was employed as a Field Engineer by Bancsource for close to ten years. As part of his responsibilities for over a decade, Mr. Sise repaired and maintained the same type and model of coin counting machines as the Penny Arcades, including the Mach 3 through Mach 12 version coin counting machines, some of which were at issue in this litigation. Plaintiffs, along with Mr. Sise, coordinated the testing of a number of Penny Arcade machines throughout the region. A testing protocol was established and implemented to assess error rates, and Mr. Sise and at least one representative of Plaintiffs attended each of the tests.

15. Plaintiffs retained Mr. Sise to test a sampling of nineteen machines. This testing did not yield appreciable differences.

16. TD retained Deloitte Transactions and Business Analytics, LLP ("Deloitte") to conduct testing of the Penny Arcade machines. Deloitte developed a testing protocol to analyze potential error rates associated with the Penny Arcade machines. TD's testing protocol consisted of:

- i. The identification of the population of machines to be tested;
- ii. A statistically-based approach to determine the coin amounts selected for testing the machines; and
- iii. Detailed procedures and training to aid in the execution of testing.

17. TD tested over 1,000 machines representing approximately 90% of all machines. TD tested each machine twice (Test A and Test B), with different amounts and values of coins. Those tests yielded a net undercount of 0.117% for Test A and a net undercount of 0.090% for Test B. The Settlement Agreement provides for a recovery to the proposed class of 0.26%, which exceeds the net undercount in each of those tests.

18. Prior to finalizing the proposed Settlement Agreement, Plaintiffs engaged experts Allise Wachs, Ph.D., a statistician with a focus on product design and machinery operations, and Abba M. Kreiger, Ph.D. a Professor of Statistics at the University of Pennsylvania, to review Deloitte's data and testing methodology to determine its reliability. After review of Deloitte's data,

opportunity to ask questions of the Deloitte person most knowledgeable about the study and its protocol and testing methodology, and receipt of full answers, both experts concluded that such the Deloitte data and testing were reliable for Plaintiffs to use as a basis to enter into the Settlement Agreement.

19. I believe that the foregoing discovery, testing, expert analysis, and legal and factual research have provided Plaintiffs with a firm basis for evaluating the risks in the case at bar and the proposed settlement, arrived at between the parties with the assistance of mediator the Hon. Joel Rosen. Following the reaching of an agreement with the Defendant on the terms of the \$7,500,000 class settlement, which we believe will recover a significant percentage of the class's losses from undercounts by the Penny Arcades, Plaintiffs then engaged in further negotiations, with Judge Rosen's assistance, to add to the class settlement fund the additional sum from Defendant of up to \$2,000,000 to cover class counsel fees as well as service of awards of up to \$50,000 for the thirteen named plaintiffs, as the Court may award.

20. At this juncture, the parties are moving for preliminary approval of the class action settlement, seeking the court to find that the settlement appears to be the result of serious, informed, non-collusive, and good faith negotiations between the parties, and that it otherwise meets the criteria for preliminary approval,

and for approval of a class settlement notice to be mailed to the settlement class (the "Mailed Notice"). Should the settlement be preliminarily approved, the parties intend to file motions in support of final approval of the proposed class action settlement prior to the final fairness hearing.

21. A true and correct copy of the Settlement Agreement is attached hereto as Exhibit A.

22. The Mailed Notice, in the form attached to the Settlement Agreement and attached hereto as Exhibit B, is an appropriate form of notice and found to be widely acceptable by courts. See Telliho v. East Windsor Township and American Traffic Solutions, Civil Action No. 3:12-cv-4800-PGS-LHG, (Court approved postcard notice as adequate notice in a class action settlement involving over 400,000 class members), Anderson, et al. v. Cherry Hill Township & Redflex Traffic Systems, Inc., Case No.: 3:12-cv-5198-PGS-LHG, (Court approved postcard notice as adequate notice in a class action settlement involving 250,000 class members), Krivy v. Jean Madeline, CCP February 2014 No. 2603 (Court approved postcard notice as adequate notice in a class action settlement involving 33,000 class members). I was among lead counsel in each of those cases.

23. Attached hereto as Exhibit C is the Long Form Legal Notice, which will be available for class members to obtain online at the Settlement Website which will be set up by the parties.

24. Attached hereto as Exhibit D is the Publication Notice.

25. Attached hereto as Exhibit E is the firm biographies of Interim Class Counsel.

I declare under penalty of perjury under the laws of the State of New Jersey that the foregoing is true and correct.

DeNITTIS OSEFCHEN PRINCE, P.C.

By:


STEPHEN P. DeNITTIS, ESQ.

Dated: 5/22/17

Exhibit A

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Agreement” or “Settlement Agreement”) is made and entered into this ~~30~~³¹ day of May 2017, by and among (1) Plaintiffs (as defined in Paragraph 48), for themselves and on behalf of the Settlement Class (as defined in Paragraph 56), and (2) TD Bank (as defined in Paragraph 61), and subject to preliminary and final Court approval as required by Rule 23 of the Federal Rules of Civil Procedure. Plaintiffs and TD Bank enter into this agreement by and through their respective counsel. As provided herein, TD Bank, Class Counsel (as defined in Paragraph 31), and Plaintiffs hereby stipulate and agree that, in consideration of the promises and covenants set forth in this Agreement and upon entry by the Court of a final order and judgment, all claims of the Settlement Class against TD Bank in the Actions (as defined in Paragraph 23) shall be settled and compromised upon the terms and conditions contained herein.

I. Recitals

1. In 1999, TD Bank, through its predecessor Commerce Bank, N.A., introduced Penny Arcade, a coin-counting service. Users of the service deposited coins into coin-counting machines at TD Bank branches. The machines counted users’ coins and produced receipts that users could redeem at the teller line for account credits or for cash.
2. On April 6, 2016, NBC’s “Today Show” aired a segment reporting inaccurate coin counting based on tests of five Penny Arcade machines in the New York City area.
3. On April 11, 2016, Plaintiff Juan Carlos Macias filed *Macias v. TD Bank, N.A.*, No. 16-cv-21298 (“*Macias*”), a class action complaint, in the United States District Court for the Southern District of Florida, alleging miscounting by Penny Arcade machines and asserting putative claims for unjust enrichment, breach of contract, and violations of the Florida Deceptive & Unfair Trade Practices Act. On May 4, 2016, TD Bank moved to dismiss the complaint pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). On May 16, 2016, Plaintiff Macias, together with new Plaintiffs Crossroad Foundation, Andrew Sobczak, Alexis Mullen, and Tracy Olechowski, filed an Amended Class Action Complaint asserting putative claims for violations of New York General Business Law § 349, the New Jersey Consumer Fraud Act, and the Pennsylvania Unfair Trade Practices and Consumer Protection Law, as well as unjust enrichment and breach of contract.
4. On April 18, 2016, Plaintiff Jeffrey Feinman filed *Feinman v. TD Bank, N.A.*, No. 652083/2016 (“*Feinman*”), a class action complaint, in the Supreme Court of New York, County of New York, alleging miscounting by Penny Arcade machines and asserting putative claims for breach of contract, conversion, fraud, violations of New York General Business Law § 349, violations of New York General Business Law § 350, negligence, and unjust enrichment. TD Bank removed the action to the United States District Court for the Southern District of New York on May 9, 2016, as *Feinman v. TD Bank, N.A.*, No. 16-cv-3448. On June 3, 2016, Plaintiff Feinman moved to transfer the case to the United States District Court for the District of New Jersey, as *Feinman v. TD Bank, N.A.*, No. 16-cv-3435, and on June 7, 2016, the motion was granted.

5. On April 25, 2016, Plaintiff Nona Luce filed *Luce v. TD Bank, N.A.*, No. L-1585-16 (“*Luce*”), a class action complaint, in the Superior Court of New Jersey, Camden County, alleging miscounting by Penny Arcade machines and asserting putative claims for breach of contract, violations of the New Jersey Consumer Fraud Act, violations of the Truth in Consumer Contract, Warranty and Notice Act, and unjust enrichment. TD Bank removed the action to the United States District Court for the District of New Jersey on May 9, 2016, as *Luce v. TD Bank, N.A.*, No. 16-cv-2621. The case was stayed by order of the Court on May 13, 2016.
6. On April 27, 2016, Plaintiff Regina C. Filannino-Restifo filed *Filannino-Restifo v. TD Bank, N.A.*, No. 16-cv-2374 (“*Filannino-Restifo*”), a class action complaint, in the United States District Court for the District of New Jersey, alleging miscounting by Penny Arcade machines and asserting putative claims for violations of New York General Business Law § 349, violations of the New Jersey Consumer Fraud Act, and unjust enrichment. The case was stayed by order of the Court on May 13, 2016.
7. On April 28, 2016, Plaintiffs David Diaz and Ryan Franco filed *Diaz v. TD Bank, N.A.*, No. 16-cv-2395 (“*Diaz*”), a class action complaint, in the United States District Court for the District of New Jersey, alleging miscounting by Penny Arcade machines and asserting putative claims for violations of New Jersey’s Consumer Fraud Act and similar state laws, fraudulent concealment/nondisclosure, negligent misrepresentation, unjust enrichment, breach of contract, violations of the Truth in Consumer Contract, Warranty and Notice Act, and conversion. The case was stayed by order of the Court on May 13, 2016.
8. On May 5, 2016, Plaintiff David Spector filed *Spector v. TD Bank, N.A.*, No. L-1722-16 (“*Spector*”), a class action complaint, in the Superior Court of New Jersey, Camden County, alleging miscounting by Penny Arcade machines and asserting putative claims for violations of the New Jersey Consumer Fraud Act, violations of the Truth in Consumer Contract, Warranty and Notice Act, and unjust enrichment/disgorgement. TD Bank removed the action to the United States District Court for the District of New Jersey on May 11, 2016, as *Spector v. TD Bank, N.A.*, No. 16-cv-2682. The case was stayed by order of the Court on May 17, 2016.
9. On May 17, 2016, the *Diaz* Plaintiffs moved the Judicial Panel on Multidistrict Litigation to transfer and centralize related actions in the United States District Court for the District of New Jersey.
10. On May 17, 2016, the United States District Court for the Southern District of Florida stayed *Macias* and terminated TD Bank’s Motion to Dismiss. On June 3, 2016, the *Macias* Plaintiffs moved for a transfer of venue to the United States District Court for the District of New Jersey. On June 13, 2016, the United States District Court for the Southern District of Florida granted the *Macias* Plaintiffs’ motion to change venue, and the *Macias* case was docketed in the District of New Jersey as No. 16-cv-3420.
11. On June 14, 2016, the Judicial Panel on Multidistrict Litigation denied as moot the *Diaz* Plaintiffs’ motion for transfer.

12. On May 23, 2016, Plaintiff Christine Krulan filed *Krulan v. TD Bank, N.A.*, No. 16-cv-2919 (“*Krulan*”), a class action complaint, in the United States District Court for the District of New Jersey, alleging miscounting by Penny Arcade machines and asserting putative claims for violations of the New Jersey Consumer Fraud Act, fraudulent concealment/nondisclosure, negligent misrepresentation, unjust enrichment, breach of contract, violations of the Truth in Consumer Contract, Warranty and Notice Act, and conversion. The case was stayed by order of the Court on May 26, 2016.
13. On May 23, 2016, Plaintiff David McEnerney filed *McEnerney v. TD Bank, N.A.*, No. 16-cv-2918 (“*McEnerney*”), a class action complaint, in the United States District Court for the District of New Jersey, alleging miscounting by Penny Arcade machines and asserting putative claims for violations of the Pennsylvania Unfair Trade Practices and Consumer Protection Law, common law fraud, and breach of contract. The case was stayed by order of the Court on May 26, 2016.
14. All of the matters referenced above were assigned to the Honorable Jerome B. Simandle, United States District Judge, and the Honorable Joel Schneider, United States Magistrate Judge, of the District of New Jersey, Camden Vicinage (together the “Court”).
15. On June 7, 2016, the Court issued a case management order consolidating the *Filannino-Restifo, Diaz, Luce, Spector, McEnerney, and Krulan* cases for pretrial purposes. The Court extended the stay for all cases and ordered Plaintiffs in the consolidated cases to select an Interim Lead Counsel and coordinate all communication with TD Bank.
16. No dispositive motions are pending in these Actions; nor have any been decided.
17. The Parties participated in mediation on September 30, October 18, and November 2, 2016, and January 18, 2017, with the Honorable Judge Joel B. Rosen, Retired United States Magistrate Judge, of Montgomery, McCracken, Walker, & Rhoads LLP serving as mediator. On November 2, 2016, the Parties reached an agreement in principle to settle the Actions. On January 18, 2017, the Parties reached an agreement in principle concerning payment of Attorneys’ Fees, Litigation Costs, and Service Awards.
18. Class Counsel have conducted substantial discovery, have fully investigated the facts and law relevant to the subject matter of the Actions, and have concluded, based upon their investigation, and taking into account the risks, uncertainties, burdens, and costs of further prosecution of the Actions, and taking into account the substantial benefits to be received pursuant to this Agreement as set forth below, and for the purpose of putting to rest all controversies with the Defendants that were or could have been alleged, that a resolution and compromise on the terms set forth herein is fair, reasonable, adequate, and in the best interests of Plaintiffs and the Settlement Class.
19. TD Bank, for the purpose of avoiding the burden, expense, risk, and uncertainty of continuing to litigate the Actions, and for the purpose of putting to rest all controversies with Plaintiffs and the Settlement Class that were or could have been alleged, and without any admission of liability or wrongdoing whatsoever, desires to enter into this Agreement.

20. The Parties now agree to settle the Actions in their entirety, without any admission of liability by TD Bank, with respect to all Released Claims (as defined in Paragraph 50) of the Settlement Class. The Parties intend this Agreement to bind Plaintiffs, TD Bank, and all members of the Settlement Class who do not timely and properly exclude themselves from the Settlement.

NOW, THEREFORE, in light of the foregoing, for good and valuable consideration, the receipt of which is hereby mutually acknowledged, the Parties agree, subject to approval by the Court, as follows.

II. Definitions

The following Defined Terms apply throughout this Agreement:

21. “Account” means any checking, savings, personal loan, or business loan account at TD Bank.
22. “Account Holder” means a person or entity that held an Account at any time during the Class Period.
23. “Actions” means *Filannino-Restifo v. TD Bank, N.A.*, No. 16-cv-2374 (D.N.J.); *Diaz v. TD Bank, N.A.*, No. 16-cv-2395 (D.N.J.); *Luce v. TD Bank, N.A.*, No. 16-cv-2621 (D.N.J.); *Spector v. TD Bank, N.A.*, No. 16-cv-2682 (D.N.J.); *McEnerney v. TD Bank, N.A.*, No. 16-cv-2918 (D.N.J.); *Krulan v. TD Bank, N.A.*, No. 16-cv-2919 (D.N.J.); *Macias v. TD Bank, N.A.*, No. 16-cv-3420 (D.N.J.); and *Feinman v. TD Bank, N.A.*, No. 16-cv-3435 (D.N.J.), including, as applicable, all prior designations of those cases in other jurisdictions before transfer to the District of New Jersey.
24. “Administration Costs” means all reasonable fees, costs, charges, and expenses of the Settlement Administrator (as defined in Paragraph 55), including the costs of Notice incurred in connection with the administration of the Notice Program (as set forth in Section VII).
25. “Agreement” means this Settlement Agreement and Release (including all exhibits attached hereto).
26. “Attorneys’ Fees” means an award of fees to Class Counsel, up to \$1,950,000 and subject to approval of the Court.
27. “Automatic Distribution” means a payment made automatically from the Settlement Fund to a Settlement Class Member who was an Account Holder when he or she conducted a Penny Arcade Transaction, either by account credit in the case of a Current Account Holder or by check or functionally similar electronic means of payment in the case of a Former Account Holder (as those terms are defined in Paragraphs 78-79).
28. “Claim” means a written request submitted by a Settlement Class Member, consistent with the provisions of this Agreement, seeking a distribution from the Settlement Fund.

29. “Claimant” means a Settlement Class Member who submits a Claim.
30. “Claim Form” means a form provided by the Settlement Administrator for the purpose of making a Claim.
31. “Class Counsel” means:

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Lindsey Caryn Grossman, Esq.
Michael Elliot Criden, Esq.
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7301 SW 57th Court – Suite 515
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32. “Class Payment Amount” means the amount specified in Paragraph 66 below. The “Class Payment Amount” does not include Attorneys’ Fees, Service Awards (as that term is defined in Paragraph 53), or Administration Costs.
33. “Effective Date” means the second business day after all of the following events have occurred:
 - a. TD Bank’s counsel and Class Counsel have executed this Agreement;
 - b. The Court has entered without material change the Parties’ agreed-upon proposed Final Approval Order as defined in Paragraph 37; and
 - c. The time for seeking rehearing or appellate or other review of the Final Approval Order has expired, and no appeal or petition for rehearing or review has been timely filed; or the Settlement is affirmed on appeal or review without material change, no other appeal or petition for rehearing or review is pending, and the time period during which further petition for hearing, review, appeal, or certiorari could be taken has finally expired. Notwithstanding the foregoing, the Effective Date shall not be earlier than 30 days after Final Approval (as defined in Paragraph 36).
34. “Escrow Account” means the account to be established consistent with the terms and conditions described in Section IX hereof.
35. “Escrow Agent” means Garden City Group, LLC. Class Counsel and TD Bank may, by agreement, substitute a different organization as Escrow Agent, subject to approval by the Court if the Court has previously approved the Settlement preliminarily or finally. In the absence of agreement, either Class Counsel or TD Bank may move the Court to substitute a different organization as Escrow Agent, upon a showing that the responsibilities of Escrow Agent have not been adequately executed. The Escrow Agent shall administer the Escrow Account.
36. “Final Approval” means the date upon which the Court enters an order and judgment granting final approval of the Settlement.
37. “Final Approval Order” means the order and judgment that the Court enters upon Final Approval. In the event that the Court issues separate orders addressing the matters constituting Final Approval, then Final Approval Order includes all such orders.
38. “Litigation Costs” means an award to Class Counsel of their costs incurred in connection with this case, up to \$100,000 and subject to approval of the Court.

39. “Non-Account Holder” means a person or entity that, at any time during the Class Period, did not hold an Account.
40. “Notice” means the notices of class action settlement approved by the Court in connection with the motion for preliminary approval of the Settlement.
41. “Notice Administrator” means Garden City Group, LLC. Class Counsel and TD Bank may, by agreement, substitute a different organization as Notice Administrator, subject to approval by the Court if the Court has previously approved the Settlement preliminarily or finally. In the absence of agreement, either Class Counsel or TD Bank may move the Court to substitute a different organization as Notice Administrator, upon a showing that the responsibilities of Notice Administrator have not been adequately executed.
42. “Notice Deadline” means 60 days after Preliminary Approval.
43. “Notice Program” means the notice methods provided for in this Agreement and consists of (1) written notice sent to all those Settlement Class Members for whom TD Bank can ascertain a mailing, email, or other address from its records with reasonable effort (“Mailed Notice”), (2) Long-Form Notice posted on the Settlement Website, and (3) Publication Notice (as described in Paragraph 89). The forms of notice shall be substantially in the forms attached as Exhibits 1-3 to this Agreement and approved by the Court, and the Notice Program shall be effected in substantially the manner provided in Section VII.
44. “Objection Deadline” means 60 days after the Notice Deadline.
45. “Opt-Out Deadline” means 60 days after the Notice Deadline.
46. “Parties” means Plaintiffs and TD Bank.
47. “Penny Arcade Transaction” means a transaction in which a person (or an entity, through its representative) used a TD Bank Penny Arcade machine to exchange coins for a credit to an Account or for cash.
48. “Plaintiff” means any one of Regina C. Filannino-Restifo, David Diaz, Ryan Franco, Nona Luce, David Spector, David McEnerney, Christine Krulan, Juan Carlos Macias, Crossroad Foundation, Andrew Sobczak, Alexis Mullen, Tracy Olechowski, or Jeffrey Feinman (collectively, “Plaintiffs”).
49. “Preliminary Approval” means the date upon which the Court enters, without material change, an order preliminarily approving the Settlement in the form jointly agreed upon by the Parties.
50. “Released Claims” means all claims to be released as specified in Section XIII. The “Releases” means all of the releases contained in Section XIII hereof.
51. “Released Parties” means those persons and entities released as specified in Section XIII.

52. "Releasing Parties" means Plaintiffs and all Settlement Class Members who do not timely and properly exclude themselves from the Settlement, and each of their respective heirs, assigns, beneficiaries, successors, guardians, officers, directors, stockholders, agents, employees, legal or other representatives, partners, associates, trustees, parents, subsidiaries, divisions, affiliates, executors, administrators, purchasers, predecessors, and successors.
53. "Service Awards" means payments, subject to approval of the Court and not to exceed \$50,000 in total, to compensate Plaintiffs for their efforts in the litigation and commitment on behalf of the Settlement Class.
54. "Settlement" means the settlement into which the Parties have entered to resolve the Actions. The terms of the Settlement are as set forth in this Agreement including the exhibits hereto.
55. "Settlement Administrator" means Garden City Group, LLC. Class Counsel and TD Bank may, by agreement, substitute a different organization as Settlement Administrator, subject to approval by the Court if the Court has previously approved the Settlement preliminarily or finally. In the absence of agreement, either Class Counsel or TD Bank may move the Court to substitute a different organization as Settlement Administrator, upon a showing that the responsibilities of Settlement Administrator have not been adequately executed.
56. "Settlement Class" means the class defined in Paragraph 64.
57. "Settlement Class Member" means any person or entity included in the Settlement Class.
58. "Settlement Fund" means the fund created by TD Bank's deposit of \$7,500,000 into the Escrow Account, as provided for in Section IX.
59. "Settlement Website" means the website that the Settlement Administrator will establish as soon as practicable following Preliminary Approval, but prior to the commencement of the Notice Program, as provided for in Section VII.
60. "Tax Administrator" means Garden City Group, LLC. Class Counsel and TD Bank may, by agreement, substitute a different organization as Tax Administrator, subject to approval by the Court if the Court has previously approved the Settlement preliminarily or finally. In the absence of agreement, either Class Counsel or TD Bank may move the Court to substitute a different organization as Tax Administrator, upon a showing that the responsibilities of Tax Administrator have not been adequately executed. The Tax Administrator will perform all tax-related services for the Escrow Account as provided in this Agreement.
61. "TD Bank" means TD Bank, N.A., as well as its predecessors, including but not limited to Commerce Bank, N.A., Banknorth National Association, TD Banknorth, National Association, and each banking institution that during the class period entered into a merger transaction or was otherwise acquired by TD Bank such that TD Bank has

succeeded to pre-merger or pre-acquisition liabilities of such other institution by virtue of the merger or acquisition.

62. Except where otherwise specified, any time period specified in this Agreement shall be counted in calendar days. Any deadline that falls on a weekend or holiday shall be deemed to fall on the next business day.
63. Except where otherwise specified, any reference to a Paragraph, Section, or Exhibit shall be to the specified paragraph or section of this Agreement, or to the specified exhibit to this Agreement.

III. Certification of the Settlement Class

64. For settlement purposes only, Plaintiffs shall seek, and TD Bank shall not oppose, certification of the following Settlement Class under Rule 23(b)(3) of the Federal Rules of Civil Procedure:

All persons in the United States who, between April 11, 2010 and Preliminary Approval, used a TD Bank Penny Arcade machine to exchange coins for a credit to a TD Bank Account or for cash. Excluded from the Settlement Class are all current TD Bank employees, officers and directors, counsel for TD Bank, Class Counsel, the judges presiding over the Actions, and the immediate family members of such judges.

65. For settlement purposes only, Plaintiffs shall also seek, and TD Bank shall not oppose, appointment of Class Counsel, and appointment of Plaintiffs as class representatives, to represent the Settlement Class.

IV. Settlement Consideration

66. The Class Payment Amount to be provided by TD Bank to members of the Settlement Class pursuant to the Settlement shall be \$7,500,000, less any award of Litigation Costs pursuant to Paragraph 67. For avoidance of doubt, under no circumstances shall TD Bank be required to pay to Settlement Class Members any amount in excess of the Class Payment Amount.
67. Class Counsel may collectively apply to the Court for an award of Litigation Costs incurred in connection with this case in an amount not to exceed \$100,000. Any such Litigation Costs shall be paid from the Settlement Fund and shall reduce the portion of the Class Payment Amount that is distributed to members of the Settlement Class.
68. Class Counsel may move the Court for an award of Attorneys' Fees to Class Counsel and Service Awards to Plaintiffs together totaling no more than \$2,000,000, and TD Bank shall pay any such Court-approved awards totaling up to and not to exceed \$2,000,000. For avoidance of doubt, under no circumstances shall any award of Attorneys' Fees or Service Awards reduce the Class Payment Amount.

69. TD Bank will pay all Administration Costs, meaning all reasonable fees, costs, charges, and expenses of the Settlement Administrator, including the costs of Notice incurred in connection with the administration of the Notice Program as set forth in Section VII. For avoidance of doubt, under no circumstances shall any award of Administration Costs reduce the Class Payment Amount, except as set forth in Paragraph 118.
70. In further consideration of the Releases, TD Bank agrees not to resume using the machines that are the subject of the Actions to provide customer self-service coin-counting in TD Bank branches.
71. For avoidance of doubt, other than as specified in Paragraphs 126-127, TD Bank shall not bear any fees, costs, charges, or expenses incurred by Plaintiff or by Class Counsel, including, but not limited to, those of any experts retained by Plaintiffs or by Class Counsel.

V. Preliminary Approval

72. Upon execution of this Agreement by all signatories, Class Counsel shall promptly move the Court for an order granting preliminary approval of this Settlement (“Preliminary Approval Order”). The proposed Preliminary Approval Order that will be attached to the motion shall be in a form agreed upon by Class Counsel and TD Bank. The motion for preliminary approval shall request that the Court: (1) approve the terms of the Settlement as within the range of fair, adequate, and reasonable; (2) provisionally certify the Settlement Class pursuant to Federal Rule of Civil Procedure 23(b)(3) and (e) for settlement purposes only; (3) approve the Notice Program set forth herein and approve the form and content of the Notice; (4) approve the procedures set forth in Section VII for Settlement Class Members to exclude themselves from the Settlement Class or to object to the Settlement; (5) stay the Actions pending Final Approval of the Settlement; (6) stay and/or enjoin, pending Final Approval of the Settlement, any actions brought by Settlement Class Members concerning a Released Claim; and (6) schedule a Final Approval hearing for a time and date mutually convenient for the Court, Class Counsel, and counsel for TD Bank, at which the Court will conduct an inquiry into the fairness of the Settlement, determine whether it was made in good faith and should be finally approved, and determine whether to approve Class Counsel’s application for attorneys’ fees, costs, and expenses, and for Service Awards (“Final Approval Hearing”).
73. Within 10 days of the filing of the motion for preliminary approval, TD Bank, at its own expense, shall serve or cause to be served a notice of the proposed Settlement, in conformance with the requirements under the Class Action Fairness Act, 28 U.S.C. § 1715(b).

VI. Settlement Administrator

74. The Settlement Administrator shall administer various aspects of the Settlement as described in Paragraph 74 below and perform such other functions as are specified for the Settlement Administrator elsewhere in this Agreement, including, but not limited to, providing Mailed Notice to Settlement Class Members as described in Section VII;

effectuating Publication Notice as described in Paragraph 89; establishing and operating the Settlement Website and toll-free number; administering the Claims process as described in Section X.B; distributing payments according to the processes and criteria set forth in Section XI and Exhibits 1-3; repaying TD Bank from the Settlement Fund the amount of account credits to be provided by TD Bank to Current Account Holder Settlement Class Members pursuant to Paragraph 116 hereof; administering any *cy pres* payment; and paying the remainder of the Settlement Fund to TD Bank in the event of a termination of the Settlement pursuant to Section XV hereof.

75. The duties of the Settlement Administrator, in addition to other responsibilities that are described in this Agreement, include:
- a. obtaining from TD Bank the name and mailing or other address information for Settlement Class Members (to the extent it is available), and verifying and updating the mailing, email, or other addresses received, through the National Change of Address database or other similar data source, for the purpose of sending the Mailed Notice to Settlement Class Members, and later mailing distribution checks to Former Account Holder Settlement Class Members and Non-Account Holder Settlement Class Members;
 - b. effecting the Publication Notice;
 - c. establishing and maintaining a post office box for mailed written notifications of exclusion from the Settlement Class;
 - d. establishing and maintaining the Settlement Website;
 - e. establishing and maintaining a toll-free telephone line for Settlement Class Members to call with Settlement-related inquiries, and answering the questions of Settlement Class Members who call with or otherwise communicate such inquiries;
 - f. responding to any mailed Settlement Class Member inquiries;
 - g. processing all written notifications of exclusion from the Settlement Class;
 - h. providing weekly reports and, no later than five days after the Opt-Out Deadline, a final report to Class Counsel and TD Bank, that summarize the number of written notifications of exclusion received each week, the total number of written notifications of exclusion received to date, and other pertinent information;
 - i. in advance of the Final Approval Hearing, preparing an affidavit to submit to the Court that: (i) attests to implementation of the Notice Program in accordance with the Preliminary Approval Order; and (ii) identifies each Settlement Class Member who timely and properly provided written notification of exclusion from the Settlement Class;

- j. reviewing, determining the validity of, and responding to all Claims submitted by Settlement Class Members, pursuant to criteria set forth in Section X.B and in Exhibits 1-3;
 - k. after the Effective Date, processing and transmitting distributions to Settlement Class Members in accordance with Section XI;
 - l. reviewing, deciding, and responding to all Claims;
 - m. providing weekly reports and a final report to Class Counsel and TD Bank that summarize the number of Claims since the prior reporting period, the total number of Claims received to date, the number of any Claims granted and denied since the prior reporting period, the total number of Claims granted and denied to date, and other pertinent information;
 - n. performing the duties of Escrow Agent as described in this Agreement; and
 - o. performing any other function related to Settlement administration at the agreed-upon instruction of both Class Counsel and TD Bank, including, but not limited to, verifying that cash payments have been distributed in accordance with Section XI.
76. The Settlement Administrator shall establish a Settlement Website as a means for Settlement Class Members to obtain notice of and information about the Settlement through and including hyperlinked access to this Agreement; the Notice; the order preliminarily approving the Settlement; the Final Approval Order; the Claim Form, and such other documents as Class Counsel and TD Bank agree to post or that the Court orders posted. These documents shall remain on the Settlement Website at least until Final Approval. The URL of the Settlement Website will be agreed upon in writing by TD Bank and Class Counsel. The Settlement Website shall not include any advertising, and shall not bear or include the TD Bank logo or TD Bank trademarks. Ownership of the Settlement Website URL shall be transferred to TD Bank within 10 days of the day on which the operation of the Settlement Website ceases.

VII. Notice to Settlement Class Members

77. Upon Preliminary Approval of the Settlement, at the direction of Class Counsel, the Notice Administrator shall implement the Notice Program provided herein, using the forms of Notice approved by the Court in the Preliminary Approval Order. The Notice shall include, among other information: a description of the material terms of the Settlement; a date by which Settlement Class Members may exclude themselves from or “opt out” of the Settlement Class; a date by which Settlement Class Members may object to the Settlement; the date upon which the Final Approval Hearing is scheduled to occur; a description of the Claims process; and the address of the Settlement Website at which Settlement Class Members may access this Agreement and other related documents and information. Class Counsel and TD Bank shall insert the correct dates and deadlines in the Notice before the Notice Program commences, based upon those dates and deadlines set by the Court in the Preliminary Approval Order. Notices and publications provided

under or as part of the Notice Program shall not bear or include the TD Bank logo or trademarks or the return address of TD Bank, or otherwise be styled to appear to originate from TD Bank.

78. The Notice shall inform Settlement Class Members that each Settlement Class Member who conducted one or more Penny Arcade Transactions while an Account Holder during the Class Period and who remains an Account Holder as of the date that the Net Settlement Fund is distributed to Settlement Class Members pursuant to this Agreement (“Current Account Holder”) shall receive (without obligation to submit a Claim Form) an Automatic Distribution in the amount of any Settlement Payment for which he or she is eligible, to be paid by means of a credit to his or her Account, as described in Paragraph 116, provided that TD is reasonably able to provide an account credit to the Account.
79. The Notice shall inform Settlement Class Members that each Settlement Class Member who conducted Penny Arcade Transactions while an Account Holder during the Class Period and is a Non-Account Holder as of the date that the Net Settlement Fund is distributed to Settlement Class Members pursuant to this Agreement (“Former Account Holder”), and each Settlement Class Member who is a Current Account Holder but whose Account TD is not reasonably able to provide an account credit, shall receive (without obligation to submit a Claim Form) an Automatic Distribution in the amount of any Settlement Payment for which he or she is eligible, to be paid by paper check or by functionally similar electronic method of payment, as described in Paragraph 117.
80. The Notice shall further inform Settlement Class Members that each Settlement Class Member who conducted Penny Arcade Transactions while a Non-Account Holder during the Class Period may submit a Claim Form to the Settlement Administrator requesting payment of any Settlement Payment for which he or she is eligible by paper check or by functionally similar electronic method of payment.
81. The Notice shall include a procedure for Settlement Class Members to exclude themselves from the Settlement Class by providing written notice to the Settlement Administrator. Such written notification must be postmarked no later than the Opt-Out Deadline, as specified in the Notice. The written notification must include the individual’s name and address; a statement that he or she wants to be excluded from the Settlement in *Filannino-Restifo v. TD Bank, N.A.*, No. 16-cv-2374; *Diaz v. TD Bank, N.A.*, No. 16-cv-2395; *Luce v. TD Bank, N.A.*, No. 16-cv-2621; *Spector v. TD Bank, N.A.*, No. 16-cv-2682; *McEnerney v. TD Bank, N.A.*, No. 16-cv-2918; *Krulan v. TD Bank, N.A.*, No. 16-cv-2919; *Macias v. TD Bank, N.A.*, No. 16-cv-3420; or *Feinman v. TD Bank, N.A.*, No. 16-cv-3435; and the individual’s signature. The Settlement Administrator shall provide the Parties with copies of all completed opt-out notifications, and a final list of all who have timely and validly excluded themselves from the Settlement Class, which Class Counsel shall move to file under seal with the Court no later than 10 days prior to the Final Approval Hearing. Any Settlement Class Member who does not timely and validly exclude himself or herself shall be bound by the terms of this Agreement.

82. The Notice shall include a procedure for Settlement Class Members to object to the Settlement and/or to Class Counsel's application for Attorneys' Fees and Service Awards. Objections to the Settlement or to the application for Attorneys' Fees and Service Awards must be electronically filed with the Court, or mailed to the Clerk of the Court, with a copy to Class Counsel and TD Bank's counsel. For an objection to be considered by the Court the objection must be: (a) electronically filed by the Objection Deadline; or (b) mailed first-class postage prepaid to the Clerk of Court, Class Counsel, and TD Bank's counsel, at the addresses listed in the Notice, and postmarked by no later than the Objection Deadline, as specified in the Notice.
83. For an objection to be considered by the Court, the objection must also set forth:
- a. that it relates to the Actions, for which it shall be deemed sufficient to identify any of the Actions;
 - b. the objector's full name, address, email address, and telephone number;
 - c. an explanation of the basis upon which the objector claims to be a Settlement Class Member;
 - d. all grounds for the objection, accompanied by any legal support for the objection;
 - e. the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement, the application for Attorneys' Fees, or the application for Service Awards;
 - f. the identity of all counsel representing the objector who will appear at the Final Approval Hearing;
 - g. a list of any persons who will be called to testify at the Final Approval Hearing in support of the objection;
 - h. a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and
 - i. the objector's signature (an attorney's signature is not sufficient).
84. Notice shall be provided to the Settlement Class in at least one of three ways: Mailed Notice, Publication Notice, and Long-Form Notice on the Settlement Website, with each method implemented pursuant to the terms of Section VII. Not all Settlement Class Members will receive all three forms of Notice, as detailed herein. Notice shall be provided substantially in the forms attached as Exhibits 1-3 to this Agreement.
85. Upon receiving from Class Counsel and TD Bank the data files that identify, subject to the availability of information in reasonably accessible electronic form, the names and last known mailing, email, or other addresses of identifiable Settlement Class Members, the Settlement Administrator shall run the addresses through the National Change of

Address Database or other similar data source, and shall send to all such identifiable Settlement Class Members the Mailed Notice in written form (the "Initial Mailed Notice").

86. The Settlement Administrator shall perform reasonable address traces for all Initial Mailed Notices that are returned as undeliverable. The Settlement Administrator shall complete the re-mailing of Mailed Notice to those Settlement Class Members whose new addresses were identified as of that time through address traces (the "Notice Re-mailing Process").
87. The Mailed Notice Program (which is composed of both the Initial Mailed Notice and the Notice Re-mailing Process) shall be completed no later than 90 days before the Final Approval Hearing. Within seven days after the date the Settlement Administrator completes the Notice Re-mailing Process, the Settlement Administrator shall provide Class Counsel and TD Bank an affidavit that confirms that the Mailed Notice Program was completed in a timely manner. Class Counsel shall file that affidavit with the Court as an exhibit to or in conjunction with Plaintiffs' motion for final approval of the Settlement.
88. The Mailed Notice Program shall be completed by the Notice Deadline, excluding any re-mails for Mailed Notices that are returned as undeliverable.
89. The Notice Administrator shall effectuate the Publication Notice by arranging for publication using a format and other specifications agreed to by the Parties and approved by the Court. The Publication Notice shall be completed by the Notice Deadline.
90. Within seven days after the Notice Administrator completes the Publication Notice Program, the Notice Administrator shall provide Class Counsel and TD Bank with one or more affidavits that confirm that Published Notice was given in accordance with the Publication Notice Program. Class Counsel shall file that affidavit with the Court as an exhibit to or in conjunction with Plaintiffs' motion for final approval of the Settlement.
91. The Settlement Administrator shall establish the toll-free telephone number contemplated in Paragraph 74 by the Notice Deadline.
92. Within the parameters set forth in this Section VII, further specific details of the Notice Program shall be subject to the agreement of Class Counsel and TD Bank.

VIII. Final Approval Order and Judgment

93. Plaintiffs' motion for preliminary approval of the Settlement will include a request to the Court for a scheduled date on which the Final Approval Hearing will occur. The Final Approval Hearing shall be scheduled no earlier than 90 days after the CAFA notices are mailed to ensure compliance with 28 U.S.C. § 1715, and no earlier than 150 days after preliminary approval of the Settlement is granted. By no later than 21 days prior to the Objection Deadline, Plaintiff shall file a motion for final approval of the Settlement and a motion for attorneys' fees, costs, and expenses and for Service Awards, and the Settlement Administrator shall post the same on the Settlement Website within two

business days after said filing. By no later than 14 days prior to the Final Approval Hearing, the Parties shall file any responses to any objections, and any replies in support of final approval of the Settlement and/or Class Counsel's application for Attorneys' Fees and Service Awards.

94. The proposed Final Approval Order that will be attached to the motion shall be in a form agreed upon by Class Counsel and TD Bank. Pursuant to Fed. R. Civ. P. 23 and any other applicable rule or law, such proposed Final Approval Order shall, among other things:
- a. determine that the Settlement is fair, adequate and reasonable;
 - b. finally certify the Settlement Class for settlement purposes only;
 - c. determine that the Notice provided satisfies Due Process requirements;
 - d. dismiss the Actions with prejudice and without costs;
 - e. bar and enjoin Plaintiffs and all Settlement Class Members from asserting any of the Released Claims, as set forth in Section XIII hereof, including during any appeal from the Final Approval Order;
 - f. release TD Bank and the Released Parties from the Released Claims, as set forth in Section XIII hereof; and
 - g. reserve the Court's continuing and exclusive jurisdiction over the Parties to this Agreement, including TD Bank, all Settlement Class Members, and all objectors, to administer, supervise, construe and enforce this Agreement in accordance with its terms.

IX. Settlement Fund

95. In exchange for the mutual promises and covenants in this Agreement, including, without limitation, the Releases as set forth in Section XIII hereof and the dismissal of the Actions upon Final Approval, within 14 days of Preliminary Approval, TD Bank shall deposit \$7,500,000 into the Escrow Account to create the Settlement Fund as set forth herein.
96. Upon the establishment of the Escrow Account, the Escrow Agent may, but shall not be required to, cause the Settlement Funds in the Escrow Account to be invested, in whole or in part, in interest-bearing short-term instruments or accounts—to be agreed upon by Class Counsel and TD Bank—that are backed by the full faith and credit of the United States Government or that are fully insured by the United States Government or an agency thereof (the "Instruments"). Class Counsel and TD Bank shall agree on the FDIC-insured financial institution at which the Escrow Account shall be established, which shall not be TD Bank. The Escrow Agent may thereafter re-invest the interest proceeds and the principal as they mature in similar Instruments, bearing in mind the liquidity requirements of the Escrow Account to ensure that it contains sufficient cash

available to pay all required disbursements in a timely manner. Except as otherwise specified herein, the Instruments at all times will remain in the Escrow Account and under the control of the Escrow Agent. The Escrow Agent shall communicate with Class Counsel and counsel for TD Bank on at least a monthly basis to discuss potential cash needs for the following month.

97. The Settlement Fund at all times shall be deemed a “qualified settlement fund” within the meaning of United States Treasury Reg. § 1.468B-1. All taxes (including any estimated taxes, and any interest or penalties relating to them) arising with respect to the income earned by the Settlement Fund or otherwise, including any taxes or tax detriments that may be imposed upon TD Bank or its counsel with respect to income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a “qualified settlement fund” for the purpose of federal or state income taxes or otherwise (collectively “Taxes”), shall be paid out of the Settlement Fund. Plaintiffs and Class Counsel, and TD Bank and its counsel shall have no liability or responsibility for any of the Taxes. The Settlement Fund shall indemnify and hold Plaintiffs and Class Counsel, and TD Bank and its counsel harmless for all Taxes (including, without limitation, Taxes payable by reason of any such indemnification).
98. The Settlement Fund shall be used for the following purposes:
- a. automatic distribution of payments to Settlement Class Members pursuant to Section X.A hereof (including but not limited to reimbursements paid to TD Bank for distributions made to Current Account Holders via account credit);
 - b. distribution of payments to Claimants whose Claims the Settlement Administrator has finally approved pursuant to Section X.B hereof;
 - c. any *cy pres* payment pursuant to Section XII hereof;
 - d. payment of any Court-ordered award of Litigation Costs, which shall not exceed \$100,000;
 - e. payment of all Taxes pursuant to Paragraph 97 hereof, including, without limitation, taxes owed as a result of accrued interest on the Escrow Account, in a timely manner consistent with the recommendation of the Tax Administrator, subject to approval by Class Counsel and TD Bank; and
 - f. payment of additional fees, costs and expenses not specifically enumerated in subparagraphs (a) through (e) of this Paragraph, subject to approval of Class Counsel and TD Bank.

X. Calculation of Settlement Fund Payments

99. To the extent that the Parties can reasonably identify Settlement Class Members and calculate the amount such Settlement Class Members are due from the Settlement Fund, Automatic Distributions will be provided on the terms set forth in Section X.A. To the extent data do not exist in reasonably accessible electronic form that would permit the

Parties to identify Settlement Class Members and/or calculate the full amount such Settlement Class Members may be due from the Settlement Fund, the Parties have agreed to utilize an appropriate alternative claims process, as set forth in Section X.B, to directly compensate such Settlement Class Members consistent with the foregoing data constraints and limitations.

100. The calculation and implementation of allocations contemplated by this Section X shall be jointly undertaken by Class Counsel and their expert(s) and TD Bank. The methodology provided for in this Section X will be applied to the data as consistently, sensibly, and conscientiously as reasonably possible, recognizing and taking into consideration the nature and completeness of the data and the purpose of the computation. Consistent with its statutory and regulatory obligations to maintain bank security and protect its customers' private financial information, TD Bank shall make available to Class Counsel and to any experts retained by Class Counsel data sufficient to determine and confirm the calculations and allocations contemplated by this Agreement and TD Bank's implementation of such allocations.
101. The Parties have agreed upon a multiplier of 0.26% ("Multiplier") for the exclusive purpose of computing, retrospectively, in a reasonable and efficient manner, the amounts of distributions to be paid to identifiable Settlement Class Members. The Multiplier used to determine allocations is not intended and shall not be used for any other purpose or objective whatsoever.

A. Automatic Distribution

102. The amount of the Automatic Distribution from the Settlement Fund to which each identifiable Settlement Class Member is entitled (subject to the availability of data) shall be determined using the following methodology, or such other methodology as would have an equivalent result:
- a. Each Account Holder shall be identified by TD Bank who conducted one or more Penny Arcade Transactions as an Account Holder during the Class Period.
 - b. The total dollar amount of such Penny Arcade Transactions shall be determined.
 - c. The Multiplier shall be applied to the total dollar amount of such Penny Arcade Transactions.
 - d. The resulting amount is the Automatic Distribution the Account Holder is eligible to receive.

B. Non-Automatic Distributions

103. Any Settlement Class Member who conducted a Penny Arcade Transaction during the Class Period while a Non-Account Holder may submit a written request ("Claim") to the Settlement Administrator seeking a distribution from the Settlement Fund.

104. All Claims must be submitted to the Settlement Administrator no later than 60 days after the Notice Deadline (“Claims Deadline”). Claim Forms shall be available for download from the Settlement Website or by writing, calling, or emailing the Settlement Administrator. In the event that a Claimant provides information other than by using the Claim Form, the Settlement Administrator may request that the Claimant re-submit the information using the Claim Form. In the event that a Claim is not re-submitted using the Claim Form within 30 days after the Settlement Administrator’s request is mailed or emailed (whichever is first), the Claim shall be deemed abandoned and denied without further notice.
105. The following information and evidence, at a minimum, must be provided under penalty of perjury with respect to each Claim.
 - a. name;
 - b. current mailing address and email address (if any);
 - c. telephone number;
 - d. identification of each individual Penny Arcade Transaction for which the Claimant seeks a distribution, including the following:
 - i. date the Penny Arcade Transaction took place;
 - ii. dollar amount of the Penny Arcade Transaction; and
 - iii. documentation sufficient to substantiate the Claim, if available.
106. If the Settlement Administrator finally approves the Claim, the amount of the distribution from the Settlement Fund to which the Claimant is entitled for the Class Period based on that Claim (“Claim Distribution”) shall be determined using the following methodology, or such other methodology as would have an equivalent result:
 - a. The total dollar amount of the Claimant’s Penny Arcade Transactions shall be determined. In any case where a Claimant is unable to provide documentation substantiating the Claim as required in Paragraph 105(d)(iii), the maximum dollar amount of that Claimant’s Penny Arcade Transactions, for purposes of calculating his or her Claim Distribution, shall be \$500.00.
 - b. The Multiplier shall be applied to the total dollar amount of the Claimant’s Penny Arcade Transactions.
 - c. The resulting amount is the Claim Distribution the Claimant is eligible to receive.
107. Any Claim Distribution made pursuant to this Section X.B shall be in addition to and not exclusive of any Automatic Distribution to the same Claimant pursuant to Section X.A. No Settlement Class Member may submit a Claim for a Penny Arcade Transaction that took place while the Settlement Class Member was an Account Holder.

108. The Settlement Administrator shall have final authority to determine the adequacy of the substantiation and the legitimacy of any Claim, based on the calculation methodology applicable to Automatic Distributions. The Settlement Administrator shall have discretion to require a Claimant to submit additional information and documentation to support a Claim. In exercising its discretion under this Paragraph, the Settlement Administrator shall take into account the burden imposed by requiring additional information and documentation, the number and amount of the fees that are the subject of the Claim, and other appropriate considerations.
109. The Settlement Administrator shall provide written notice to all Claimants whose complete and timely Claims it proposes to reject in whole or in part, and shall provide each Claimant an opportunity to remedy curable deficiencies, and/or state any grounds for contesting the proposed decision of the Settlement Administrator, within 30 days of the date the Settlement Administrator sends notice by email or mail (whichever is earlier). A Claimant shall only receive one 30-day period in which to respond to the Settlement Administrator's proposed rejection of a Claim. Untimely submission of a Claim is not a curable deficiency within the meaning of this Paragraph.
110. If submitted by mail, a Claim (or remedial submission) shall be deemed to have been submitted when posted if received with a postmark date indicated on the envelope if mailed first-class postage prepaid and addressed in accordance with the instructions. If submitted electronically, a Claim (or remedial submission) shall be deemed to have been submitted on the date it is uploaded to the Settlement Website.
111. All Claim Forms shall be subject to such anti-fraud procedures and random and/or selective audits as the Settlement Administrator shall adopt in its discretion. The Settlement Administrator shall be responsible for developing an appropriate plan to audit Claim Forms.
112. Within the parameters set forth in this Section X, further specific details of the Claims process shall be subject to the agreement of Class Counsel and TD Bank. In the event that the Settlement Administrator determines, in its discretion, that any adjustment to the Claims process or deadlines is called for, the Settlement Administrator shall confer with Class Counsel and TD Bank. Changes may be made to the Claims process set forth in this Section X by agreement between Class Counsel and TD Bank, in order to facilitate the working of the Claims process or accomplishment of the goals of the Claims process, subject to approval by the Court.

C. Residual Distribution

113. Within 60 days after the Claims Deadline, the Settlement Administrator shall calculate the amount of the Residual Settlement Fund, which shall be \$7,500,000 less the sum of the following: all Automatic Distributions, all Claim Distributions, and any award of Litigation Costs.
114. For each Settlement Class Member entitled to receive an Automatic Distribution and/or a Claim Distribution, the Settlement Administrator shall then calculate that Settlement

Class Member's Residual Distribution, which shall be a pro rata share of the Residual Settlement Fund (in proportion to the total amount of that Settlement Class Member's Automatic Distribution and/or Claim Distribution).

XI. Distribution of Net Settlement Fund

115. Within 30 days of the Effective Date, TD Bank and the Settlement Administrator shall make distributions from the Settlement Fund as set forth in this Section XI. Each eligible Settlement Class Member who has not opted out as provided herein, and each Claimant whose Claim the Settlement Administrator has finally approved, shall receive a single payment from the Settlement Fund consisting of any Automatic Distribution, Claim Distribution, and/or Residual Distribution to which he or she is entitled. For avoidance of doubt, under no circumstances shall TD Bank be required to pay to Settlement Class Members any amount in excess of the Class Payment Amount. If for any reason the calculation of all Automatic Distributions and Claim Distributions would yield a total amount that exceeds the Class Payment Amount, the amounts of all Claim Distributions shall be reduced prior to payment on a pro rata basis so that the total of all Automatic Distributions and Claim Distributions does not exceed the Class Payment Amount.
116. For any member of the Settlement Class who is eligible to receive a distribution, who is a Current Account Holder, and whose Account TD Bank is reasonably able to provide an account credit, TD Bank will deposit the distribution directly into the Account Holder's Account. TD Bank shall notify Current Account Holders of any such credit, and provide a brief written explanation that the credit has been made as a payment in connection with the Settlement. TD Bank will bear any costs associated with implementing the account credits and notification discussed in this Paragraph. TD Bank shall be entitled to a payment from the Settlement Fund equal to the amount of account credits paid pursuant to Paragraph 78 hereof. Such payments shall be made within three days after TD Bank provides written verification to Class Counsel and the Escrow Agent of the amount of account credits that were given.
117. For any member of the Settlement Class who is eligible to receive a distribution and is not a Current Account Holder, and for any member of the Settlement Class who is eligible to receive a distribution and is a Current Account Holder whose Account TD Bank is not reasonably able to provide an account credit, the Settlement Administrator will issue the distribution via paper check or functionally similar electronic means of payment in accordance with the procedures set forth in Section X. Checks will be cut and mailed by the Settlement Administrator with an appropriate legend, in a form approved by Class Counsel and TD Bank, to indicate that they are from the Settlement Fund, and will be sent to the addresses that the Settlement Administrator identifies as valid. Checks shall be valid for 90 days. Checks sent to the holders of jointly held Accounts will be payable to all Account Holders, and will be mailed to the first Account Holder listed on the Account. The Settlement Administrator will make reasonable efforts to locate the proper address for any intended recipient of Settlement Funds whose check is returned by the Postal Service as undeliverable, and will re-mail it once to the updated address, or in the case of a jointly held Account, and in the Settlement Administrator's discretion, to an Account Holder other than the one listed first.

XII. Cy Pres Distribution

118. One hundred twenty days after the distribution of settlement funds as set forth in Section XI, any funds remaining in the Settlement Fund, including the aggregate amount of any checks issued pursuant to Paragraph 117 but not cashed, shall be distributed through a residual *cy pres* program. The residual *cy pres* recipient(s) shall be agreed upon by Class Counsel and TD Bank and approved by the Court. The purpose of any residual *cy pres* distribution shall be to benefit consumer financial literacy education. All costs associated with the disposition of residual *cy pres* funds shall be paid by the Settlement Fund.

XIII. Releases

119. As of the Effective Date, the Releasing Parties, each on behalf of himself/herself/itself and on behalf of his/her/its respective heirs, assigns, beneficiaries, successors, guardians, officers, directors, stockholders, agents, employees, legal or other representatives, partners, associates, trustees, parents, subsidiaries, divisions, affiliates, executors, administrators, purchasers, predecessors, and successors, shall automatically be deemed to have fully and irrevocably released and forever discharged TD Bank and each of its present and former parents, subsidiaries, divisions, affiliates, predecessors, successors, and assigns, and the present and former directors, officers, employees, agents, insurers, shareholders, attorneys, advisors, consultants, representatives, partners, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, predecessors, successors, and assigns of each of them (collectively, the "Released Parties"), of and from any and all liabilities, rights, claims, actions, causes of action, demands, injuries, damages, penalties, costs, attorneys' fees, losses, and remedies, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, without limitation, for sole liability, contribution, indemnity, or otherwise, that result from, arise out of, are based upon, or relate to the conduct, omissions, duties, or matters that were or could have been alleged in the Actions, including, without limitation, any claims, actions, causes of action, demands, damages, penalties, losses, or remedies relating to, based upon, resulting from, or arising out of (i) any allegedly fraudulent, deceptive, negligent, or misleading act, representation, or omission made by TD Bank or its employees or agents related to Penny Arcade machines; (ii) any alleged failure of a Penny Arcade machine to perform an accurate count of coins deposited into the machine; or (iii) any alleged failure by TD Bank or its employees or agents to deliver to any user of a Penny Arcade machine the full value of coins deposited by that user into the machine (the "Released Claims").
120. For the avoidance of doubt, the Released Claims include any claims that a Releasing Party may have under the law of any jurisdiction, including, without limitation, those arising under state or federal law of the United States (including, state unfair and deceptive trade practices statutes); causes of action under the common or civil laws of any state in the United States, including but not limited to: unjust enrichment, negligence, bailment, conversion, negligence *per se*, breach of contract, breach of implied contract, breach of fiduciary duty, breach of implied covenant of good faith and fair dealing, misrepresentation (whether fraudulent, negligent, or innocent), fraudulent concealment, nondisclosure, rescission, or reformation; and also including, but not limited to, any and

all claims in any state or federal court of the United States, for damages, injunctive relief, restitution, disgorgement, declaratory relief, equitable relief, attorneys' fees and expenses, pre-judgment interest, the creation of a fund for future damages, statutory penalties, restitution, the appointment of a receiver, and any other form of relief.

121. Upon the Effective Date, and to the fullest extent permitted by law, each Releasing Party, including Plaintiffs, shall, either directly, indirectly, representatively, as a member of or on behalf of the general public, or in any capacity, be permanently barred and enjoined from commencing, prosecuting, or participating in any recovery in any action in this or any other forum (other than the participation in the Settlement as provided herein) in which any of the Released Claims is asserted.
122. AS OF THE EFFECTIVE DATE, PLAINTIFFS AND EACH RELEASING PARTY SHALL FURTHER AUTOMATICALLY BE DEEMED TO HAVE WAIVED AND RELEASED ANY AND ALL PROVISIONS, RIGHTS, AND BENEFITS CONFERRED BY § 1542 OF THE CALIFORNIA CIVIL CODE OR SIMILAR LAWS OF ANY OTHER STATE OR JURISDICTION IN RESPECT OF THE CLAIMS RELEASED IN SECTION XIII. SECTION 1542 OF THE CALIFORNIA CIVIL CODE READS: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."
123. Plaintiffs and/or any Releasing Party may hereafter discover facts other than or different from those that he/she/it knows or believes to be true with respect to the subject matter of the claims released pursuant to the terms of this Section XIII, or the law applicable to such claims may change. Nonetheless, each of those individuals and entities expressly agrees that, as of the Effective Date, he/she/it shall have automatically and irrevocably waived and fully, finally, and forever settled and released any known or unknown, suspected or unsuspected, asserted or unasserted, liquidated or unliquidated, contingent or non-contingent claims with respect to all of the matters described in or subsumed by this Section XIII. Further, each of those individuals and entities agrees and acknowledges that he/she/it shall be bound by this Agreement, including by the releases contained in this Section XIII, and that all of his/her/its claims in the Actions shall be dismissed with prejudice and released, whether or not such claims are concealed or hidden; without regard to subsequent discovery of different or additional facts and subsequent changes in the law; and even if he/she/it never receives actual notice of the Settlement and/or never receives a distribution of funds or credits from the Settlement.
124. In addition to any other defenses TD Bank may have at law, in equity, or otherwise, to the extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit, or other proceeding that may be instituted, prosecuted, or attempted in breach of this Agreement or the Releases contained herein.

125. Nothing in this Agreement shall operate or be construed to release any claims or rights TD Bank has to recover any past, present, or future amounts that may be owed by Plaintiffs or by any Settlement Class Member on his/her accounts, loans, or any other debts with TD Bank, pursuant to the terms and conditions of such accounts, loans, or any other debts.

XIV. Attorneys' Fees, Costs, and Expenses, and Service Awards

126. No later than 14 days after the Effective Date, the Settlement Administrator shall pay from the Settlement Fund to Class Counsel any Court-approved award of Litigation Costs, not to exceed \$100,000. Such payment shall be made through a wired deposit by the Settlement Administrator into an attorney client trust account to be designated by Class Counsel. After the Litigation Costs have been deposited into this account, Class Counsel shall be solely responsible for allocating such funds and distributing each participating firm's allocated share of such funds to that firm and neither TD Bank nor the Settlement Administrator shall have responsibility for distribution of such funds.
127. Class Counsel may move the Court for an award of Attorneys' Fees up to \$1,950,000 as set forth in Paragraph 26. Any award of Attorneys' Fees shall be paid by TD Bank separate and apart from TD Bank's payment into the Escrow Account as set forth in Paragraph 95.
128. Class Counsel will ask the Court to approve, and TD Bank will not oppose, Service Awards not to exceed \$50,000 in total. Any Service Awards shall be paid by TD Bank separate and apart from TD Bank's payment into the Escrow Account as set forth in Paragraph 95. The Service Awards shall be paid to Plaintiffs in addition to Plaintiffs' Settlement Class Member Payments. Neither Class Counsel's application for, nor any individual's entitlement to, a Service Award shall be conditioned in any way upon such individual's support for this Agreement.
129. No later than 7 days after the Effective Date, each Plaintiff and Class Counsel shall provide TD Bank a completed Internal Revenue Service Form W-9 to permit payment to Plaintiffs and Class Counsel by TD Bank of any awards of Attorneys' Fees and Service Awards.
130. No later than 14 days after the Effective Date, or 7 days after all Plaintiffs and Class Counsel have complied with the requirements of Paragraph 129 to provide TD Bank with W-9 forms, whichever is later, TD Bank shall pay to Class Counsel all Court-approved Attorneys' Fees and Service Awards, together not to exceed \$2,000,000. In the event that the award of Attorneys' Fees or Service Awards is reduced on appeal, TD Bank shall only pay the reduced amount of such award. Class Counsel shall timely furnish to TD Bank any required tax information or forms before the payment is made.
131. The payment of Attorneys' Fees and Service Awards pursuant to Paragraph 130 shall be made through a wired deposit by TD Bank into an attorney client trust account to be designated by Class Counsel. After the Attorneys' Fees have been deposited into this account, Class Counsel shall be solely responsible for allocating such funds and

distributing each participating firm's allocated share of such funds to that firm and TD Bank shall have no responsibility for distribution of such funds. After the Service Awards have been deposited into the designated account, Class Counsel shall be solely responsible for allocating such Service Awards to the recipients designated by the Court, and TD Bank shall have no responsibility for such distribution.

132. In the event the Court declines to approve, in whole or in part, the payment of Attorneys' Fees or Service Awards in the amounts that Class Counsel requests, the remaining provisions of this Agreement shall remain in full force and effect. No order of the Court, or modification or reversal or appeal of any order of the Court, concerning the amount(s) of Attorneys' Fees or Service Awards shall constitute grounds for cancellation or termination of this Agreement.
133. In no event shall TD Bank pay more than \$2,000,000 for Attorneys' Fees and Service Awards combined.
134. The Parties negotiated and reached agreement regarding Attorneys' Fees and Service Awards only after reaching agreement on all other material terms of this Settlement.

XV. Termination of Settlement

135. This Settlement may be terminated by either Plaintiffs or TD Bank by serving on counsel for the opposing Party and filing with the Court a written notice of termination within 14 days (or such longer time as may be agreed between Class Counsel and TD Bank) after any of the following occurrences:
 - a. Class Counsel and TD Bank agree to termination before the Effective Date;
 - b. the Court fails to preliminarily approve the Settlement within 180 days after filing of the motion for preliminary approval, or fails to finally approve the Settlement within 360 days of Preliminary Approval by the Court;
 - c. the Court rejects, materially modifies, materially amends or changes, or declines to preliminarily or finally approve the Settlement;
 - d. an appellate court reverses the Final Approval Order, and the Settlement is not reinstated and finally approved without material change by the Court on remand;
 - e. the Court or any reviewing appellate court incorporates material terms or provisions into, or deletes or strikes material terms or provisions from, or materially modifies, amends, or changes, the Preliminary Approval Order, the proposed Final Approval Order (as described in Paragraph 94), or the Settlement; or
 - f. the Effective Date does not occur; or
 - g. any other ground for termination provided for elsewhere in this Agreement.

136. TD Bank also shall have the right to terminate the Settlement by serving on Class Counsel and filing with the Court a notice of termination within 14 days of its receipt from the Settlement Administrator of the final report specified in Paragraph 74, if the number of Settlement Class Members who timely request exclusion from the Settlement Class equals or exceeds the number or percentage specified in the separate letter executed concurrently with this Settlement by Class Counsel and TD Bank. The number or percentage shall be confidential except to the Court, who shall upon request be provided with a copy of the letter for *in camera* review.

XVI. Effect of a Termination

137. The grounds upon which this Agreement may be terminated are set forth in Section XV. In the event of a termination as provided therein, this Agreement shall be considered null and void; all of TD Bank's obligations under the Agreement shall cease to be of any force and effect; the amounts in the Settlement Fund shall be returned to TD Bank in accordance with Paragraph 138 hereof; and the Parties shall return to the status quo ante in the Action as if the Parties had not entered into this Agreement. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement claims and defenses will be preserved, including, but not limited to, Plaintiffs' right to seek class certification and TD Bank's right to oppose class certification.
138. In the event of a termination as provided in Paragraphs 135 and/or 136, the Settlement Administrator shall return the balance of the Settlement Fund to TD Bank within seven days of receiving notice of the termination.
139. In the event the Settlement is terminated in accordance with the provisions of Paragraphs 135 and/or 136, any discussions, offers, or negotiations associated with this Settlement shall not be discoverable or offered into evidence or used in the Action or any other action or proceeding for any purpose. In such event, all Parties to the Action shall stand in the same position as if this Agreement had not been negotiated, made, or filed with the Court.
140. The Settlement shall become effective on the Effective Date unless earlier terminated in accordance with the provisions of Paragraphs 135 and/or 136.
141. In the event the Settlement is terminated in accordance with the provisions or Paragraphs 135 and/or 136 hereof, any discussions, offers, or negotiations associated with this Settlement shall not be discoverable or offered into evidence or used in the Action or any other action or proceeding for any purpose, without prejudice to Plaintiffs' right to seek class certification, and TD Bank's right to oppose class certification. In such event, all Parties to the Action shall stand in the same position as if this agreement had not been negotiated, made, or filed with the Court.

XVII. No Admission of Liability

142. TD Bank disputes the claims alleged in the Action and does not by this Agreement or otherwise admit any liability or wrongdoing of any kind. TD Bank has agreed to enter into this Agreement solely to avoid the further expense, inconvenience, and distraction of

burdensome and protracted litigation, and to be completely free of any further claims that were asserted or could have been asserted in the Action.

143. Class Counsel and Plaintiffs believe that the claims asserted in the Action have merit, and they have examined and considered the benefits to be obtained under the proposed Settlement set forth in this Agreement, the risks associated with the continued prosecution of this complex, costly, and time-consuming litigation, and the likelihood of success on the merits of the Action. Class Counsel have conducted substantial discovery and have fully investigated the facts and law relevant to the subject matter of the Actions. Class Counsel and Plaintiffs have concluded that the proposed Settlement set forth in this Agreement is fair, adequate, reasonable, and in the best interests of the Settlement Class Members.
144. The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgment or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever.
145. Neither the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (a) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by Plaintiffs or Settlement Class Members, or of any wrongdoing or liability of the Released Parties; or (b) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission of any of the Released Parties, in the Action or in any proceeding in any court, administrative agency or other tribunal.
146. Except as expressly provided for in this Agreement, neither Plaintiffs nor Class Counsel will engage in any conduct that is adverse to TD Bank, including making any disparaging or negative remarks or statements that would adversely affect the reputation of TD Bank in any business or professional community. Further, except as expressly provided for in this Agreement, neither Plaintiffs nor Class Counsel shall cause the publication of any press release or other public announcement concerning this Agreement or any of its terms without the prior written consent of TD Bank, unless such press release or announcement is required by law. If Plaintiffs or Class Counsel conclude that such press release or announcement is required by law to be made, they shall afford TD Bank reasonable notice and an opportunity to object to or comment on the proposed press release or announcement.

XVIII. Miscellaneous Provisions

147. Gender and Plurals. As used in this Agreement, all references to the masculine, feminine, or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

148. Binding Effect. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Releasing Parties and the Released Parties.
149. Cooperation of Parties. The Parties to this Agreement agree to cooperate in good faith to prepare and execute all documents, to seek Court approval, defend Court approval, and to do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.
150. Obligation To Meet And Confer. Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other and certify to the Court that they have consulted.
151. Integration. This Agreement (along with any attachments hereto) constitutes a single, integrated written contract expressing the entire agreement of the Parties relative to the subject matter hereof. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party hereto, except as provided for herein.
152. No Conflict Intended. Any inconsistency between the headings used in this Agreement and the text of the Paragraphs of this Agreement shall be resolved in favor of the text.
153. Governing Law. The Agreement shall be construed in accordance with, and be governed by, the laws of the State of New Jersey, without regard to the principles thereof regarding choice of law.
154. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all signatories do not sign the same counterparts. Original signatures are not required. Any signature submitted by facsimile or through email of an Adobe PDF shall be deemed an original.
155. Jurisdiction. The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation and enforcement of the Agreement and shall retain jurisdiction for the purpose of enforcing all terms of the Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice Program and the Settlement Administrator. As part of its agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose.
156. Notices. All notices to Class Counsel provided for herein, shall be sent to:

Stephen P. DeNittis, Esq.
DeNittis Osefchen, P.C.
525 Route 73 North – Suite 410
Marlton, New Jersey 08053

The notice recipients and addresses designated above may be changed by written notice. Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filings received as a result of the Notice Program.

157. Modification and Amendment. This Agreement may be amended or modified only by a written instrument signed by counsel for TD Bank and Class Counsel and, if the Settlement has been approved preliminarily by the Court, approved by the Court.
158. No Waiver. The waiver by any Party of any breach of this Agreement by another Party shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Agreement.
159. Authority. Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.
160. Agreement Mutually Prepared. Neither TD Bank nor Plaintiffs, nor any of them, shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.
161. Independent Investigation and Decision to Settle. The Parties understand and acknowledge that they: (a) have performed an independent investigation of the allegations of fact and law made in connection with this Action; and (b) that even if they may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Action as reflected in this Agreement, that will not affect or in any respect limit the binding nature of this Agreement. It is the Parties' intention to resolve their disputes in connection with this Action pursuant to the terms of this Agreement now and thus, in furtherance of their intentions, the Agreement shall remain in full force and effect notwithstanding the discovery of any additional facts or law, or changes in any substantive or procedural law, and this Agreement shall not be subject to rescission or modification by reason of any changes or differences in facts or law or changes in any substantive or procedural law, subsequently occurring or otherwise.
162. Receipt of Advice of Counsel. Each Party acknowledges, agrees, and specifically warrants that he, she, or it has fully read this Agreement and the Releases contained in Section XIII, received independent legal advice with respect to the advisability of entering into this Agreement and the Releases, and the legal effects of this Agreement and the Releases, and fully understands the effect of this Agreement and the Releases.

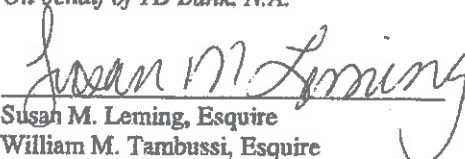
IN WITNESS THEREOF, TD Bank's counsel and Class Counsel cause this Agreement to be executed.

Dated: 5/20/17



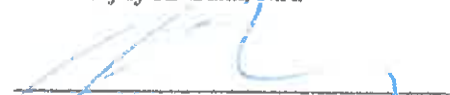
David S. Lesser, Esquire
**WILMER CUTLER PICKERING HALE
AND DORR LLP**
7 World Trade Center
250 Greenwich Street
New York, NY 10007
On behalf of TD Bank, N.A.

Dated: 5/20/17



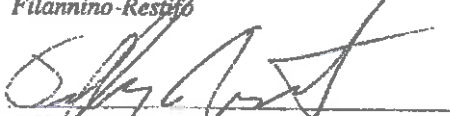
Susan M. Leming, Esquire
William M. Tambussi, Esquire
BROWN & CONNERY, LLP
360 Haddon Avenue
Westmont, NJ 08096
On behalf of TD Bank, N.A.

Dated: 5/19/17



Stephen P. DeNittis, Esquire
DENITTIS OSEFCHEN, P.C.
525 Route 73 North - Suite 410
Marlton, New Jersey 08053
*On behalf of Plaintiffs David Spector, Regina
Filannino-Restifo*

Dated: 5/19/2017

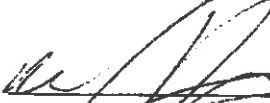


Jeffrey Smith, Esquire
**WOLF HALDENSTEIN ADLER
FREEMAN & HERZ, LLP**
270 Madison Avenue
New York, NY 10016
*On behalf of Plaintiff Regina Filannino-
Restifo*

Dated: _____

Bruce Heller Nagel, Esquire
Robert H. Solomon, Esquire
Greg M. Kohn, Esquire
NAGEL RICE, LLP
103 Eisenhower Parkway
Roseland, New Jersey 07068
*On behalf of Plaintiffs Christine Krulan,
David Diaz and Ryan Franco*


Dated: 5/18/17 _____


Michael J. DeBenedictis, Esquire
DeBENEDICTIS & DeBENEDICTIS
20 Brace Road – Suite 350
Cherry Hill, NJ 08034
On behalf of Plaintiff Nona Luce


Dated: _____

John D. Radice, Esquire
Kenneth B. Pickle, Esquire
RADICE LAW FIRM, P.C.
34 Sunset Boulevard
Long Beach, NJ 08008
On behalf of Plaintiff David McEnerney

Dated: 5/19/17 _____


Jeffrey H. Squire, Esquire
Lawrence P. Eigel, Esquire
David J. Stone, Esquire
BRAGAR EAGEL & SQUIRE, P.C.
885 Third Avenue – Suite 3040
New York, NY 10022
On behalf of Plaintiff Jeffrey Feinman

Dated: 5/19/17


Bruce Heller Nagel, Esquire
Robert H. Solomon, Esquire
Greg M. Kohn, Esquire
NAGEL RICE, LLP
103 Eisenhower Parkway
Roseland, New Jersey 07068
*On behalf of Plaintiffs Christine Krulan,
David Diaz and Ryan Franco*

Dated: _____

Michael J. DeBenedictis, Esquire
DeBENEDICTIS & DeBENEDICTIS
20 Brace Road – Suite 350
Cherry Hill, NJ 08034
On behalf of Plaintiff Nona Luce

Dated: _____

John D. Radice, Esquire
Kenneth B. Pickle, Esquire
RADICE LAW FIRM, P.C.
34 Sunset Boulevard
Long Beach, NJ 08008
On behalf of Plaintiff David McEnerney

Dated: _____

Jeffrey H. Squire, Esquire
Lawrence P. Egel, Esquire
David J. Stone, Esquire
BRAGAR EAGEL & SQUIRE, P.C.
885 Third Avenue – Suite 3040
New York, NY 10022
On behalf of Plaintiff Jeffrey Feinman

Dated: _____

Bruce Heller Nagel, Esquire
Robert H. Solomon, Esquire
Greg M. Kohn, Esquire
NAGEL RICE, LLP
103 Eisenhower Parkway
Roseland, New Jersey 07068
*On behalf of Plaintiffs Christine Krulan,
David Diaz and Ryan Franco*

Dated: _____

Michael J. DeBenedictis, Esquire
DeBENEDICTIS & DeBENEDICTIS
20 Brace Road – Suite 350
Cherry Hill, NJ 08034
On behalf of Plaintiff Nona Luce

May 19, 2017

Dated: _____

John Radice

John D. Radice, Esquire
Kenneth B. Pickle, Esquire
RADICE LAW FIRM, P.C.
34 Sunset Boulevard
Long Beach, NJ 08008
On behalf of Plaintiff David McEnerney

Dated: _____

Jeffrey H. Squire, Esquire
Lawrence P. Egel, Esquire
David J. Stone, Esquire
BRAGAR EAGEL & SQUIRE, P.C.
885 Third Avenue – Suite 3040
New York, NY 10022
On behalf of Plaintiff Jeffrey Feinman

Dated: May 19, 2017

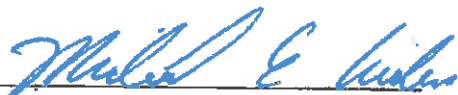

Kevin Bruce Love, Esquire
Lindsey Caryn Grossman, Esquire
Michael Elliot Criden, Esquire
CRIDEN & LOVE, P.A.
7301 SW 57th Court – Suite 515
South Miami, FL 33143
On behalf of Plaintiff Juan Carlos Macias

EXHIBIT 1

Front

Important Notice About TD Bank "Penny Arcade" Coin-Counting Machine Settlement

**If You Used a Penny Arcade Coin-Counting Machine at a TD Bank, N.A. Store,
You May Be Eligible for a Payment from a Class Action Settlement.**

Back

A Settlement has been reached in class action lawsuits challenging the accuracy of Penny Arcade coin-counting machines at TD Bank, N.A. ("TD Bank") stores. TD Bank denies any liability or wrongdoing, and the Court has not decided which side is right. However, to avoid the costs and risks of litigation, TD Bank has agreed to a settlement.

Who's Included? The Settlement Class includes anyone who used a Penny Arcade coin-counting machine to exchange coins for a credit to a TD Bank account or for cash between April 11, 2010 and [date of preliminary approval] ("Class Period").

What Are the Settlement Terms? TD Bank has agreed to establish a Settlement Fund of \$7,500,000. The Settlement Fund will be used to provide payments to eligible Settlement Class Members as well as reimbursing up to \$100,000 in court-awarded litigation costs to the lawyers for the Settlement Class. Payments will be calculated using a formula applied to the total dollar amount of a Settlement Class Member's Penny Arcade transactions conducted during the Class Period. The amount any individual Settlement Class Member will receive cannot be determined at this time. Any money left in the Settlement Fund after settlement payments and court-awarded litigation costs are paid will be made available to non-profit organizations approved by the Court. TD Bank has also agreed to pay a court-ordered award of attorneys' fees, plus service payments to the Class Representatives who initiated the lawsuits, up to a total amount of \$2,000,000. Finally, TD Bank has agreed not to resume using the Penny Arcade coin-counting machines that are the subject of the Settlement to provide customer self-service coin-counting in TD Bank Stores.

How Do I Get a Payment? A Settlement Class Member who conducted a Penny Arcade transaction during the Class Period and who held a TD Bank checking, savings, personal loan, or business loan account ("Account") at the time of the transaction WILL RECEIVE A PAYMENT FROM THE SETTLEMENT AUTOMATICALLY, either as an account credit (if the Account remains open when payments are made) or in the form of a check or other means of funds transfer (if the Account does not remain open). A Settlement Class Member who conducted a Penny Arcade transaction during the Class Period but who did not hold an Account when the transaction occurred may ask to receive a payment from the Settlement by submitting a Claim Form.

Your Rights May Be Affected. If you do not exclude yourself from the Settlement, you will be bound by the terms of the Settlement Agreement, including its Releases. If you do not want to be legally bound by the Settlement, you must ask (in writing) to be excluded from the Settlement Class by [date]. If you stay in the Settlement Class, you may object to the Settlement by [date]. The Court has scheduled a hearing on [date] to consider whether to approve the Settlement. You can appear at the hearing, but you don't have to. You can hire your own attorney, at your own expense, to appear or speak for you at the hearing. You can call the toll-free number or visit the website to learn more about how to exclude yourself from or object to the Settlement.

For more information: [url] or [telephone number].

EXHIBIT 2

Legal Notice

If You Used a Penny Arcade Coin-Counting Machine at a TD Bank, N.A. Store between April 11, 2010 and [date of preliminary approval], You May Be Eligible for a Payment from a Class Action Settlement

What Is This Notice?

A Settlement has been reached in class action lawsuits challenging the accuracy of Penny Arcade coin-counting machines at TD Bank, N.A. ("TD Bank") stores. TD Bank denies any liability or wrongdoing, and the Court has not decided which side is right. However, to settle the case and avoid the costs and risks of litigation, TD Bank has agreed to a settlement.

Who Is Included?

The Settlement Class includes anyone who used a Penny Arcade coin-counting machine to exchange coins for a credit to a TD Bank account or for cash between April 11, 2010 and [date of preliminary approval] ("Class Period").

What Are The Settlement Terms?

TD Bank has agreed to establish a Settlement Fund of \$7,500,000. The fund will be used to provide payments to eligible Settlement Class Members as well as covering up to \$100,000 in court-awarded litigation costs to the lawyers for the Settlement Class. Payments will be calculated using a formula applied to the total dollar amount of a Settlement Class Member's Penny Arcade transactions conducted during the Class Period. The amount any individual Settlement Class Member will receive cannot be determined at this time. Any money left in the Settlement Fund after settlement payments and court-awarded litigation costs are paid will be made available to non-profit organizations approved by the Court. TD Bank has also agreed to pay a court-ordered award of attorneys' fees, plus service payments to the Class Representatives who initiated the lawsuits, up to a total amount of \$2,000,000. Finally, TD Bank has agreed not to resume using the Penny Arcade coin-counting machines that are the subject of the Settlement to provide customer self-service coin-counting in TD Bank stores.

How Do I Get a Settlement Payment?

A Settlement Class Member who conducted a Penny Arcade transaction during the Class Period and who held a TD Bank checking, savings, personal loan, or business loan account ("Account") at the time of the transaction will receive a payment from the Settlement automatically, either as an account credit (if the

Account remains open when payments are made) or in the form of a check or other means of funds transfer (if the Account does not remain open). A Settlement Class Member who conducted a Penny Arcade transaction during the Class Period but who did not hold an Account when the transaction occurred may ask to receive a payment from the Settlement by submitting a Claim.

How Do I Submit A Claim?

You can view and print a Claim Form at [url]. You can also request a Claim Form by calling [toll free number], or by emailing or writing to the Settlement Administrator. You can submit a Claim online or by mail. The deadline to submit a Claim is [date].

Your Rights May Be Affected.

If you do not exclude yourself from the Settlement, you will be bound by the terms of the Settlement Agreement, including its Releases. If you do not want to be legally bound by the Settlement, you must ask (in writing) to be excluded from the Settlement Class by [date]. If you stay in the Settlement Class, you may object to the Settlement by [date]. Visit the website, [url], to learn more about how to exclude yourself from or object to the Settlement.

When Will The Hearing Be Held To Determine Approval Of The Settlement, And Where?

The Court will hold the final fairness hearing on [date] at [time] at the U.S. District Court for District of New Jersey, located at Mitchell H. Cohen Building & U.S. Courthouse, 4th & Cooper Streets, Camden, NJ, to decide whether to approve the Settlement and Class Counsel's request for attorneys' fees, litigation costs, and service payments to the Class Representatives. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check the Settlement website for updates.

Who Are The Lawyers For The Class?

The Court has appointed [administrator] as Settlement Class Counsel.

For more information: [url]

EXHIBIT 3

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

If You Used a Penny Arcade Machine at a TD Bank, N.A. Store, You May be Eligible for a Payment from a Class Action Settlement.

A federal court authorized this notice. This is not a solicitation from a lawyer.

- A Settlement has been reached in class action lawsuits challenging the accuracy of Penny Arcade coin-counting machines at TD Bank, N.A. (“TD Bank”) stores. TD Bank denies any liability or wrongdoing, and the Court has not decided which side is right. However, to settle the case and avoid the costs and risks of litigation, TD Bank has agreed to a settlement.
- You are a member of the Settlement Class, and you may be eligible for a payment from the Settlement Fund, if you used a TD Bank Penny Arcade coin-counting machine to exchange coins for a credit to a TD Bank account or for cash, between April 11, 2010 and [date of preliminary approval] (the “Class Period”).
- Your legal rights are affected whether you act or don’t act. Please read this notice carefully.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
GET A PAYMENT OR ACCOUNT CREDIT AUTOMATICALLY	If you conducted a Penny Arcade transaction during the Class Period at a time when you held a TD Bank checking, savings, personal loan, or business loan account (“Account”), you do not have to do anything to receive a Settlement Payment. Your Settlement Payment based on such transaction(s) will be made automatically by account credit or by check if the Court approves the Settlement and it becomes final.
SUBMIT A CLAIM FORM BY [DATE]	If you conducted a Penny Arcade transaction during the Class Period at a time when you did not hold a TD Bank Account, you must submit a Claim Form by [claims deadline] to be eligible to receive a Settlement Payment based on such transaction(s).
EXCLUDE YOURSELF BY [DATE]	Get no benefits from the Settlement. If you exclude yourself from the Settlement, you will receive no benefits from the Settlement. This is the only option that allows you to participate in any other lawsuit against TD Bank about the issues in this case.
OBJECT BY [DATE]	Write to the Court if you don’t like the Settlement. You may object to the Settlement and still receive a Settlement Payment if the Settlement is approved by the Court.
GO TO A HEARING ON [DATE]	Ask to speak in Court about the fairness of the Settlement.
DO NOTHING	<p>If you conducted a Penny Arcade transaction during the Class Period at a time when you held a TD Bank Account, you will still receive any Settlement Payment to which you are entitled if you take no action, and you will give up your right to participate in further litigation against TD Bank about the issues in this case.</p> <p>If you conducted a Penny Arcade transaction during the Class Period at a time when you did <u>not</u> hold a TD Bank Account, but you take no action, you will not receive a Settlement Payment, and you will give up your right to participate in further litigation against TD Bank about the claims in this case.</p>

- These rights and options—and the deadlines to exercise them—are explained in this notice.
- The Court still has to decide whether to approve the Settlement. If it does, and any appeals are resolved, benefits will be distributed to those who qualify. Please be patient.

QUESTIONS? CALL [TOLL FREE NUMBER] OR VISIT [WWW.\[URL\].COM](http://WWW.[URL].COM)

What This Notice Contains

BASIC INFORMATION..... 3

- 1. Why is there a notice?
- 2. What is this litigation about?
- 3. What is a Penny Arcade machine?
- 4. Why is this a class action?
- 5. Why is there a Settlement?

WHO IS PART OF THE SETTLEMENT..... 4

- 6. Who is included in the Settlement?
- 7. What if I am not sure whether I am included in the Settlement?

THE SETTLEMENT BENEFITS..... 4

- 8. What does the Settlement provide?
- 9. How much will my payment be?
- 10. When will I receive my payment?
- 11. What am I giving up to stay in the Settlement Class?

HOW TO RECEIVE A PAYMENT..... 5

- 12. How can I receive a payment?
- 13. Can I get an automatic payment *and* submit a Claim?
- 14. How do I submit a Claim for a non-automatic payment?
- 15. How will my Claim be decided?

EXCLUDING YOURSELF FROM THE SETTLEMENT..... 6

- 16. How do I get out of the Settlement?
- 17. If I do not exclude myself, can I sue or bring an arbitration against TD Bank for the same thing later?
- 18. If I exclude myself, can I still get a payment?

THE LAWYERS REPRESENTING YOU 7

- 19. Do I have a lawyer in the case?
- 20. How will the lawyers be paid?

OBJECTING TO THE SETTLEMENT..... 7

- 21. How do I tell the Court if I do not like the Settlement?
- 22. What is the difference between objecting and asking to be excluded?

THE FINAL APPROVAL HEARING 8

- 23. When and where will the Court decide whether to approve the Settlement?
- 24. Do I have to attend the hearing?
- 25. May I speak at the hearing?

GETTING MORE INFORMATION 9

- 26. How do I get more information?

QUESTIONS? CALL [TOLL FREE NUMBER] OR VISIT [WWW.\[URL\].COM](#)

BASIC INFORMATION

1. Why is there a notice?

A Court authorized this notice because you have a right to know about a proposed Settlement of these class action lawsuits and about all of your options before the Court decides whether to give final approval to the Settlement. This notice explains the lawsuits, the Settlement, and your legal rights.

The lawsuits involved in the Settlement are *Macias v. TD Bank, N.A.*, No. 16-cv-3420 (D.N.J.); *Feinman v. TD Bank, N.A.*, No. 16-cv-3435 (D.N.J.); *Luce v. TD Bank, N.A.*, No. 16-cv-2621 (D.N.J.); *Filannino-Restifo v. TD Bank, N.A.*, No. 16-cv-2374 (D.N.J.); *Diaz v. TD Bank, N.A.*, No. 16-cv-2395 (D.N.J.); *Spector v. TD Bank, N.A.*, No. 16-cv-2682 (D.N.J.); *Krulan v. TD Bank, N.A.*, No. 16-cv-2919 (D.N.J.); *McEnerney v. TD Bank, N.A.*, No. 16-cv-2918 (D.N.J.). Judge Jerome B. Simandle and Magistrate Judge Joel Schneider of the United States District Court for the District of New Jersey are overseeing the lawsuits. The people who filed the lawsuits are called the “Plaintiffs.” TD Bank, N.A. (“TD Bank”) is the “Defendant.”

2. What is this litigation about?

The lawsuits challenge the accuracy of Penny Arcade coin-counting machines at TD Bank stores. The lawsuits claim that users of the machines did not receive the full value of the coins they deposited into the machines. The complaints in the lawsuits are posted on the website [\[url\]](#) and contain all the allegations and claims asserted against TD Bank. TD Bank denies any wrongdoing or liability but has agreed to settle the lawsuits to avoid the costs and risks of litigation.

3. What is a Penny Arcade machine?

Penny Arcade was a coin-counting service provided at TD Bank Stores. Users deposited coins into the machine to be counted. The machine issued a receipt reflecting the counted amount. The user could redeem the receipt with a teller and either deposit the funds (if the user held a TD Bank checking, savings, personal loan, or business loan account (“Account”)) or receive cash.

4. Why is this a class action?

In a class action, one or more people called “Class Representatives” (in this case, thirteen people and entities who claim to have used Penny Arcade machines) sue on behalf of themselves and other people with similar claims. Together, all the people with similar claims (except those who exclude themselves) are members of a “Settlement Class.”

5. Why is there a Settlement?

The Court has not decided which side is right. Instead, both sides have agreed to a Settlement. By agreeing to the Settlement, both sides avoid the costs and uncertainty of a trial, and Settlement Class Members receive the benefits described in this notice. The proposed Settlement does not mean that any law was broken or that TD Bank did anything wrong. TD Bank denies all legal claims in this case. Class Representatives and their lawyers (“Class Counsel”) think the proposed Settlement is best for everyone who is affected.

QUESTIONS? CALL [\[TOLL FREE NUMBER\]](#) OR VISIT [WWW.\[URL\].COM](#)

WHO IS PART OF THE SETTLEMENT?

If you received notice of the Settlement by a postcard addressed to you, then you are a Settlement Class Member. But even if you did not receive a postcard, you may be a Settlement Class Member, as described below.

6. Who is included in the Settlement?

You are a member of the Settlement Class if you used a TD Bank Penny Arcade coin-counting machine to exchange coins for a credit to a TD Bank Account or for cash between April 11, 2010 and [date of preliminary approval] (that is, during the "Class Period").

7. What if I am not sure whether I am included in the Settlement?

If you are not sure whether you are in the Settlement Class, or have any other questions about the Settlement, visit the Settlement website at [url] or call the toll free number, [toll free number]. You may also send questions to the Settlement Administrator at [email address] or [mailing address].

THE SETTLEMENT BENEFITS

8. What does the Settlement provide?

If the Settlement is approved and becomes final, it will provide benefits to Settlement Class Members. TD Bank will pay \$7,500,000 to establish a Settlement Fund. The Settlement Fund will be used to make payments to eligible Settlement Class Members, as well as covering up to \$100,000 in litigation costs incurred by Class Counsel (see Question 20). TD Bank will also pay an award of attorneys' fees, plus a special service payment to the thirteen Class Representatives who initiated the lawsuit (see Question 20). The attorneys' fee and service awards will be in amounts to be determined by the Court, but the attorneys' fee award may not exceed \$1,950,000, and the service awards taken all together may not exceed \$50,000. TD Bank will also pay costs associated with administering the Settlement. If there are any funds remaining in the Settlement Fund after the payments to Settlement Class Members and of Class Counsel's litigation costs, all remaining funds will be distributed to a nonprofit organization or organizations agreed upon by Class Counsel and TD Bank and approved by the Court. Finally, TD Bank has agreed not to resume using the Penny Arcade coin-counting machines that are the subject of the Settlement to provide customer self-service coin-counting in TD Bank Stores.

9. How much will my payment be?

Any payment you are eligible to receive will be calculated using a formula applied to the total dollar amount of any Penny Arcade transactions you conducted during the Class Period. If any settlement funds remain after the Settlement Administrator applies the formula to all Settlement Class Members who are entitled to payments, and after accounting for any court-awarded litigation costs, the Settlement Administrator will attempt to distribute remaining funds on a pro rata basis. It is not possible to know at this time how much any Settlement Class Member's payment from the Settlement will be.

10. When will I receive my payment?

Settlement Class Members who are entitled to automatic payments and/or submit valid Claims will receive their payments, either by account credit or by check or other means of funds transfer, only after

QUESTIONS? CALL [TOLL FREE NUMBER] OR VISIT [WWW.\[URL\].COM](http://WWW.[URL].COM)

the Court grants final approval to the Settlement and after any appeals are resolved (*see* “The Final Approval Hearing” below). If there are appeals, resolving them can take time. Please be patient.

11. What am I giving up to stay in the Settlement Class?

Unless you exclude yourself from the Settlement, you cannot sue TD Bank, or bring a claim against TD Bank through arbitration, or be part of any other lawsuit or arbitration against TD Bank about the issues in this case. (Arbitration is a process between consumers and businesses that uses a neutral person to resolve a dispute.) Unless you exclude yourself, all of the decisions by the Court will bind you. The Settlement Agreement is available at [url] and describes the claims that you give up if you remain in the Settlement.

HOW TO RECEIVE A PAYMENT

12. How can I receive a payment?

Payments will be made in two ways.

Automatic Payments:

Settlement Class Members who conducted Penny Arcade transactions during the Class Period while they held a TD Bank Account will receive payments from the Settlement automatically, either as an account credit (if the Settlement Class Member still holds a TD Bank Account when payments from the Settlement are made) or in the form of a check or other means of funds transfer (if the Settlement Class Member no longer holds a TD Bank Account when payments from the Settlement are made).

If you are entitled to an automatic payment, you do not have to do anything in order to receive that payment. As long as you do not exclude yourself from the Settlement (*see* Question 16), the payment will be made automatically, either by a credit to your TD Bank Account or (if you no longer have a TD Bank Account) by check mailed to you at the address TD Bank has on file. Please contact the Settlement Administrator if you change your address.

Non-Automatic Payments:

Settlement Class Members who conducted Penny Arcade transactions during the Class Period while they did not hold a TD Bank Account may receive payments from the Settlement by submitting a Claim Form (*see* Question 14). Claim Forms may be filed at any time before the Claims deadline, which is [date].

If your Claim is approved, payment will be issued to you by check mailed to the address listed on your Claim Form. Please contact the Settlement Administrator if you change your address.

13. Can I get an automatic payment *and* submit a Claim?

If you conducted some Penny Arcade transactions during the Class Period at a time when you held a TD Bank Account *and* you conducted *other* Penny Arcade transactions during the Class Period at a time when you did not hold a TD Bank Account, it is possible to get an automatic payment (for transactions as an Account holder) and submit a Claim for a non-automatic payment (for transactions as a non-Account holder). However, you should submit a Claim only for those Penny Arcade transactions that you conducted when you did **not** hold an Account at TD Bank.

QUESTIONS? CALL [TOLL FREE NUMBER] OR VISIT [WWW.\[URL\].COM](http://WWW.[URL].COM)

14. How do I submit a Claim for a non-automatic payment?

You can submit a Claim online or by mail. You can view and print a paper Claim Form at [url]. You can also request that a Claim Form be mailed to you by calling [toll free number], by emailing your request to the Settlement Administrator at [email address], or by writing to the Settlement Administrator at [mailing address].

If you submit a Claim, you also must provide supporting information. For each Penny Arcade transaction for which you are asking for a payment, you must provide: (1) the date of the Penny Arcade transaction, (2) the dollar amount of the Penny Arcade transaction, and (3) documentation sufficient to substantiate the Claim, if available. If you are unable to provide documentation to substantiate your Claim, your Claim Distribution, if any, will be calculated based on a maximum transaction amount of \$500.00. The Settlement Administrator may also require you to provide additional documentation in order to receive payment.

Claims must be uploaded to the website no later than [date] and paper Claims must be postmarked no later than [date] to:

[mailing address]

You may submit a Claim *only* for Penny Arcade transactions you conducted during the Class Period at a time when you did not hold a TD Bank Account. Payments for Penny Arcade transactions conducted during the Class Period by Settlement Class Members who held TD Bank Accounts at the time the transactions occurred will be made automatically without any need to submit a Claim. Any Claim Form requesting a payment based on a Penny Arcade transaction conducted by a Settlement Class Member who held a TD Bank Account at the time of the transaction will not be considered. However, you may submit a Claim based on any Penny Arcade transactions conducted during the Class Period while you did not hold a TD Bank Account, even if you think you may *also* be entitled to an automatic payment for different transactions.

15. How will my Claim be decided?

After you submit your Claim, the Settlement Administrator will analyze your Claim and your supporting documents to confirm whether you are entitled to a payment. If your application is incomplete or does not establish that you are entitled to a payment, the Settlement Administrator will notify you to correct any problems with your Claim. If you fail to do so, your Claim will be denied. The Settlement Agreement, available at [url], provides more detail on how Claims will be decided.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want to receive benefits from the Settlement, and you want to keep the right to sue or proceed in arbitration against TD Bank about the legal issues in this case, then you must take steps to get out of the Settlement. This is called excluding yourself or “opting out” of the Settlement Class.

16. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must send a letter or other written document by mail to the Settlement Administrator. Your request must include:

QUESTIONS? CALL [TOLL FREE NUMBER] OR VISIT [WWW.\[URL\].COM](http://WWW.[URL].COM)

- Your name, address, telephone number, and account number (if you hold a TD Bank Account);
- The statement, “Please exclude me from the settlement in the action **Filannino-Restifo v. TD Bank, N.A., No. 16-cv-2374**” or another similar statement clearly stating the case name and number and a desire to be excluded from the settlement; and
- Your signature.

The deadline to exclude yourself from the Settlement is [date].

You must mail your exclusion request, postmarked no later than [date], to [Settlement Administrator’s mailing address]. You cannot ask to be excluded over the phone, by email, or at the website.

17. If I do not exclude myself, can I sue or bring an arbitration against TD Bank for the same thing later?

No. Unless you exclude yourself, you give up the right to sue or bring an arbitration against TD Bank for the issues that the Settlement resolves (regardless whether you actually receive a settlement payment). You must exclude yourself from the Settlement Class in order to try to maintain your own lawsuit or arbitration.

18. If I exclude myself, can I still get a payment?

No. You will not get a payment or account credit if you exclude yourself from the Settlement.

THE LAWYERS REPRESENTING YOU

19. Do I have a lawyer in the case?

The Court has appointed several lawyers to represent all Settlement Class Members as “Settlement Class Counsel.” They include:

[add]		
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You will not be charged for contacting these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

20. How will the lawyers be paid?

Class Counsel intend to request up to \$1,950,000 in attorneys’ fees. These attorneys’ fees would be in addition to the Settlement Fund. Class Counsel will also request that special service payments of up to \$50,000 be paid to the thirteen Class Representatives for their service as representatives on behalf of the whole Settlement Class. The fees and service payments will be paid by TD Bank, subject to the \$2,000,000 maximum. The Court will decide the amount to award. In addition, the Parties have agreed that Class Counsel can ask the Court to award up to \$100,000 of litigation costs. If the Court awards litigation costs to Class Counsel, those would be paid from the \$7,500,000 Settlement Fund.

QUESTIONS? CALL [TOLL FREE NUMBER] OR VISIT [WWW.\[URL\].COM](http://WWW.[URL].COM)

OBJECTING TO THE SETTLEMENT

21. How do I tell the Court if I do not like the Settlement?

If you are a member of the Settlement Class, you can object to any part of the Settlement, the Settlement as a whole, Class Counsel’s requests for fees and costs, and/or the special service payments to the thirteen Class Representatives. To object, you must submit a letter that includes the following:

- Your name, address, email address, and telephone number;
- A statement that you had a Penny Arcade transaction at a TD Bank store during the class period, with any available supporting information: if an account holder at the time of the transaction, your account number; if a non-account holder, the date, location, and dollar amount of the transaction;
- A statement saying that **“I object to the settlement in the action Filannino-Restifo v. TD Bank, N.A., No. 16-cv-2374”** or a similar statement clearly stating the case name and number of one of the actions listed in Question 1 and a desire to object to the settlement;
- The reasons you object to the Settlement, along with any supporting materials;
- Information about objections you or your lawyer have made in other class action cases;
- Any lawyers who are representing you in your objection, or who have previously represented you in your objection;
- Whether you will attend or intend to testify (speak) at the Final Approval Hearing (see Questions 22 to 25);
- Any lawyers who will represent you at the Final Approval Hearing;
- Any witnesses you will ask to testify in support of your objection at the Final Approval Hearing; and
- Your signature.

The deadline to object to the Settlement is [date].

The requirements to object to the Settlement are described in detail in the Settlement Agreement in paragraphs 82-83. You must mail your objection to each of the following three addresses, and your objection must be postmarked by [date]:

Clerk of the Court U.S. District Court for the District of New Jersey Mitchell H. Cohen Building & U.S. Courthouse 4th & Cooper Streets Room 1050 Camden, NJ 08101	[Class Counsel]	David S. Lesser WILMER CUTLER PICKERING HALE AND DORR LLP 7 World Trade Center 250 Greenwich Street New York, NY 10007
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22. What is the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object to the Settlement only if you do not exclude yourself. Excluding yourself is telling the Court that you do not want to be part of the Settlement. If you exclude yourself, you have no basis to object to the Settlement because it no longer affects you.

QUESTIONS? CALL [TOLL FREE NUMBER] OR VISIT [WWW.\[URL\].COM](http://WWW.[URL].COM)

THE FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to approve the Settlement and any requests for fees and expenses. You may attend and you may ask to speak, but you don't have to do so.

23. When and where will the Court decide whether to approve the Settlement?

The Court has scheduled a Final Approval Hearing on [date]. The Final Approval Hearing will be held at [time] at the United States District Court for District of New Jersey, Camden Vicinage, located at Mitchell H. Cohen Building & U.S. Courthouse, 4th & Cooper Streets, Camden, NJ 08101. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check [url] for updates. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will also consider any request by Class Counsel for attorneys' fees, litigation costs, and service payments to Class Representatives. If there are objections, the Court will consider them at that time. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

24. Do I have to attend the hearing?

No. Class Counsel will answer questions the Court may have. But you are welcome to attend the hearing at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you submitted your written objection on time, to the proper addresses, and it complies with the other requirements described in paragraphs 82 and 83 of the Settlement Agreement, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

25. May I speak at the hearing?

You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must send a letter saying that you intend to appear and wish to be heard. Your letter must include the following:

- Your name, address and telephone number;
- A statement that this letter is your "Notice of Intention to Appear" at the Final Approval Hearing for the TD Bank Settlement;
- The reasons you want to be heard;
- Copies of any papers, exhibits, or other evidence or information that you will present to the Court; and
- Your signature.

You must send copies of your Notice of Intention to Appear, postmarked by [date], to all three addresses listed in Question 21. You cannot speak at the hearing if you exclude yourself from the Settlement.

GETTING MORE INFORMATION

26. How do I get more information?

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. For a complete, definitive statement of the Settlement terms, refer to the Settlement Agreement at [url]. You

QUESTIONS? CALL [TOLL FREE NUMBER] OR VISIT [WWW.\[URL\].COM](http://WWW.[URL].COM)

also may write with questions to the Settlement Administrator at [mailing address] or call the toll-free number, [toll free number].

QUESTIONS? CALL [TOLL FREE NUMBER] OR VISIT [WWW.\[URL\].COM](http://www.[URL].COM)

Exhibit B

Front

Important Notice About TD Bank "Penny Arcade" Coin-Counting Machine Settlement

**If You Used a Penny Arcade Coin-Counting Machine at a TD Bank, N.A. Store,
You May Be Eligible for a Payment from a Class Action Settlement.**

Back

A Settlement has been reached in class action lawsuits challenging the accuracy of Penny Arcade coin-counting machines at TD Bank, N.A. ("TD Bank") stores. TD Bank denies any liability or wrongdoing, and the Court has not decided which side is right. However, to avoid the costs and risks of litigation, TD Bank has agreed to a settlement.

Who's Included? The Settlement Class includes anyone who used a Penny Arcade coin-counting machine to exchange coins for a credit to a TD Bank account or for cash between April 11, 2010 and [date of preliminary approval] ("Class Period").

What Are the Settlement Terms? TD Bank has agreed to establish a Settlement Fund of \$7,500,000. The Settlement Fund will be used to provide payments to eligible Settlement Class Members as well as reimbursing up to \$100,000 in court-awarded litigation costs to the lawyers for the Settlement Class. Payments will be calculated using a formula applied to the total dollar amount of a Settlement Class Member's Penny Arcade transactions conducted during the Class Period. The amount any individual Settlement Class Member will receive cannot be determined at this time. Any money left in the Settlement Fund after settlement payments and court-awarded litigation costs are paid will be made available to non-profit organizations approved by the Court. TD Bank has also agreed to pay a court-ordered award of attorneys' fees, plus service payments to the Class Representatives who initiated the lawsuits, up to a total amount of \$2,000,000. Finally, TD Bank has agreed not to resume using the Penny Arcade coin-counting machines that are the subject of the Settlement to provide customer self-service coin-counting in TD Bank Stores.

How Do I Get a Payment? A Settlement Class Member who conducted a Penny Arcade transaction during the Class Period and who held a TD Bank checking, savings, personal loan, or business loan account ("Account") at the time of the transaction WILL RECEIVE A PAYMENT FROM THE SETTLEMENT AUTOMATICALLY, either as an account credit (if the Account remains open when payments are made) or in the form of a check or other means of funds transfer (if the Account does not remain open). A Settlement Class Member who conducted a Penny Arcade transaction during the Class Period but who did not hold an Account when the transaction occurred may ask to receive a payment from the Settlement by submitting a Claim Form.

Your Rights May Be Affected. If you do not exclude yourself from the Settlement, you will be bound by the terms of the Settlement Agreement, including its Releases. If you do not want to be legally bound by the Settlement, you must ask (in writing) to be excluded from the Settlement Class by [date]. If you stay in the Settlement Class, you may object to the Settlement by [date]. The Court has scheduled a hearing on [date] to consider whether to approve the Settlement. You can appear at the hearing, but you don't have to. You can hire your own attorney, at your own expense, to appear or speak for you at the hearing. You can call the toll-free number or visit the website to learn more about how to exclude yourself from or object to the Settlement.

For more information: [url] or [telephone number].

Exhibit C

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

If You Used a Penny Arcade Machine at a TD Bank, N.A. Store, You May be Eligible for a Payment from a Class Action Settlement.

A federal court authorized this notice. This is not a solicitation from a lawyer.

- A Settlement has been reached in class action lawsuits challenging the accuracy of Penny Arcade coin-counting machines at TD Bank, N.A. (“TD Bank”) stores. TD Bank denies any liability or wrongdoing, and the Court has not decided which side is right. However, to settle the case and avoid the costs and risks of litigation, TD Bank has agreed to a settlement.
- You are a member of the Settlement Class, and you may be eligible for a payment from the Settlement Fund, if you used a TD Bank Penny Arcade coin-counting machine to exchange coins for a credit to a TD Bank account or for cash, between April 11, 2010 and [date of preliminary approval] (the “Class Period”).
- Your legal rights are affected whether you act or don’t act. Please read this notice carefully.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
GET A PAYMENT OR ACCOUNT CREDIT AUTOMATICALLY	If you conducted a Penny Arcade transaction during the Class Period at a time when you held a TD Bank checking, savings, personal loan, or business loan account (“Account”), you do not have to do anything to receive a Settlement Payment. Your Settlement Payment based on such transaction(s) will be made automatically by account credit or by check if the Court approves the Settlement and it becomes final.
SUBMIT A CLAIM FORM BY [DATE]	If you conducted a Penny Arcade transaction during the Class Period at a time when you did not hold a TD Bank Account, you must submit a Claim Form by [claims deadline] to be eligible to receive a Settlement Payment based on such transaction(s).
EXCLUDE YOURSELF BY [DATE]	Get no benefits from the Settlement. If you exclude yourself from the Settlement, you will receive no benefits from the Settlement. This is the only option that allows you to participate in any other lawsuit against TD Bank about the issues in this case.
OBJECT BY [DATE]	Write to the Court if you don’t like the Settlement. You may object to the Settlement and still receive a Settlement Payment if the Settlement is approved by the Court.
GO TO A HEARING ON [DATE]	Ask to speak in Court about the fairness of the Settlement.
DO NOTHING	If you conducted a Penny Arcade transaction during the Class Period at a time when you held a TD Bank Account, you will still receive any Settlement Payment to which you are entitled if you take no action, and you will give up your right to participate in further litigation against TD Bank about the issues in this case. If you conducted a Penny Arcade transaction during the Class Period at a time when you did <u>not</u> hold a TD Bank Account, but you take no action, you will not receive a Settlement Payment, and you will give up your right to participate in further litigation against TD Bank about the claims in this case.

- These rights and options—and the deadlines to exercise them—are explained in this notice.
- The Court still has to decide whether to approve the Settlement. If it does, and any appeals are resolved, benefits will be distributed to those who qualify. Please be patient.

QUESTIONS? CALL [TOLL FREE NUMBER] OR VISIT [WWW.\[URL\].COM](http://www.[URL].COM)

What This Notice Contains

BASIC INFORMATION.....	3
1. Why is there a notice?	
2. What is this litigation about?	
3. What is a Penny Arcade machine?	
4. Why is this a class action?	
5. Why is there a Settlement?	
WHO IS PART OF THE SETTLEMENT.....	4
6. Who is included in the Settlement?	
7. What if I am not sure whether I am included in the Settlement?	
THE SETTLEMENT BENEFITS.....	4
8. What does the Settlement provide?	
9. How much will my payment be?	
10. When will I receive my payment?	
11. What am I giving up to stay in the Settlement Class?	
HOW TO RECEIVE A PAYMENT.....	5
12. How can I receive a payment?	
13. Can I get an automatic payment <i>and</i> submit a Claim?	
14. How do I submit a Claim for a non-automatic payment?	
15. How will my Claim be decided?	
EXCLUDING YOURSELF FROM THE SETTLEMENT.....	6
16. How do I get out of the Settlement?	
17. If I do not exclude myself, can I sue or bring an arbitration against TD Bank for the same thing later?	
18. If I exclude myself, can I still get a payment?	
THE LAWYERS REPRESENTING YOU.....	7
19. Do I have a lawyer in the case?	
20. How will the lawyers be paid?	
OBJECTING TO THE SETTLEMENT.....	7
21. How do I tell the Court if I do not like the Settlement?	
22. What is the difference between objecting and asking to be excluded?	
THE FINAL APPROVAL HEARING.....	8
23. When and where will the Court decide whether to approve the Settlement?	
24. Do I have to attend the hearing?	
25. May I speak at the hearing?	
GETTING MORE INFORMATION.....	9
26. How do I get more information?	

QUESTIONS? CALL [TOLL FREE NUMBER] OR VISIT [WWW.\[URL\].COM](http://WWW.[URL].COM)

BASIC INFORMATION

1. Why is there a notice?

A Court authorized this notice because you have a right to know about a proposed Settlement of these class action lawsuits and about all of your options before the Court decides whether to give final approval to the Settlement. This notice explains the lawsuits, the Settlement, and your legal rights.

The lawsuits involved in the Settlement are *Macias v. TD Bank, N.A.*, No. 16-cv-3420 (D.N.J.); *Feinman v. TD Bank, N.A.*, No. 16-cv-3435 (D.N.J.); *Luce v. TD Bank, N.A.*, No. 16-cv-2621 (D.N.J.); *Filannino-Restifo v. TD Bank, N.A.*, No. 16-cv-2374 (D.N.J.); *Diaz v. TD Bank, N.A.*, No. 16-cv-2395 (D.N.J.); *Spector v. TD Bank, N.A.*, No. 16-cv-2682 (D.N.J.); *Krulan v. TD Bank, N.A.*, No. 16-cv-2919 (D.N.J.); *McEnerney v. TD Bank, N.A.*, No. 16-cv-2918 (D.N.J.). Judge Jerome B. Simandle and Magistrate Judge Joel Schneider of the United States District Court for the District of New Jersey are overseeing the lawsuits. The people who filed the lawsuits are called the "Plaintiffs." TD Bank, N.A. ("TD Bank") is the "Defendant."

2. What is this litigation about?

The lawsuits challenge the accuracy of Penny Arcade coin-counting machines at TD Bank stores. The lawsuits claim that users of the machines did not receive the full value of the coins they deposited into the machines. The complaints in the lawsuits are posted on the website [url] and contain all the allegations and claims asserted against TD Bank. TD Bank denies any wrongdoing or liability but has agreed to settle the lawsuits to avoid the costs and risks of litigation.

3. What is a Penny Arcade machine?

Penny Arcade was a coin-counting service provided at TD Bank Stores. Users deposited coins into the machine to be counted. The machine issued a receipt reflecting the counted amount. The user could redeem the receipt with a teller and either deposit the funds (if the user held a TD Bank checking, savings, personal loan, or business loan account ("Account")) or receive cash.

4. Why is this a class action?

In a class action, one or more people called "Class Representatives" (in this case, thirteen people and entities who claim to have used Penny Arcade machines) sue on behalf of themselves and other people with similar claims. Together, all the people with similar claims (except those who exclude themselves) are members of a "Settlement Class."

5. Why is there a Settlement?

The Court has not decided which side is right. Instead, both sides have agreed to a Settlement. By agreeing to the Settlement, both sides avoid the costs and uncertainty of a trial, and Settlement Class Members receive the benefits described in this notice. The proposed Settlement does not mean that any law was broken or that TD Bank did anything wrong. TD Bank denies all legal claims in this case. Class Representatives and their lawyers ("Class Counsel") think the proposed Settlement is best for everyone who is affected.

QUESTIONS? CALL [TOLL FREE NUMBER] OR VISIT [WWW.\[URL\].COM](http://WWW.[URL].COM)

WHO IS PART OF THE SETTLEMENT?

If you received notice of the Settlement by a postcard addressed to you, then you are a Settlement Class Member. But even if you did not receive a postcard, you may be a Settlement Class Member, as described below.

6. Who is included in the Settlement?

You are a member of the Settlement Class if you used a TD Bank Penny Arcade coin-counting machine to exchange coins for a credit to a TD Bank Account or for cash between April 11, 2010 and [date of preliminary approval] (that is, during the "Class Period").

7. What if I am not sure whether I am included in the Settlement?

If you are not sure whether you are in the Settlement Class, or have any other questions about the Settlement, visit the Settlement website at [url] or call the toll free number, [toll free number]. You may also send questions to the Settlement Administrator at [email address] or [mailing address].

THE SETTLEMENT BENEFITS

8. What does the Settlement provide?

If the Settlement is approved and becomes final, it will provide benefits to Settlement Class Members. TD Bank will pay \$7,500,000 to establish a Settlement Fund. The Settlement Fund will be used to make payments to eligible Settlement Class Members, as well as covering up to \$100,000 in litigation costs incurred by Class Counsel (*see* Question 20). TD Bank will also pay an award of attorneys' fees, plus a special service payment to the thirteen Class Representatives who initiated the lawsuit (*see* Question 20). The attorneys' fee and service awards will be in amounts to be determined by the Court, but the attorneys' fee award may not exceed \$1,950,000, and the service awards taken all together may not exceed \$50,000. TD Bank will also pay costs associated with administering the Settlement. If there are any funds remaining in the Settlement Fund after the payments to Settlement Class Members and of Class Counsel's litigation costs, all remaining funds will be distributed to a nonprofit organization or organizations agreed upon by Class Counsel and TD Bank and approved by the Court. Finally, TD Bank has agreed not to resume using the Penny Arcade coin-counting machines that are the subject of the Settlement to provide customer self-service coin-counting in TD Bank Stores.

9. How much will my payment be?

Any payment you are eligible to receive will be calculated using a formula applied to the total dollar amount of any Penny Arcade transactions you conducted during the Class Period. If any settlement funds remain after the Settlement Administrator applies the formula to all Settlement Class Members who are entitled to payments, and after accounting for any court-awarded litigation costs, the Settlement Administrator will attempt to distribute remaining funds on a pro rata basis. It is not possible to know at this time how much any Settlement Class Member's payment from the Settlement will be.

10. When will I receive my payment?

Settlement Class Members who are entitled to automatic payments and/or submit valid Claims will receive their payments, either by account credit or by check or other means of funds transfer, only after

QUESTIONS? CALL [TOLL FREE NUMBER] OR VISIT [WWW.\[URL\].COM](http://WWW.[URL].COM)

the Court grants final approval to the Settlement and after any appeals are resolved (*see* "The Final Approval Hearing" below). If there are appeals, resolving them can take time. Please be patient.

11. What am I giving up to stay in the Settlement Class?

Unless you exclude yourself from the Settlement, you cannot sue TD Bank, or bring a claim against TD Bank through arbitration, or be part of any other lawsuit or arbitration against TD Bank about the issues in this case. (Arbitration is a process between consumers and businesses that uses a neutral person to resolve a dispute.) Unless you exclude yourself, all of the decisions by the Court will bind you. The Settlement Agreement is available at [url] and describes the claims that you give up if you remain in the Settlement.

HOW TO RECEIVE A PAYMENT

12. How can I receive a payment?

Payments will be made in two ways.

Automatic Payments:

Settlement Class Members who conducted Penny Arcade transactions during the Class Period while they held a TD Bank Account will receive payments from the Settlement automatically, either as an account credit (if the Settlement Class Member still holds a TD Bank Account when payments from the Settlement are made) or in the form of a check or other means of funds transfer (if the Settlement Class Member no longer holds a TD Bank Account when payments from the Settlement are made).

If you are entitled to an automatic payment, you do not have to do anything in order to receive that payment. As long as you do not exclude yourself from the Settlement (*see* Question 16), the payment will be made automatically, either by a credit to your TD Bank Account or (if you no longer have a TD Bank Account) by check mailed to you at the address TD Bank has on file. Please contact the Settlement Administrator if you change your address.

Non-Automatic Payments:

Settlement Class Members who conducted Penny Arcade transactions during the Class Period while they did not hold a TD Bank Account may receive payments from the Settlement by submitting a Claim Form (*see* Question 14). Claim Forms may be filed at any time before the Claims deadline, which is [date].

If your Claim is approved, payment will be issued to you by check mailed to the address listed on your Claim Form. Please contact the Settlement Administrator if you change your address.

13. Can I get an automatic payment *and* submit a Claim?

If you conducted some Penny Arcade transactions during the Class Period at a time when you held a TD Bank Account *and* you conducted *other* Penny Arcade transactions during the Class Period at a time when you did not hold a TD Bank Account, it is possible to get an automatic payment (for transactions as an Account holder) and submit a Claim for a non-automatic payment (for transactions as a non-Account holder). However, you should submit a Claim only for those Penny Arcade transactions that you conducted when you did **not** hold an Account at TD Bank.

QUESTIONS? CALL [TOLL FREE NUMBER] OR VISIT [WWW.\[URL\].COM](http://WWW.[URL].COM)

14. How do I submit a Claim for a non-automatic payment?

You can submit a Claim online or by mail. You can view and print a paper Claim Form at [url]. You can also request that a Claim Form be mailed to you by calling [toll free number], by emailing your request to the Settlement Administrator at [email address], or by writing to the Settlement Administrator at [mailing address].

If you submit a Claim, you also must provide supporting information. For each Penny Arcade transaction for which you are asking for a payment, you must provide: (1) the date of the Penny Arcade transaction, (2) the dollar amount of the Penny Arcade transaction, and (3) documentation sufficient to substantiate the Claim, if available. If you are unable to provide documentation to substantiate your Claim, your Claim Distribution, if any, will be calculated based on a maximum transaction amount of \$500.00. The Settlement Administrator may also require you to provide additional documentation in order to receive payment.

Claims must be uploaded to the website no later than [date] and paper Claims must be postmarked no later than [date] to:

[mailing address]

You may submit a Claim *only* for Penny Arcade transactions you conducted during the Class Period at a time when you did not hold a TD Bank Account. Payments for Penny Arcade transactions conducted during the Class Period by Settlement Class Members who held TD Bank Accounts at the time the transactions occurred will be made automatically without any need to submit a Claim. Any Claim Form requesting a payment based on a Penny Arcade transaction conducted by a Settlement Class Member who held a TD Bank Account at the time of the transaction will not be considered. However, you may submit a Claim based on any Penny Arcade transactions conducted during the Class Period while you did not hold a TD Bank Account, even if you think you may *also* be entitled to an automatic payment for different transactions.

15. How will my Claim be decided?

After you submit your Claim, the Settlement Administrator will analyze your Claim and your supporting documents to confirm whether you are entitled to a payment. If your application is incomplete or does not establish that you are entitled to a payment, the Settlement Administrator will notify you to correct any problems with your Claim. If you fail to do so, your Claim will be denied. The Settlement Agreement, available at [url], provides more detail on how Claims will be decided.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want to receive benefits from the Settlement, and you want to keep the right to sue or proceed in arbitration against TD Bank about the legal issues in this case, then you must take steps to get out of the Settlement. This is called excluding yourself or “opting out” of the Settlement Class.

16. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must send a letter or other written document by mail to the Settlement Administrator. Your request must include:

QUESTIONS? CALL [TOLL FREE NUMBER] OR VISIT [WWW.\[URL\].COM](http://WWW.[URL].COM)

- Your name, address, telephone number, and account number (if you hold a TD Bank Account);
- The statement, "Please exclude me from the settlement in the action **Filannino-Restifo v. TD Bank, N.A., No. 16-cv-2374**" or another similar statement clearly stating the case name and number and a desire to be excluded from the settlement; and
- Your signature.

The deadline to exclude yourself from the Settlement is [date].

You must mail your exclusion request, postmarked no later than [date], to [Settlement Administrator's mailing address]. You cannot ask to be excluded over the phone, by email, or at the website.

17. If I do not exclude myself, can I sue or bring an arbitration against TD Bank for the same thing later?

No. Unless you exclude yourself, you give up the right to sue or bring an arbitration against TD Bank for the issues that the Settlement resolves (regardless whether you actually receive a settlement payment). You must exclude yourself from the Settlement Class in order to try to maintain your own lawsuit or arbitration.

18. If I exclude myself, can I still get a payment?

No. You will not get a payment or account credit if you exclude yourself from the Settlement.

THE LAWYERS REPRESENTING YOU

19. Do I have a lawyer in the case?

The Court has appointed several lawyers to represent all Settlement Class Members as "Settlement Class Counsel." They include:

[add]

You will not be charged for contacting these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

20. How will the lawyers be paid?

Class Counsel intend to request up to \$1,950,000 in attorneys' fees. These attorneys' fees would be in addition to the Settlement Fund. Class Counsel will also request that special service payments of up to \$50,000 be paid to the thirteen Class Representatives for their service as representatives on behalf of the whole Settlement Class. The fees and service payments will be paid by TD Bank, subject to the \$2,000,000 maximum. The Court will decide the amount to award. In addition, the Parties have agreed that Class Counsel can ask the Court to award up to \$100,000 of litigation costs. If the Court awards litigation costs to Class Counsel, those would be paid from the \$7,500,000 Settlement Fund.

QUESTIONS? CALL [TOLL FREE NUMBER] OR VISIT [WWW.\[URL\].COM](http://WWW.[URL].COM)

OBJECTING TO THE SETTLEMENT

21. How do I tell the Court if I do not like the Settlement?

If you are a member of the Settlement Class, you can object to any part of the Settlement, the Settlement as a whole, Class Counsel's requests for fees and costs, and/or the special service payments to the thirteen Class Representatives. To object, you must submit a letter that includes the following:

- Your name, address, email address, and telephone number;
- A statement that you had a Penny Arcade transaction at a TD Bank store during the class period, with any available supporting information: if an account holder at the time of the transaction, your account number; if a non-account holder, the date, location, and dollar amount of the transaction;
- A statement saying that **"I object to the settlement in the action Filannino-Restifo v. TD Bank, N.A., No. 16-cv-2374"** or a similar statement clearly stating the case name and number of one of the actions listed in Question 1 and a desire to object to the settlement;
- The reasons you object to the Settlement, along with any supporting materials;
- Information about objections you or your lawyer have made in other class action cases;
- Any lawyers who are representing you in your objection, or who have previously represented you in your objection;
- Whether you will attend or intend to testify (speak) at the Final Approval Hearing (see Questions 22 to 25);
- Any lawyers who will represent you at the Final Approval Hearing;
- Any witnesses you will ask to testify in support of your objection at the Final Approval Hearing; and
- Your signature.

The deadline to object to the Settlement is [date].

The requirements to object to the Settlement are described in detail in the Settlement Agreement in paragraphs 82-83. You must mail your objection to each of the following three addresses, and your objection must be postmarked by [date]:

Clerk of the Court U.S. District Court for the District of New Jersey Mitchell H. Cohen Building & U.S. Courthouse 4th & Cooper Streets Room 1050 Camden, NJ 08101	[Class Counsel]	David S. Lesser WILMER CUTLER PICKERING HALE AND DORR LLP 7 World Trade Center 250 Greenwich Street New York, NY 10007
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22. What is the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object to the Settlement only if you do not exclude yourself. Excluding yourself is telling the Court that you do not want to be part of the Settlement. If you exclude yourself, you have no basis to object to the Settlement because it no longer affects you.

QUESTIONS? CALL [TOLL FREE NUMBER] OR VISIT [WWW.\[URL\].COM](http://WWW.[URL].COM)

THE FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to approve the Settlement and any requests for fees and expenses. You may attend and you may ask to speak, but you don't have to do so.

23. When and where will the Court decide whether to approve the Settlement?

The Court has scheduled a Final Approval Hearing on [date]. The Final Approval Hearing will be held at [time] at the United States District Court for District of New Jersey, Camden Vicinage, located at Mitchell H. Cohen Building & U.S. Courthouse, 4th & Cooper Streets, Camden, NJ 08101. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check [url] for updates. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will also consider any request by Class Counsel for attorneys' fees, litigation costs, and service payments to Class Representatives. If there are objections, the Court will consider them at that time. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

24. Do I have to attend the hearing?

No. Class Counsel will answer questions the Court may have. But you are welcome to attend the hearing at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you submitted your written objection on time, to the proper addresses, and it complies with the other requirements described in paragraphs 82 and 83 of the Settlement Agreement, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

25. May I speak at the hearing?

You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must send a letter saying that you intend to appear and wish to be heard. Your letter must include the following:

- Your name, address and telephone number;
- A statement that this letter is your "Notice of Intention to Appear" at the Final Approval Hearing for the TD Bank Settlement;
- The reasons you want to be heard;
- Copies of any papers, exhibits, or other evidence or information that you will present to the Court; and
- Your signature.

You must send copies of your Notice of Intention to Appear, postmarked by [date], to all three addresses listed in Question 21. You cannot speak at the hearing if you exclude yourself from the Settlement.

GETTING MORE INFORMATION

26. How do I get more information?

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. For a complete, definitive statement of the Settlement terms, refer to the Settlement Agreement at [url]. You

QUESTIONS? CALL [TOLL FREE NUMBER] OR VISIT [WWW.\[URL\].COM](http://WWW.[URL].COM)

also may write with questions to the Settlement Administrator at [mailing address] or call the toll-free number, [toll free number].

QUESTIONS? CALL [TOLL FREE NUMBER] OR VISIT [WWW.\[URL\].COM](#)

Exhibit D

Legal Notice

If You Used a Penny Arcade Coin-Counting Machine at a TD Bank, N.A. Store between April 11, 2010 and [date of preliminary approval], You May Be Eligible for a Payment from a Class Action Settlement

What Is This Notice?

A Settlement has been reached in class action lawsuits challenging the accuracy of Penny Arcade coin-counting machines at TD Bank, N.A. ("TD Bank") stores. TD Bank denies any liability or wrongdoing, and the Court has not decided which side is right. However, to settle the case and avoid the costs and risks of litigation, TD Bank has agreed to a settlement.

Who Is Included?

The Settlement Class includes anyone who used a Penny Arcade coin-counting machine to exchange coins for a credit to a TD Bank account or for cash between April 11, 2010 and [date of preliminary approval] ("Class Period").

What Are The Settlement Terms?

TD Bank has agreed to establish a Settlement Fund of \$7,500,000. The fund will be used to provide payments to eligible Settlement Class Members as well as covering up to \$100,000 in court-awarded litigation costs to the lawyers for the Settlement Class. Payments will be calculated using a formula applied to the total dollar amount of a Settlement Class Member's Penny Arcade transactions conducted during the Class Period. The amount any individual Settlement Class Member will receive cannot be determined at this time. Any money left in the Settlement Fund after settlement payments and court-awarded litigation costs are paid will be made available to non-profit organizations approved by the Court. TD Bank has also agreed to pay a court-ordered award of attorneys' fees, plus service payments to the Class Representatives who initiated the lawsuits, up to a total amount of \$2,000,000. Finally, TD Bank has agreed not to resume using the Penny Arcade coin-counting machines that are the subject of the Settlement to provide customer self-service coin-counting in TD Bank stores.

How Do I Get a Settlement Payment?

A Settlement Class Member who conducted a Penny Arcade transaction during the Class Period and who held a TD Bank checking, savings, personal loan, or business loan account ("Account") at the time of the transaction will receive a payment from the Settlement automatically, either as an account credit (if the

Account remains open when payments are made) or in the form of a check or other means of funds transfer (if the Account does not remain open). A Settlement Class Member who conducted a Penny Arcade transaction during the Class Period but who did not hold an Account when the transaction occurred may ask to receive a payment from the Settlement by submitting a Claim.

How Do I Submit A Claim?

You can view and print a Claim Form at [url]. You can also request a Claim Form by calling [toll free number], or by emailing or writing to the Settlement Administrator. You can submit a Claim online or by mail. The deadline to submit a Claim is [date].

Your Rights May Be Affected.

If you do not exclude yourself from the Settlement, you will be bound by the terms of the Settlement Agreement, including its Releases. If you do not want to be legally bound by the Settlement, you must ask (in writing) to be excluded from the Settlement Class by [date]. If you stay in the Settlement Class, you may object to the Settlement by [date]. Visit the website, [url], to learn more about how to exclude yourself from or object to the Settlement.

When Will The Hearing Be Held To Determine Approval Of The Settlement, And Where?

The Court will hold the final fairness hearing on [date] at [time] at the U.S. District Court for District of New Jersey, located at Mitchell H. Cohen Building & U.S. Courthouse, 4th & Cooper Streets, Camden, NJ, to decide whether to approve the Settlement and Class Counsel's request for attorneys' fees, litigation costs, and service payments to the Class Representatives. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check the Settlement website for updates.

Who Are The Lawyers For The Class?

The Court has appointed [administrator] as Settlement Class Counsel.

For more information: [url]

Exhibit E

CRIDEN & LOVE, P.A.

CRIDEN & LOVE, P.A. is a litigation firm of experienced trial lawyers that devotes a substantial amount of its practice to class action litigation. Specifically, the Firm focuses on antitrust class action litigation, consumer protection class action litigation, securities litigation and complex commercial litigation. A brief biography on the attorneys in the Firm is set forth below.

Michael E. Criden graduated with honors from the University of Miami School of Law and was admitted to the Florida Bar in 1987. Mr. Criden has over twenty years of experience in class action litigation, including consumer fraud, antitrust and securities matters.

Below is a list of some of the antitrust class action cases that Mr. Criden is currently involved in: *Vista Healthplan, Inc. v. Cephalon, Inc.*, Case No. 06-cv-01833 (E.D. Pa.) (“*Provigil Antitrust Litigation*”) (Co-Lead Counsel); *In re: Treasury Securities Auction Antitrust Litigation*, MDL No. 2673 (S.D.N.Y.); *Adriana M. Castro, M.D., P.A. and Sugartown Pediatrics, LLC v. Sanofi Pasteur Inc.*, Case No. 11-cv-07178 (D.N.J.); *In re: Foreign Exchange Benchmark Rates Antitrust Litigation*, Case No. 13-cv-07789 (S.D.N.Y.); *In re: LIBOR-Based Financial Instruments Antitrust Litigation*, MDL No. 2262 (S.D.N.Y.); *In re: Disposable Contact Lens Antitrust Litigation*, Case No. 15-md-02626 (M.D. Fla.); *In re: Liquid Aluminum Sulfate Antitrust Litigation*, MDL No. 2687 (D.N.J.); *In re: Dental Supplies Antitrust Litigation*, Case No. 16-cv-00696 (E.D.N.Y.); and *In re: Lithium Ion Batteries Antitrust Litigation*, MDL No. 2420 (N.D. Cal.).

Other antitrust cases that Mr. Criden has been involved in include: *In re: TFT-LCD (Flat Panel) Antitrust Litigation*, MDL No. 1827 (N.D. Cal.); *In re: Chocolate Confectionary Antitrust Litigation*, MDL No. 1935 (M.D. Pa.); *In re: Air Cargo Antitrust Litigation*, No. 06-md-1775

(E.D.N.Y.); *In re: Blood Reagents Antitrust Litigation*, No. 09-2081 (E.D. Pa.); *In re: Refrigerant Compressors Antitrust Litigation*, No. 09-md-2042 (E.D. Mich.); *In re: Processed Eggs Products Antitrust Litigation*, MDL No. 2002 (E.D. Pa.); *In re: Optical Disk Drive Antitrust Litigation*, No. 10-md-2143 (N.D. Cal.); *In re: Rail Freight Fuel Surcharge Antitrust Litigation*, MDL No. 1869 (D.D.C.); and *In re: Titanium Dioxide Antitrust Litigation*, No. 10-318 (D. Md.).

Mr. Criden is also currently involved in the following consumer protection class action cases: *In re: Continental Airbag Products Liability Litigation*, Case No. 16-cv-20572 (S.D. Fla.) (Executive Committee); *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 (N.D. Cal.); *In re: Takata Airbag Product Liability Litigation*, MDL No. 2599 (S.D. Fla.); *Juan Carlos Macias et al. v. TD Bank, N.A.*, Case No. 16-cv-21298 (S.D. Fla.); and *Jesse Aronstein et al. v. Massachusetts Mutual Life Insurance Co. et al.*, Case No. 15-cv-12864 (D. Mass.) (Co-Lead Counsel).

Lastly, Mr. Criden is currently involved in the following securities litigation: *Enrico Vaccaro v. New Source et al.*, Case No. 15-cv-08954 (S.D.N.Y.); and *Tony Blank Family Trust, et al. v. Trade Street Residential, Inc., et al.*, Case No. 25-c-15-003081 (M.D. Cir. Ct.).

* * *

Below is a list of some of the class actions that Criden & Love has served as Lead Counsel or in a leadership capacity:

In re: Continental Airbag Products Liability Litigation, Case No. 16-cv-20572 (S.D. Fla.)
Jesse Aronstein et al. v. Massachusetts Mutual Life Insurance Co. et al., Case No. 15-cv-12864 (D. Mass.)
Bardmoor Cancer Center v. Aetna, Inc., Case No. 11-195-01162-06 (AAA)
Generic Depot 2, Inc. v. Humana, Inc., Case No. 10-20420 (S.D. Fla.)
Vista Healthplan, Inc. v. Cephalon, Inc., Case No. 06-1833 (E.D. Pa.)
Scheck Investments, L.P. v. Mutual Benefits Corporation, Case No. 04-21160 (S.D. Fla.)
Beacon Health Plans, Inc. v. Tap Pharmaceutical Products, Case No. 01-10897-RGS (D. Mass.)
HIP Health Plan Of Fla, Inc. v. Bristol-Myers Squibb Co., Case No. 1:01CV560 (D. D.C.)
HIP Health Plan Of Fla, Inc. v. Schering-Plough Corp., Case No. 01-CV-1652 (JAG) (D.N.J.)

Kershaw v. National Western Life Insurance Company, Case No. 01-32012-CP (Mich. 6th Jud. Cir.)
Scharlow v. Pensco Pension Services, Inc., Case No. 01-8364-Civ-Hurley (S.D. Fla.)
Ciprofloxacin Hydrochloride Antitrust Litigation, Master File No. 00-MDL-1383 (E.D.N.Y.)
IVAX v. Microcrystalline Cellulose Antitrust Litigation, MDL 1402 (O'Neill, J) (E.D. Pa.)
Best v. Wilmington Trust Company, Case No. 99-889-Civ-Jordan (S.D. Fla.)
Baron v. Best Buy Co., Case No. 99-1297-Civ-Jordan (S.D. Fla.)
London v. Walmart Stores, Inc., Case No. 99-1298-Civ-Ungaro Benages (S.D. Fla.)
Fabricant v. Sears Roebuck & Co., Case No. 98-1281-Civ-Nesbitt (S.D. Fla.)
Gonzalez v. Rooms to Go, Inc., Case No. 97-3146-Civ-Graham (S.D. Fla.)
Koch v. PLM International, Inc., Case No. 97-0177-BH (S.D. Ala.)
Ressler v. TransAmerica, Case No. 97-1215-Civ-Moreno (S.D. Fla.)
Aylward v. PaineWebber, Case No. 96-2831-Civ-Lenard (S.D. Fla.)
Gregerson v. One International Associates, Case No. 17274 (Del. Ch. Ct.)
Grinshaw v. New York Life Ins. Co., Case No. 96-0746-Civ-Nesbitt (S.D. Fla.)
King v. American National Ins. Co., Case No. 96-1074 (Ala. 15th Jud. Cir.)
Medine v. Washington Mutual, Case No. 96-3362-Civ-Seitz (S.D. Fla.)
Shea v. New York Life Ins. Co., Case No. 96-0746-Civ-Nesbitt (S.D. Fla.)
Singer v. AT & T, Case No 95-2738-Civ-Davis (S.D. Fla.)
Wegweiser v. Great Western Bank, Case No. 95-8543-Civ-Hurley (S.D. Fla.)
Walco Invs. Inc. v. Thenen, Case No. 93-2534-Civ-Moreno (S.D. Fla.)

* * *

Kevin B. Love graduated *magna cum laude* from Boston University School of Law. After graduation, Mr. Love clerked for The Honorable Emmett R. Cox of the Eleventh Circuit Court of Appeals. Mr. Love then spent a year teaching Constitutional Law and Legal Writing at the University of Miami School of Law. Mr. Love began his practice with the law firm of Stearns, Weaver, Miller, Weissler, Alhadeff & Sitterson, and later became a shareholder in 1997. Mr. Love's practice currently focuses on securities, consumer-fraud and antitrust class actions.

Mr. Love, as Lead Counsel in *Vista Healthplan, Inc. v. Bristol-Myers Squibb Co. and American Bioscience*, Case No. 01-1295 (D.D.C.), an antitrust class action, recovered \$15,000,000 in a settlement for a class of third-party payors. Additionally, Mr. Love, as Lead Counsel, recovered \$9,708,000 in *Johnson v. National Western Life Ins. Co.*, No. 01-032012-CP (Mich. Cir. Ct.), a consumer-fraud class action wherein it was alleged that National Western was

selling inferior annuity products to the elderly. As Co-Lead Counsel in *DDAVP Indirect Purchaser Litigation*, No. 05-2237 (CLB) (S.D.N.Y.), Mr. Love was able to secure a \$4.75 million settlement. Mr. Love has been instrumental in recovering additional millions of dollars in several antitrust and consumer fraud cases. *See, e.g., Best v. Wilmington Trust Company*, Case No. 99-889-Civ-Jordan (S.D. Fla.) (\$3,225,000); and *Gregersen v. One International Associates Limited Partnership*, C.A. No. 17274 (Del. Ch.) (\$2,000,000). Mr. Love also was Lead Counsel for Third-Party Payors in *In re Remeron Antitrust End-Payor Antitrust Litigation*, responsible for allocating a \$36 million settlement fund with several State Attorneys General who represented consumers and state agencies. *See also In re: Ovcon Indirect Purchaser Litigation*, Case No. 05-2327 (D.D.C.) (Lead Counsel); *In re: Puerto Rican Cabotage Antitrust Litigation* (Steering Committee); *In re: Bananas Antitrust Litigation*, No.: 05-21962 (S.D. Fla.) (Executive Committee); and *In re: Insurance Brokerage Antitrust Litigation*, MDL No. 1663 (D.N.J.) (Steering Committee).

Currently, Mr. Love serves as Co-Lead Counsel in *Vista Healthplan, Inc. v. Cephalon, Inc.*, 06-1833 (E.D. Pa.) ("*Provigil Antitrust Litigation*"). In addition, in January 2009, the Securities and Exchange Commission appointed Mr. Love to be the Distribution Agent for the K.W. Brown SEC Fair Funds Disgorgement Fund (\$6,500,000). Previously, in May 2005, Mr. Love was appointed by the SEC to be the Distribution Agent for the Spear & Jackson SEC Disgorgement Fund (\$7,500,000). And, in February 2007, Mr. Love was appointed by the SEC as the Distribution Agent for the SEC Grabarnick Disgorgement Fund.

Jason Andrew is an associate with the Firm. In 2004 he graduated with a B.A. in Economics from the University of Washington in Seattle before moving to Miami to attend the University of Miami School of Law as a Dean's Merit Scholar. Jason graduated *magna cum*

laude from the University of Miami School of Law in 2008. During law school, Mr. Andrew served on the International and Comparative Law Review and earned honors in the Litigation Trial Skills Program. Jason has also clerked in the Office of the Mayor of Miami-Dade County for the Honorable Mayor Carlos Alvarez.

Lindsey C. Grossman is an associate with the firm. Prior to joining the firm, Lindsey worked at Grossman & Roth, P.A., focusing on commercial and complex litigation. In 2010, she graduated with a B.A. in Philosophy, Politics & Law from Binghamton University in New York. Lindsey moved to Miami to attend the University of Miami School of Law, graduating *cum laude* in 2013. During law school, Lindsey served on the International & Comparative Law Review. She also served as a judicial intern for the Honorable Edwin G. Torres in the United States District Court for the Southern District of Florida.

Alexander Angueira, Of Counsel to the Firm, graduated Washington University School of Law in 1987. Mr. Angueira has over 20 years of experience in litigation, including 12 years with the United States Department of Justice in Washington, D.C. and the U.S. Attorney's Office in the Southern District of Florida. Mr. Angueira, who concentrates his practice on complex commercial litigation and white-collar corporate compliance matters, has handled more than 60 jury and non-jury trials in his career. Among his many accomplishments, Mr. Angueira has obtained a multi-million dollar arbitration award for an international telephone company, successfully defended minority shareholders in a corporate "squeeze-out" in connection with a multi-national emergency room service provider, and successfully prosecuted a case as an Assistant U.S. Attorney involving a \$120 million Medicare fraud scheme. Mr. Angueira has also represented receivers in various state and federal actions.

* * *

The Firm's commitment to our clients' interests, as well as our professional competence and diligence, have been commented upon by various judges before whom the Firm has appeared.

At the final fairness hearing on the settlement in *Luaces vs. DirecTV, Inc.*, Case No. 97-2324 (S.D. Fla), in which the Firm served as lead counsel for the class, District Judge Highsmith stated:

I think both parties have done an exemplary job. Professionalism is quite apparent in everything that I have reviewed in this file.

I feel blessed and flattered that I have before me counsel with unblemished reputations. It makes it extremely easy. I think you've done, as I said earlier, an excellent job.

In approving a \$13 million settlement in *Aylward v. PaineWebber*, Case No. 96-2831 (S.D. Fla.), District Judge Lenard noted:

It seems like this was an excellent result for all the members of the class, and it was a job well done . . .

In *Shea v. New York Life Ins. Co.*, Case No. 96-0746 (S.D. Fla.), upon approving a settlement valued at approximately \$190,000,000 and representing a 100% recovery, Judge Nesbitt remarked:

There is no question about it, it's an extraordinary settlement.

The settlement represents an optimal, as the Plaintiffs say, recovery, and I think that's the right

word, when compared not only with the range of recovery in other cases that have been summarized for me, but other cases in my experience.

And I think that took extraordinary skill, expertise and knowledge about the market, about class actions, about the Defendants' business. I just don't think that just an ordinary firm, even one that specializes in class actions, could have done a better job And all of this is, you know, requires ability, it requires skill and it requires being adroit at what you're doing. And not just the average attorney, I don't think, could have done it in such a skilled and proficient way. So the experience and reputation of the attorneys in this case are beyond question.

The Firm maintains an excellent reputation among the plaintiff and defense bars. Our adversaries and co-counsel know that we are ready, willing and able to take on complex cases and class actions and take them to and through trial, if necessary, to achieve a satisfactory result for our client.



JEFFREY G. SMITH

Practice Areas:

- Securities Fraud
- Mergers & Acquisitions
- Antitrust
- Wage & Hour
- Derivative Litigation

Jeffrey G. Smith is a partner of the firm. He has substantial experience in complex civil litigation, including class and derivative actions and representation of investors in tender offer, merger, and takeover litigation. He also handles complex cases in other areas of the law including the Fair Labor Standards Act, state wage and hour law, and consumer deception statutes.

Representative cases where Mr. Smith served as lead or co-lead counsel include *LaVoice v. Smith Barney*, a class action in the Northern District of California settled in 2008 for over \$106 million for stockbrokers who alleged unpaid overtime and improper expense deductions. That case was the first of several similar class action lawsuits Mr. Smith led that, together, recovered in excess of a quarter of a billion dollars in unpaid wages and unreimbursed expenses through 2011.

He also served as lead counsel in three mutual fund cases consolidated under *In re Merrill Lynch & Co., Inc. Research Reports Securities Litigation* in the Southern District of New York which recovered over \$40 million for mutual fund investors in 2007; *Berger v. Compaq Computer Corp.*, a class action in the Southern District of Texas under section 10(b) of the Securities Exchange Act of 1934 that recovered \$29 million for defrauded investors in 2002; *Kurzweil v. Philip Morris*, a 1997 securities class action in the Southern District of New York that recovered over \$123 million for defrauded stockholders; *QVC Network v. Paramount Communications Inc.*, a 1993 shareholder class action in the Delaware Chancery Court that established new law in one of the most celebrated of take-over cases and resulted in an increase of over \$2 billion received by Paramount stockholders.

In *Finnan v. L.F. Rothschild & Co.* (1989), Mr. Smith served as lead counsel in the first certified class action under the Federal Plant Closing law (the WARN Act) and recovered \$3.5 million for illegally discharged brokerage house employees. In addition, in *Moran v. Sears, Roebuck & Co.* (Allstate), a class action in California state courts in 1988, Mr. Smith and three co-counsel recovered over \$30 million for Allstate Insurance agents who were not being properly compensated under state employee expense reimbursement statutes.

Mr. Smith frequently lectures on corporate governance issues and class action recoveries to professional groups of pension and benefit fund trustees and investment advisors as well as to graduate and undergraduate business student groups. He is the principal author of an article entitled "FLSA Collective Actions and New York Labor Law Class Actions: A Question of Pre-emption," which appeared in *Class Action Reports*, vol. 27, #4 (October 17, 2006). He regularly serves as a moot court judge for the American Bar Association and at New York University Law School.

He is rated AV, the highest rating possible from Martindale-Hubbell®, the country's foremost legal directory and has been selected for inclusion in the New York Metro Super Lawyers® listing every year since its first publication in 2006.

Mr. Smith is admitted to practice in New York State and in California as well as before the Supreme Court of the United States, the United States Courts of Appeals for the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth and Ninth Circuits, the United States Tax Court, and the United States District Courts for the Southern and Eastern Districts of New York, the Southern, Central and Northern Districts of California and the Districts of Colorado and Nebraska.

He is a member of The New York City, New York State, and American Bar Associations; the State Bar of California; the Federal Bar Council; and the American Association for Justice.

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Education:
AA, Liberal Arts, Dutchess Community College, '72
AB, Independent Major, Vassar College, '74
MPA, Domestic Politics and Urban Affairs, Princeton University, '77
JD, Yale Law School, '78

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KEVIN COOPER

Practice Areas:

- Securities Fraud
- Mergers & Acquisitions
- Antitrust
- Wage & Hour

Kevin Cooper is an associate of the firm and focuses his practice on representing individual and institutional investors in shareholder litigation. Mr. Cooper also works on corporate governance issues and derivative litigation.

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Associate

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New York

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Prior to joining the firm, Mr. Cooper obtained his J.D. and Certificate in Business Law from Brooklyn Law School, where he served as an Associate Managing Editor on the *Journal of Corporate, Financial & Commercial Law* and as a Barry L. Zaretsky Fellow in Commercial and Bankruptcy Law. During his time in law school, Mr. Cooper was a research assistant for former SEC Commissioner Roberta Karmel, and interned for the New York Attorney General's Office of Investor Protection, the New York State Commercial Division, and United States Bankruptcy Court for the Eastern District of New York. Upon graduation, Mr. Cooper received the Judge Barry L. Hurwitz Memorial Award.

Education:

B.A., Legal & Policy Studies, Fordham University, '11

Mr. Cooper is admitted to practice law in New York and New Jersey.

J.D., Brooklyn Law School, '14

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NAGEL RICE, LLP

Nagel Rice, LLP, founded in 1983, is widely recognized as one of the premier litigation firms in the New York metropolitan area having handled complex actions in federal and state courts throughout the county and garnering over \$1 billion in settlement and verdicts. The firm has the distinction of having over 100 settlements and verdicts in excess of one million dollars. The firm's experience in class action litigation has been extensive and varied.

The firm has served as lead, co-counsel or in Executive Committee positions in numerous State and Federal class actions and MDL's, including:

NEW JERSEY CLASS ACTIONS

Kuzian, et al. v. Electrolux Home Products, Inc., District of New Jersey, Civil Action No.: 12-03341. Court appointed co-lead counsel in a nationwide consumer class action involving consumer fraud claims regarding defective ice-makers impacting over 100,000 class members, resulting in a \$20 million nationwide settlement approved by the Honorable Noel L. Hillman, U.S.D.J. on February 10, 2016. Published opinion substantially defines the causes of action, *Kuzian v. Electrolux Home Products*, 937 F.Supp. 2d 599 (D.N.J. 2013).

Ravi Motwani, et al. v. Marina District Development Company, LLC, et al., District of New Jersey, Civil Action No.: 15-2069. Lead counsel in consumer class action, including New Jersey Consumer Fraud Act and New Jersey Truth in Consumer Warranty and Notice Act claims on behalf of class members. On May 16, 2016, Honorable John Michael Vazquez, U.S.D.J. granted preliminary approval of a settlement class predicated upon Defendant Borgata's use of deceptive and misleading parking vouchers. The sum of \$405,650.00 in benefits automatically distributed to Class Members without the need to file a claim.

Franco v. Cigna, 07-CV-6039 (SRC) (PS), United States District Court, District of New Jersey. Court appointed co-lead counsel for subscriber claims in multi-billion class action seeking proper reimbursement for out of network medical services. *Franco v. Connecticut General Life Ins. Co.*, 818 F.Supp. 2d 792 (2011)(motion to dismiss opinion); *Franco v. Connecticut General Life Ins. Co.*, --- Fed. Appx. --- (3rd Cir. May 2, 2016) 2016 WL 1730730; *Franco v. Connecticut General Life Ins. Co.*, 289 F.R.D. 121 (2013) (first class cert. denial); *Franco v. Connecticut General Life Ins. Co.*, 299 F.R.D. 417 (2014)(second class cert. denial); *Franco v. Connecticut General Life Ins.*, Slip Copy (June 24, 2014) 2014 WL 2861428.

Drazin v. Horizon Blue Cross-Blue Shield of New Jersey, 06-06219, United States District Court, District of New Jersey. Lead Counsel in class action for injunctive relief and damages relating to coverage of eating disorders as biologically based mental illnesses under the New Jersey Mental Health Parity Act; resulting in settlement of \$19 million and multiple business reforms affecting 1.5 million class

members; final approval granted by Hon. Faith Hochberg; Court finds Nagel Rice to be “fine lawyers,” and “honorable counsel” who “settled on terms that provided class members with very valuable relief.” *Drazin v. Horizon Blue Cross Blue Shield of NJ*, 832 F.Supp. 2d 432 (D.N.J. 2011), *aff’d*, 528 Fed. Appx. 211 (3d Cir. 2013)

O’Hara, et. al v. Medieval Times, 10-751, United States District Court of the District of New Jersey. Court-appointed co-lead class counsel in nationwide class action regarding violations of the Fair and Accurate Credit Transaction Act, resulting in multi-million dollar settlement, and other injunctive relief.

Finkelman v. Nat’l Football League, 810 F.3d 187 (3d Cir. 2016), Lead counsel in consumer class action brought on behalf of all attendees at the Super Bowl who bought tickets in the secondary market at prices above the face value of the tickets. Action asserts statutory violations of the New Jersey Consumer Fraud Act due to withholding more than 5% of tickets from sale to the public. Action dismissed on motion and remanded to trial court by Third Circuit Court of Appeals for repleading. Pending before the Honorable Peter Sheridan.

Torres-Hernandez, et al. v. STI Prepaid, et.al, 08-1089, United States District Court, District of New Jersey. Court appointed co-lead counsel in nationwide consumer class action involving sale of prepaid calling cards; \$8.2 million dollar settlement granted final approval.

DeVito v. Aetna, 07-418 (FSH) United States District Court, District of New Jersey. Lead counsel in class action for injunctive relief and damages relating to coverage of eating disorders as biologically based mental illnesses under the New Jersey Mental Health Parity Act. Settlement involving reimbursement of past denials and multiple business reforms affecting 250,000 class members. *DeVito v. Aetna*, 536 F.Supp.3d 523 (D.N.J. 2008).

Englewood Hospital and Medical Center for v. Esurance Holdings, Inc. d/b/a Esurance (NJ), District of New Jersey, Civil Action No. 10-05585. Lead counsel in consumer class action where court approved class action settlement provided for monetary relief and the termination of the offending practices.

Glickman v. Live Nation Entertainment, Inc., et al. Civil Action No. 15-08041; and *Pollard, et al. v. AEG Live, LLC, et al.*, Civil Action No.: 14-01155; Lead counsel in two cases pending in the District of New Jersey involving allegations that Defendants violated the New Jersey Consumer Fraud Act regarding improper ticketing practices.

Kennedy v Samsung Electronics America, Inc.- Civil Action No. 14-04987; Lead counsel in defective top load washer class action filed in District of New Jersey involving allegations of faulty drain pumps that cause flooding; claims brought under the California Unfair Competition Law, California False Advertising Law,

the California Consumers Legal Remedies, the Song-Beverly Act, and the Magnuson-Moss Warranty Act.

Durso v Samsung Electronics America, Inc., Civil Action No. 12-05352. Lead counsel in defective front load washer class action filed in District of New Jersey. The claims sound in common law and statutory fraud, negligent misrepresentation and breach of warranty under New Jersey and Texas law and arose from Samsung's defective design, manufacture, warranty, advertisement and sale of certain front load model washers where the defects include an inability of the washer to handle large loads, adequately clean clothes and drain properly and mold smell.

Rosen v. Smith Barney, 393 N.J. Super. 578 (App. Div. 2007) *aff'd* 195 N.J. 423 (2008). Lead counsel in certified class action against brokerage firm involving deferred compensation plan, resulting in \$9 million judgment against the firm, reversed on appeal, and affirmed by the New Jersey Supreme Court.

NATIONAL CLASS ACTIONS

In re: Discover Card Payment Protection Plan Marketing and Sales Practices Litigation, MDL No. 2217, United States District Court for the Northern District of Illinois. Court-appointed co-lead class counsel in \$10.5 million nationwide class action settlement alleging improper marketing and administration of Defendants' Payment Protection Plan, Identity Theft Protection, Wallet Protection and Credit Score Tracker products.

Esslinger, et al. v. HSBC Bank Nevada, N.A. et als., 10-03213, United States District Court for the Eastern District of Pennsylvania. Court-appointed co-lead class counsel in \$23.5 million nationwide class action settlement involving improper marketing and practices related to Defendants' debt suspension/debt cancellation products.

In re: Bank of America Credit Protection Marketing & Sales Practices Litigation, MDL No. 2269, United States District Court of the Northern District of California. Selected to serve on the Plaintiffs' Executive Committee in this Multi-District litigation involving Bank of America's marketing and sales practices relating to its debt suspension/debt cancellation products.

In re: South African Apartheid Litigation, MDL No. 1499, United States District Court for the Southern District of New York. Co-lead counsel in a putative class action under the ATS against corporations who violated *jus cogen* standards of international human rights law.

In re African American Slave Descendants' Litig., 304 F.Supp.2d 1027 (N.D. Ill. 2004); *In re African American Slave Descendants' Litig.*, 307 F.Supp.2d 977 (N.D. Ill. 2004); *In re African American Slave Descendants' Litig.*, 272 F.Supp.2d 755 (N.D. Ill. 2003); and *In re African American Slave Descendants' Litig.*, 231 F.Supp.2d 1357 (J.P.M.L. 2002). Court appointed co-lead counsel in landmark reparation cases.

Smith, et al. v. Ticketmaster, 09-02177, United States District Court, Central District of California. Class action involving consumers who were wrongfully transferred to secondary market web-site that was owned by company recently acquired by Ticketmaster where they could only purchase tickets significantly higher than their ticket price. Bruce Nagel was a member of Executive Committee.

In re Citigroup Capital Accumulation Plan, 150 F.Supp.2d 274 (D.Mass. 2001). Court-Appointed Lead Counsel in class action involving deferred compensation plan of major brokerage firm for the states of Florida, Nebraska, Colorado, Louisiana, Georgia, and Michigan. Class certification granted for the states of Florida, Colorado and Louisiana. Claims in excess of \$300 million. Referenced in Farr, *The Manuel for Complex Litigation*, Fourth Ed. (2004), Appendix.

In re Ski Train Fire in Kaprun, Austria, 220 F.R.D. 195 (S.D.N.Y. 2003) *rev'd Kern v. Siemens Corp.*, 393 F.3d. 120 (2d Cir. 2004). Court appointed co-lead counsel in multi-district certified class action involving the death of 153 individuals in a train fire in Austria. Class certification reversed on appeal. Settlement of \$16 million on behalf of the American plaintiffs.

Nagel Rice also has extensive experience in complex litigation. Among other cases, the firm represented the State of New Jersey in establishing liability for natural resource damages against Exxon Mobil in connection with pollution at two refinery sites, *N.J.D.E.P. v. Exxon Mobil*, 393, N.J. Super, 388 (App. Div. 2007), and is handling a multi-billion dollar RICO action against major hedge funds in connection with a short selling scheme. *Fairfax Financial Holdings Limited v. S.A.C. Capital Management, LLC, et al.*, Docket No.: MRS-L-2032-06, Superior Court, State of New Jersey.

INDIVIDUAL ATTORNEYS

MEMBERS OF FIRM

BRUCE H. NAGEL, born Paterson, New Jersey, August 28, 1952; admitted to bar 1977, New Jersey, U.S. District Court, District of New Jersey and U.S. Court of Appeals, Third Circuit; 1995, U.S. Court of Appeals, Fourth Circuit; 2001, U.S. Court of Appeals, First Circuit 2014, U.S. Supreme Court. EDUCATION: Cornell University (B.S., 1974); New York University (J.D., 1977). Author: "Griggs Settlements: Dead or Alive," *New Jersey Law Journal*, May 2008; "The Evolving Torts of Wrongful Life and Wrongful Birth," *New Jersey Lawyer*, October, 1997. Co-Author: "Critical Pattern Requirement under RICO," *New Jersey Law Journal*, September 1, 1988. Moderator and Lecturer: Trying Breast Cancer Cases, Institute for Continuing Legal Education, September 2004; Winning the Big Verdict, Institute for Continuing Legal Education, November, 2003; "Trying a Wrongful Birth Case," ATLA, New Jersey Symposium, 2002; First Annual Tort Law Forum, Institute for Continuing Legal Education, June, 1997, July 2008. Lecturer: Tort Law Conference, Institute for Continuing Legal Education, 2007, 2008; Annual Convention, Top Ten Tort Cases of 1997, The Association of Trial Lawyers of America-New Jersey, 1997; Third Annual At-Will Employment Law Symposium, 1989; Civil Trial Institute, Institute for Continuing Legal Education, July, 2005. Adjunct Professor, Medical Malpractice, New Jersey Practice, Seton Hall University School of Law. Included on 2008-2013 top 10 *New Jersey Super Lawyers* list, *New Jersey Monthly Magazine*; Best Lawyers in America, 2006-2013. Best Lawyers in New York Metropolitan Area, *New York Magazine*, 2006-2013. MEMBER: Essex County and New Jersey State Bar Associations; The

Association of Trial Lawyers of America; The Association of Trial Attorneys of New Jersey (Board of Governors); Million Dollar Advocates Forum. (Certified Civil Trial Attorney, Supreme Court of New Jersey, Board on Trial Attorney Certification) SPECIAL AGENCIES: Special Counsel to New Jersey Department of Environmental Protection for Natural Resource Damage Litigation. REPORTED CASES: *Kuzian v. Electrolux Home Products, Inc.*, 937 F.Supp.2d 599 (D.N.J. 2013); *Clark v. Prudential*, 289 F.R.D. 144 (D.N.J. 2013); *Clark v. Prudential Ins. Co. of America*, 736 F.Supp.2d 902 (D.N.J. 2010); *Drazin v. Horizon Blue Cross Blue Shield of NJ*, 832 F.Supp. 2d. 432 (D.N.J. 2011) *aff'd* Fed. Appx. 211 (3d Cir. 2013); *Franco v. Conn. Gen. Life Ins. Co.*, 818 F.Supp. 2d. 792 (D.N.J. 2011); *Devito v. Aetna*, 536 F. Supp. 2d 523 (D.N.J. 2008); *New Jersey Dept. of Environmental Protection v. Exxon Mobil Co.* 393 NJ Super, 388 (App. Div. 2007); *New Jersey Eye Center v. Princeton Ins. Co.*, 394 N.J. Super. 557 (App. Div. 2007); *Rosen v. Smith Barney*, 195 N.J. 423 (2008); *In re Citigroup, Inc., Capital Accumulation Plan Litigation*, 150 F. Supp. 2d 274 (D. Mass. 2001); *In re Citigroup, Inc., Capital Accumulation Plan Litigation*, 2001 WL 1423721 (D. Mass. 2001); *Brodsky v. Grinnell Haulers, Inc.* 181 N.J. 102 (2004); *Macedo v. Dello Russo*, 178 N.J. 340 (2004); *Howard v. UMDNJ*, 172 N.J. 537 (2002); *Couri v. Gardner*, 173 N.J. 328 (2002); *Myers v. Epstein*, 282 F. Supp. 2d 151 (S.D. N.Y., 2003); *Ponzo v. Pele*, 166 N.J. 481 (2001); *Teaneck FMBA v. Township of Teaneck*, 177 N.J. 560 (2003); *Linquito v. Siegel*, 370 N.J. Super. 21 (App. Div. 2004); *Hummel v. Reiss*, 129 N.J. 118 (1992); *Jacobs v. Great Pacific Century Corp.*, 104 N.J. 580 (1986); *Lodato v. Kappy*, 353 N.J. Super. 439 (App. Div.

2002); *Moscattello v. UMDNJ*, 342 N.J. Super. 351 (App. Div. 2001); *RFE Industries, Inc. v. SPM Corp.*, 105 F.3d 923 (4th Cir. 1997); *National Property Investors VIII v. Shell Oil Co.*, 917 F. Supp.324 (D.N.J. 1995); *Caputa v. Antiles*, 296 N.J. Super. 123 (App. Div. 1996); *Ladner v. Mercedes-Benz of North America, Inc.*, 266 N.J. Super. 481 (App. Div. 1993); *Town of Kearny v. Hudson Meadows Urban Renewal Corp.*, 829 F.2d 1263 (3rd Cir. 1987). PRACTICE AREAS: Trial Practice; Class Actions; Medical Malpractice; Serious Personal Injury; Products Liability; Employment Law; Professional Liability; Mass Torts; Toxic Torts; Wrongful Birth; Environmental Litigation; Qui Tam Litigation. EMAIL: BNagel@nagelrice.com Mr. Nagel has tried over 150 cases to conclusion and handled over 100 appeals in federal and state courts throughout the country (including 12 before the New Jersey Supreme Court). He has approximately 70 published opinions in the field of class action, medical malpractice, trial practice, product liability, consumer fraud and other related areas of law; he is an adjunct professor at Seton Hall Law School; and he has also lectured extensively for both ICLE and ATLA-NJ on a variety of trial related topics. He is a certified civil trial attorney, a designation held by less than 2% of New Jersey attorneys. He has the unique distinction of arguing three class actions before the New Jersey Supreme Court.

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Achievement Award, Essex County Bar Association, 1995. Listed, Top 100 Lawyers New Jersey Monthly Magazine, 2007, 2008, 2009, 2010 and 2011. Top 10 Lawyer, New Jersey Monthly Magazine 2012. Law Clerk to the Honorable Baruch S. Seidman, New Jersey Superior Court, Appellate Division, 1977-1978. Author: "Equity Procedures," New Jersey Practice, Vol. 19, Chapter 4, 1993; "Responsibility of Insolvent Corporation for Environmental Cleanup," New Jersey Law Journal, September 25, 1986. Lecturer: "Restrictive Covenants," New Jersey State Bar Association Convention, 1989; "The Corporate Deadlock Statute," New Jersey State Bar Convention, 1990; "Law Firm Dissolution," New Jersey State Bar Association Convention, 1991; "The Corporate Deadlock Statute," Institute of Continuing Legal Education, 1991; "Successfully Litigating The Closely Held Corporate Dispute When Those in Control Have Engaged in Fraud and Mismanagement," Essex County Bar Association, 1993; "Litigating Fraud and Mismanagement Disputes in Closely Held Corporations," Institute of Continuing Legal Education, 1995; "Marketability Discounts in the Sale of Closely Held Stock," Equity Jurisprudence Committee, 1999; "Law Firm Breakups Ten Years After Norris," New Jersey State Bar Association General Equity Jurisprudence Committee, 2003; "Chancery 2010 Corporate Divorces", New Jersey State Bar Association Convention 2010. Member: District Ethics Committee for Essex County District V-B, 1994-1999; N.J. Lawyer Editorial Board, 1996-2008. Program Administrator, Superior Court Chancery Division Essex County Early Settlement Program, 1990-. MEMBER: Essex County, New Jersey State (Member, Committee on Equity Jurisprudence, 1982-; Chairman, 1989-1991; Member, Certified Trial Attorneys Section) and American Bar Associations. (Certified Civil Trial Attorney,

Supreme Court of New Jersey, Board on Trial Attorney Certification) REPORTED CASES: Pappas v. Coach House Diner & Restaurant, Inc., 2005 WL 1010359 (N.J.Super.Ch. March 28, 2005); Tannen v Tannen, 416 N.J. Super. 248 (App. Div. 2010), aff'd, 208 N.J. 409 (2011); Pappas v. Coach House Diner & Restaurant, Inc., 2005 WL 1421375 (Ch. Div. June 17, 2005); Sherman v. Wellbrock, 761 F.Supp. 1135 (D.N.J. 1991); Dairy Stores, Inc. v. Sentinel Pub. Co., Inc., 104 N.J. 125 (1986); National Recovery Systems v. Feltman, 211 N.J. Super. 526 (1986); Consolidated Precast, Inc. v. Action Builders Co., Inc., 190 N.J. Super. 92 (1983); Franklin Mint Corp. v. Master Mfg. Co., 667 F.2d 1005 (1981); In re Ski Train Fire in Kaprun, Austria, on November 11, 2000, 2004 WL 1048233 (S.D.N.Y. 2004); Kern v. Oesterreichische Elektrizitaetswirtschaft Ag, 178 F.Supp.2d 367 (S.D.N.Y. 2001); Sherman v. Wellbrock, 761 F.Supp. 1135 (D.N.J. 1991); In re Shopping Cart Antitrust Litigation, 95 F.R.D. 309 (S.D.N.Y. 1982). PRACTICE AREAS: Commercial Litigation; Complex Litigation; Alternative Dispute Resolution; Corporate Law; Chancery Practice; Class Action Litigation; Estate Litigation; Construction Litigation. EMAIL: JRice@nagelrice.com

ROBERT H. SOLOMON, born Glen Ridge, New Jersey, 1964; admitted to bar 1990, New Jersey and U.S. District Court, District of New Jersey; 1997, U.S. Court of Appeals, Third Circuit; 2014, United States Supreme Court. EDUCATION: University of Rochester (B.A., 1986); University of Pittsburgh (J.D., 1990). Member: Moot Court Board; National Appellate Moot Court Competition. Law Clerk, Honorable Freda L. Wolfson, U.S. District Court, District of New Jersey. Former Adjunct Professor of Law, Seton Hall University School of Law. Included in 2008-2016 *New Jersey Super Lawyers*; Listed in 2010-2016 Top 100 *New*

Jersey Super Lawyers. MEMBER: New Jersey State Bar Association; New Jersey Association for Justice; The Association of Trial Lawyers of America. REPORTED CASES: Clark v. Prudential Ins. Co. of Am., 940 F. Supp. 2d 186 (D.N.J. 2013); Clark v. Prudential Ins. Co. of Am., 289 F.R.D. 144 (D.N.J.) reconsideration denied, 940 F. Supp. 2d 186 (D.N.J. 2013); USI Ins. Servs. LLC v. Miner, 801 F. Supp. 2d 175 (S.D.N.Y. 2011); Noble v. Porsche Cars N. Am., Inc., 694 F. Supp. 2d 333 (D.N.J. 2010); Clark v. Prudential Ins. Co. of America, 736 F.Supp.2d 902 (D.N.J. 2010); Meyers v. Epstein, 232 F.Supp. 2d 192 (S.D.N.Y., 2002); Meyers v. Epstein, 282 F.Supp. 2d 151 (S.D.N.Y., 2003); Couri v. Gardner, 173 N.J. 328 (2002); Howard v. UMDNJ, 172 N.J. 537 (2002); 1530 Owners Corp. v. Borough of Fort Lee, 135 N.J. 394 (1994); Geler v. Akawie, 358 N.J. Super. 437 (App. Div. 2003); Lodato v. Kappy, 353 N.J. Super. 439 (App. Div. 2002); Moscatello v. UMDNJ, 342 N.J. Super. 351 (App. Div. 2001); Michelman v. Ehrlich, 311 N.J. Super. 57 (App. Div. 1998); Caputo v. Antiles, 296 N.J. Super. 123 (App. Div. 1996); Finkelman v. Nat'l Football League, 2016 WL 158507 (3d Cir. Jan. 14, 2016); Reed v. Swatch Grp. (US), Inc., 2015 WL 5822669 (D.N.J. Oct. 1, 2015); McDonough v. Horizon Blue Cross Blue Shield of New Jersey, 2015 WL 5573821 (3d Cir. Sept. 23, 2015); NAF Holdings, LLC v. Li & Fung (Trading) Ltd., 2015 WL 3896792 (Del. June 24, 2015); Reed v. Swatch Grp. (US), Inc., 2014 WL 7370031 (D.N.J.); McDonough v. Horizon Healthcare Servs., Inc., 2014 WL 3396097 (D.N.J.); WorldScape, Inc. v. Sails Capital Mgmt., 2014 WL 1342983 (D.N.J.); Leibholz v. Hariri, 510 F. App'x 112 (3d Cir. 2013); Friedfertig Family P'ship 2 v. Lofberg, 2013 WL 6623896 (D.N.J.); Worldscape, Inc. v. Sails Capital Management, 2011 WL 3444218 (D.N.J.); Glen Ridge SurgiCenter, LLC v. Horizon Blue Cross and Blue Shield

of New Jersey, Inc., 2011 WL 5882019 (D.N.J.); McDonough v. Horizon Blue Cross Blue Shield of New Jersey, Inc., 2011 WL 4455994 (D.N.J.); Glen Ridge SurgiCenter, LLC v. Horizon Blue Cross and Blue Shield of New Jersey, Inc., 2011 WL 5881924 (D.N.J.); Clark v. Prudential Ins. Co. of America, 2011 WL 1833355 (D.N.J.); Leibholz v. Hariri, 2011 WL 1466139 (D.N.J.); Clark v. Prudential Ins. Co. of America, 2011 WL 940729 (D.N.J.); Rabinowitz v. Rayman, 2010 WL 2867909 (N.J.App.Div.); Wayne Surgical Center v. Concentra, 2009 WL 961389 (D.N.J.); Gregory Surgical Center v. Horizon, 2009 WL 749795 (D.N.J.); Glen Ridge SurgiCenter, LLC v. Horizon Blue Cross and Blue Shield of New Jersey, Inc., 2009 WL 3233427 (D.N.J.); Abrahams v. Hygrosol Pharmaceutical Corp., 2009 WL 3055372 (D.N.J.); Clark v. Prudential Ins. Co. of America, 2009 WL 2959801 (D.N.J.); McDonough v. Horizon Blue Cross Blue Shield of New Jersey, Inc., 2009 WL 3242136 (D.N.J.); Gregory Surgical v. Horizon, 2007 WL 4570323 (D.N.J.); Wayne Surgical v. Concentra, 2007 WL 2416428 (D.N.J.); Fairfax Financial v. S.A.C. Capital Management, 2007 WL 1456204 (D.N.J.); ABS Associates v. Hartz Mountain, 2006 WL 1519577 (N.J. Ch. Div. 2006); Gregory Surgical v. Horizon, 2006 WL 3751385 (D.N.J.); Kantha v. Pacific Life, 2006 WL 2583239 (D.N.J.); Gregory Surgical v. Horizon, 2006 WL 1541021 (D.N.J.); Samco Rockaway 90, Inc. v. Lawyers Title, 1995 WL 328141 (D.N.J.).

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U.S. Supreme Court; U.S. Court of Appeals, Third Circuit (2013). EDUCATION: College of William and Mary (B.A., in Government); Seton Hall School of Law (J.D., 1981). Assistant District Attorney, New York County, 1981-1985. Author: "Corporate Reparations for Descendants of Enslaved African Americans - Practical Obstacles," Max DuPlessis, Stephen Pete; Repairing the Past? International Perspectives on Reparations for Gross Human Rights Abuses, (Intersentia 2007) at 315. "Retaliation", Michele Paludi, DeSouza, Prager Handbook on Workplace Discrimination: Legal, Management and Social Science Perspectives (Praeger, 2010). Presenter and Lecturer: "Canonical Development: Standing Commission on Constitution and Canons", "Title IV Implementation and Education Issues", Western Chancellors' Conference (2011); "Modeling Civil Discourse in Negotiation and Governance Settings"; Western Chancellors' Conference (2011); "New Title IV Disciplinary Code"; Chancellors' Conference (2010); "Report of Title IV Task Force," Province II Synod (May 2009), Western Chancellors' Conference (May 2009), Standing Committee on Ministry Development (November 2008); "Breakthrough on Statute of Limitations Issue", North Carolina Conference of the NAACP CLE Seminar (October 2008); "Reconciliation at the Roundtable," The Desmond Tutu Center; General Theological Seminary (September 2007); "The Misuse of Church Computers: What You May Want to Know More About," National Chancellors' Conference (May 2007); "National Canons: History and Application of Title IV," Drew University Theological School (May 2007); "Authority in the Anglican Communion and the Windsor Report," Episcopal Lawyers' Volunteer Network (May 2007); "The Legal Case for Reparations," Brooklyn Law School (February 2007); "The Moral and Legal Basis for Reparations for Historical Wrongs,"

Plainfield Unitarian Society (January 2007); "Excellence, Justice, Honor Through an Unflinching Look at the Harms of the Transatlantic Slave Trade," Horace Mann High School Honor Society (May 2006); "The Case for Reparations and Comments on Film: 'Slavery Reparations: The Final Passage'," Brooklyn Film Festival (February 2006); "Human Rights Through Reparations Litigation," United Universalist Association Diversity Conference, New York (February 2006); "Bishop and Clergy Development Search Processes/Letter of Agreement", Western Chancellor's Conference, 2005; "Human Rights as Tool for Social Change", UNESCO, Institute of Comparative Human Rights Conference, 2005, 2006, 2007, 2008, 2009, 2010; "Update on Reparations Litigation," Congressional Black Caucus Conference (September 2005); "Update in African-American Slave Descendants' Litigation and Apartheid Litigation," Stanford Law School (2004); "Reparations, a Legal Model," University of Connecticut School of Law (2002); "A Review on African-American Slave Descendants' Litigation," Union Theological Seminary (2002); "Class Action as a Mechanism for Enforcement of Human Rights Violations," Kean University (Fall 2002). Member: Hogan Morgenthau Associates; Board Member, Episcopal Chancellors' Network; Ecclesiastical Law Society; Disciplinary Board for Bishops of the Episcopal Church; Chair, Standing Commission of the Constitution and Canons of the National Episcopal Church (2009-2012); Subcommittee on Title IV Revision of the National Episcopal Church (2006-2009); Presiding Bishop's Chancellor's Council of Advice; Episcopal Lawyers' Volunteer Network - Diocese of Newark; Committee on Constitution and Canons - Diocese of Newark; New Jersey State District Ethics Committee for Essex County, District V-B, 1998-2002. Chancellor, Episcopal Diocese of

Newark (2004-) (Legal Advisor to Bishop and 112 congregations). LISTED: 2010, 2012 Super Lawyer New Jersey Monthly Magazine MEMBER: New Jersey State and American Bar Associations. REPORTED CASES: In re African American Slave Descendants' Litig., 304 Supp.2d 1027 (N.D. Ill. 2004); In re African American Slave Descendants' Litig., 471 F.3d (7th Cir. 2006); In re Apartheid Litig., 238 F.Supp.2d 1379 (Jud. Pan. Mult. Lit. 2002); In re Apartheid Litig., 346 F. Supp.2d 538 (S.D.N.Y. 2004); *Khulumani v. Barclay Nat. Bank*, 504 F. 3d 245 (2d Cir. 2007); *American Isuzu Motors v. Ntsebeza*, 128 S. Ct. 2424, 171 L. Ed 2d 225, 76 USLW 3405, 76 USLW 3603, 76 USLW 3608 (U.S. May 12, 2008); In re South African Apartheid Litig. F. Supp.2d, 2009 WL 960078 (S.D.N.Y. April 8, 2009); In re Ski Trian Fire in Kaprun, 175 F.Supp.2d 1379 (Jud. Pan. Mult. Lit. 2001). PRACTICE AREAS: Class Actions; International Human Rights; Canon Law; Commercial Litigation; Criminal Law; Municipal Law; Personal Injury; Labor and Employment. EMAIL: DSammons@nagelrice.com

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RADICE LAW FIRM, PC

The Radice Law Firm PC was founded in 2012 to prosecute antitrust, False Claims Act, and other complex litigation. Attorneys at the firm have extensive experience in health care and other highly-regulated industries and are involved in all aspects of litigation, from initial case investigation through trial. We offer top-quality work, performed efficiently, with the focus and attention to clients that they deserve. Radice Law PC has been instrumental in developing new cases and, with co-counsel, investigated and filed the first complaint alleging a years-long conspiracy to fix margins in the market for dental supplies. Over sixty law firms subsequently filed similar cases and John Radice was appointed liaison counsel in that litigation, *In re Dental Supplies Antitrust Litigation*, No. 1:16-cv-00696-BMC-GRB (E.D.N.Y.).

Radice Law Firm PC has grown to five full-time attorneys from top schools including Harvard Law and NYU Law. Biographies of Radice Law Firm attorneys follow.

John Radice

John Radice founded the Radice Law Firm PC in 2012. Mr. Radice has associated with some of the largest and most-respected plaintiffs' firms in the country and has been a part of the litigation or trial teams in, *inter alia*, the following cases:

- *In re Dental Supplies Antitrust Litigation*, No. 1:16-cv-00696-BMC-GRB (E.D.N.Y.) (filed first case and appointed liaison in case alleging nationwide margin fixing conspiracy among dental suppliers).
- *In re Flonase Direct Purchaser Antitrust Litigation* (\$150 million settlement on the eve of trial in case alleging sham citizen petitioning to delay generic entry);
- *In re Skelaxin (metaxalone) Direct Purchaser Antitrust Litigation* (\$73 million settlement in case alleging delayed generic entry);
- *In re Norvir Direct Purchaser Antitrust Litigation* (\$52 million settlement following three days of trial in case alleging anticompetitive bundling of Norvir and Kaletra);
- *In re Puerto Rico Cabotage Antitrust Litigation* (\$52.25 million cash settlement plus price freeze option following alleged price fixing and market allocation);
- *In re Tricor Direct Purchaser Antitrust Litigation* (\$250 million settlement after the start of trial in case alleging delayed entry of generic versions of Tricor);
- *In re Neurontin Marketing & Sales Litigation* (resulting in a RICO jury verdict statutorily trebled to over \$142 million for the unlawful and fraudulent promotion of Neurontin);
- *United States ex rel. Piacentile v. Bristol-Myers Squibb Co.* (\$515 million qui tam settlement related to unlawful promotion of Abilify); and
- *United States ex rel. Marchese v. Cell Therapeutics, Inc.* (\$10.5 million qui tam settlement stemming from unlawful marketing of Trisonex).

Mr. Radice, either alone or with co-authors, frequently publishes articles on current topics in antitrust and False Claims Act law, including:

- "Where do we go now? The Hatch-Waxman Act 25 Years Later: Successes, Failures, and Prescriptions for the Future," 41 Rutgers L. J. 229 (Fall 2009 & Winter 2010);
- "The False Claims Act: A Public-Private Partnership" in Volume II, in AAJ 2009 ANNUAL CONVENTION: AAJ EDUCATION REFERENCE MATERIALS 1497 (Jennifer Adams ed., 2009); and
- "Daubert and Rule 702 in the Context of Antitrust Economic Experts: A Practitioner's Guide," Daubert 15 Years Later: How Have Economists Fared (ABA Spring Meeting 2009).

Mr. Radice clerked for Judge Edith Brown Clement in the United States Court of Appeals for the Fifth Circuit in New Orleans following his graduation from New York University School of Law. Through the Arthur Garfield Hays Civil Liberties Program at NYU Law, where he was a Palmer Weber Fellow, Mr. Radice pursued internships at the NAACP Legal Defense & Education Fund, the ACLU, and a prominent civil rights law firm. At Princeton, where he graduated *magna cum laude*, Mr. Radice was a member of the lightweight crew team. Together with Dr. Lee Shearer, he founded and is president of Insicknessandinhealth.org, a non-profit dedicated to promoting health and well-being in underserved communities.

A. Luke Smith

Attorney A. Luke Smith joined Radice Law Firm PC as an associate in May 2014. Mr. Smith has considerable experience litigating all phases of complex antitrust class actions, from pre-filing investigations through post-trial briefing. Throughout his career, Mr. Smith has had the privilege of working alongside the nation's most preeminent plaintiffs law firms and lawyers, and has been part of the litigation or trial teams in, *inter alia*, the following cases:

- *In re Metoprolol Succinate Direct Purchaser Antitrust Litigation*, 06-52 (D. Del.) (\$20 million settlement in case challenging Astra-Zeneca conduct to delay generic entry)
- *In re Wellbutrin XL Antitrust Litigation*, No. 08-2431 (E.D. Pa.) (\$37.5 million partial settlement in case challenging the conduct of SmithKline Beecham Corp. and Biovail Laboratories in delaying generic drug competition)
- *In re Prandin Direct Purchaser Antitrust Litigation*, 10-12141AC-DAS (E.D. Mich.) (\$19 million settlement in case challenging Novo Nordisk's conduct to delay generic entry)
- *Marchese v. Cablevision Systems Corporation*, 2:10-cv-02190 (D.N.J.) (accusing Cablevision of illegally tying two-way cable services to rentals of a Cablevision-supplied set-top box)
- *In re Skelaxin (metaxalone) Direct Purchaser Antitrust Litigation*, 12-2343 (E.D. Tenn.) (\$73 million settlement in case alleging delayed generic entry)
- *In re Nexium (Esomeprazole) Antitrust Litigation*, 1:12-md-02409 (D. Mass.) (\$24 million partial mid-trial settlement in "pay-for-delay" case challenging agreements between AstraZeneca and generic competitors to delay generic entry)
- *Smith v. FDA*, 12-5141 (*pro se* case challenging FDA's public disclosure policies under FOIA)
- *In re Solodyn Antitrust Litig.*, No. 14-10438 (D. Mass.) (alleging that Medicis engaged in an anticompetitive scheme to delay generic competition)
- *In re Lidoderm Antitrust Litig.*, No. 14-2521 (N.D. Cal.) (alleging that Endo paid its generic competitor, Watson (now known as Actavis), to delay generic versions of Lidoderm).

Mr. Smith recently co-authored an article on abusive "life cycle management" practices in the pharmaceutical industry, "Life Cycle Management: The Courts Examine Brand Strategies to Defend Blockbuster Franchises" (ABA Antitrust Law Division, 63rd Spring Meeting, April 15-17, 2015).

Mr. Smith earned his J.D. from Pennsylvania State University Dickinson School of Law (2010), and graduated *summa cum laude* from Cheyney University of Pennsylvania with a degree in Business Management (2007). While in law school, Mr. Smith was certified as a Miller Center Public Interest Advocate in recognition of his service at the Family Law Clinic, and competed in the American Constitution Society Constance Baker Motley National Moot Court Competition. Mr. Smith has completed internships for the Honorable Joseph A. Greenaway, then of the United States District Court for the District of New Jersey, the New Jersey Office of the Public

Defender, and at the Pennsylvania Attorney General, Bureau of Consumer Protection.

Mr. Smith also devotes significant energy serving his community, and in 2012 co-founded Germantown United CDC (a 501(c)(3) revitalizing Germantown's business corridors through a community-driven approach to economic development), where he currently serves as secretary of the board and a member of the executive committee. He is also a board member of the Ebenezer Maxwell Mansion (an authentically restored Victorian house museum in Philadelphia), and is V.P. and Chair of the Zoning Committee for WCGN (neighborhood civic association and RCO representing Tulpehocken Historic Station District). Mr. Smith also serves as Democratic Committee Person for Philadelphia's 59th Ward, 22 Division, after his public election to that post in 2014.

Mr. Smith is licensed to practice in Pennsylvania and New Jersey has been admitted to the United States District Courts for the Eastern District of Pennsylvania and the District of New Jersey.

Kenneth Pickle

Kenneth Pickle has been an associate with the Radice Law Firm since 2013.

Prior to law school, he was an analytical chemist for a large pharmaceutical company. His litigation experience includes representing plaintiffs in all phases of litigation, including case evaluation and assessment, development of case strategy, all phases of discovery, trial strategy development, and trial. He has been part of the litigation or trial teams in numerous class actions against pharmaceutical companies alleging anticompetitive delayed-generic entry business practices, including:

- *In re Dental Supplies Antitrust Litigation*, No. 1:16-cv-00696-BMC-GRB (E.D.N.Y.) (alleging nationwide margin fixing conspiracy among dental suppliers).
- *In re Skelaxin (metaxalone) Direct Purchaser Antitrust Litigation*, 12-2343 (E.D. Tenn.) (\$73 million settlement in case alleging delayed generic entry)
- *In re Nexium (Esomeprazole) Antitrust Litigation*, 1:12-md-02409 (D. Mass.) (\$24 million partial mid-trial settlement in “pay-for-delay” case challenging agreements between AstraZeneca and generic competitors to delay generic entry)
- *In re Solodyn Antitrust Litig.*, No. 14-10438 (D. Mass.) (alleging that Medicis engaged in an anticompetitive scheme to delay generic competition)

Mr. Pickle also has experience litigating class action antitrust cases in the financial trading and telecommunication industries.

Mr. Pickle graduated from Cardozo Law School in 2011, where he served as associate editor for the Cardozo Journal of International and Comparative Law. He is admitted to the bar of the State of New York, as well as the U.S. District Courts for the Southern District of New York and Eastern District of New York. He is also a registered patent attorney with the U.S. Patent and Trademark Office.

April D. Lambert

April D. Lambert joined Radice Law Firm PC as of counsel in June 2016. Prior to joining Radice Law Firm PC, Ms. Lambert was an associate in the intellectual property litigation group at Sidley Austin LLP. Ms. Lambert has extensive experience litigating patent infringement and antitrust cases, as well as handling other intellectual property matters. Ms. Lambert has also participated on the discovery teams of a range of litigation matters. Representative cases Ms. Lambert has worked on including the following:

- *Medtronic AVE, Inc. v. Cordis Corp.* (E.D. Tex) – patent infringement litigation case involving balloon stent catheters; favorably settled on eve of pre-trial conference
- *SynQor, Inc. v. Artesyn* (E.D. Tex.) – patent infringement litigation case involving power converters
- *Celgene Corp. v. Natco Pharma Ltd.* (D.N.J.) – patent infringement case involving the drug lenalidomide

Ms. Lambert earned her J.D. from the New York University School of Law (2003), where she was a McKay Scholar, an award given to the top 25% of the class, and was the Executive Editor of the *NYU Journal of Legislation and Public Policy*. While at NYU, Ms. Lambert served as an intern for the New York City Public Advocate's Office. Ms. Lambert also graduated *Phi Beta Kappa* from Johns Hopkins University (2000) and earned a masters in library and information science from the University of Illinois (2013). Ms. Lambert has published on the topics of cybersecurity education and library patron privacy.

Throughout her career Ms. Lambert has been active in *pro bono* matters. In law school she volunteered as a student advocate for women through a battered women's program and assisted women in obtaining divorces. Ms. Lambert continued this work once in practice and served as counsel for petitioners for protection from abuse orders, often negotiating consent orders and avoiding the trauma of a hearing on the matter. Ms. Lambert also served as an intake coordinator for the Chicago Volunteer Legal Services (CVLS) Hull House Legal Clinic and earned awards for exemplary service to the CVLS program.

Ms. Lambert is admitted to practice in Illinois and Pennsylvania (inactive) and has been admitted to the United States District Courts for the Northern District of Illinois and the Western District of Pennsylvania.

Daniel Rubenstein

Daniel Rubenstein began work with the Radice Law Firm PC in March 2016, and became of counsel to the firm in June 2016. Mr. Rubenstein is an experienced litigation attorney who has handled complex cases in both federal and state courts.

Mr. Rubenstein practiced for more than five years as a litigator with the New York-based plaintiff's firm LeBow & Associates, handling primarily civil rights and constitutional cases. His practice included cases involving discrimination and harassment on the basis of race, gender, and sexual orientation; wrongful imprisonment; excessive force; and retaliation against whistleblowers. During that time, he achieved numerous settlements for clients, had multiple cases receive media coverage, and drafted three appeals to the Second Circuit.

Prior to Mr. Rubenstein's experience with LeBow & Associates, he practiced corporate law. He worked with New York law firms Feldman, Weinstein & Smith and Mintz & Fraade, working on transactions including mergers, joint ventures, technology licensing, and reverse mergers, and on securities offerings and SEC reporting. A significant part of his practice with those firms involved the representation of emerging technology companies. He also worked in Tokyo, Japan with the Japanese law firms Blakemore & Mitsuki and Nagashima & Hashimoto, assisting both Japanese companies and foreign companies doing business in Japan, and working on English-language contracts and cross-border transactions.

Mr. Rubenstein earned his J.D. from Harvard Law School in 2000, and graduated *magna cum laude* from Carleton College in 1997 with a B.A. in Economics, where he was named to Phi Beta Kappa and also to the Dean's List for 1994-6. He also took biology, organic chemistry, and biochemistry at West Virginia State University and Marshall University, and uses that background to assist with scientific issues in his legal practice.

Mr. Rubenstein is admitted to practice in New York and Texas (currently inactive in Texas), and in the Southern and Eastern Districts of New York.

FIRM RESUME

DeNittis Osefchen, P.C., is a regional firm specializing in class actions, complex litigation and catastrophic personal injury matters. The firm has long been a leader in representation of consumers in a wide variety of class actions, both locally and nationwide. These include serving as sole or co-lead counsel in over 160 certified class actions in state and federal court, as well as currently appointed as co-lead counsel in two pending nationwide MDL class action litigations: In re Subway Footlong Sandwich Marketing and Sales Practices Litigation, No. 2:13-md-2439 (E.D.Wis) and In re: Whole Foods Market, Inc., Greek Yogurt And Sales Practices Litigation, MDL No. 2588 (W.D.Tex). In addition the firms serves as sole lead counsel in nationwide class action involving five cases and seven firms in Tye et al. v. Walmart Stores Inc Case No. 8:15-cv-01615-DOC-JCG (C.D.Ca.)

The firm has represented hundreds of thousands of consumers for claims involving: consumer fraud, construction defects, gas utility safety issues, wage and hour violations, travel scams, and false advertising claims.

In addition to its class action practice, the firm continues to represent severely and catastrophically injured clients who sustained injury due to the negligence of others. Over the last forty years, the firm has obtained numerous six and seven figure settlements and verdicts for injured persons as compensation for pain and suffering, lost wages and past and future medical expenses. In 2007, the firm was successful in obtaining the largest individual slip and fall personal injury recovery in New Jersey, obtaining a \$7.1 million settlement.

As a testament to quality of the firm's work and reputation, DeNittis Osefchen has received an AV rating by Martindale Hubbell, as well as been recognized by the publications *Law & Politics Magazine*, *New Jersey Monthly Magazine* and *South Jersey Magazine* for its high quality legal counsel.

PARTNERS

Stephen P. DeNittis is the senior partner of the firm. He is certified by the New Jersey Supreme Court as a Certified Civil Trial Attorney, an achievement earned by only 1.5% of attorneys in New Jersey. He has 19 years litigation experience and is admitted to practice before the Supreme Court of the United States, the Federal District Court of New Jersey, the Federal District Court for the Eastern District of Pennsylvania, the Federal District Court for the Western District of Tennessee, the Supreme Court of New Jersey and the Commonwealth of Pennsylvania. His practice is concentrated in class action litigation, product liability, mass tort litigation, construction defects, consumer fraud, false advertising claims and personal injury.

Mr. DeNittis has successfully served as sole or co-lead class counsel in over 150 certified class actions in state and federal court:

(In Federal Court): In re: Whole Foods Market Inc. Greek Yogurt Marketing and Sales

Practices Litigation, MDL No. 2588(SS)(J.P.M.L. 2015)(co-lead counsel in pending MDL proposed consumer fraud class action); In re: Subway Footlong Sandwich Mktg., 949 F. Supp. 2d 1369 (J.P.M.L. 2013) (co-lead counsel in a class wide settled MDL consumer fraud class action); Telliho v. East Windsor Township, et. al., Civil Action No.: 3:12-cv-4800 (lead counsel in the New Jersey Red light camera cases which settled for \$4.2 million); Poole v. Merrill Lynch, Civil Action No. 06-cv-1657 (D.Or)(co-lead counsel in a nationwide wage and hour class action which settled for \$43.5 million); Bernhard v. TD Bank, Civil Action No.08-4392-RBK-AMD (D.N.J.) (co-lead counsel in wage and hour class action which settled for \$600,000); Kaufmann v. Commerce Bancorp., CIVIL ACTION , Civil Action No. 06-cv-4664-RBK-RMD (D.N.J.) (co-lead counsel in wage and hour class action); Jones v. Commerce Bancorp. Inc., CIVIL ACTION NO. 05-cv-05600-RBK-AMD (D.N.J.)(consumer fraud class action); DeMarco v. National Collector's Mint, Inc., 229 F.R.D. 73 (S.D.N.Y. 2005)(lead counsel in a matter of first impression which resulted in a \$9,000,000 valued settlement); Carnival et. al. v. WMX, Technologies et. al., CIVIL ACTION NO. 97-5122 (D.N.J.)(5.1 million settlement); Arnold, et al. v. Ambassadors International, Inc., et al., CIVIL ACTION NO. 01-CV-2020 (RBK)(D.N.J.)(co-lead counsel in class action resulting in \$5 million settlement and injunctive relief);

(In State Court): Barkers v. PSEG, Docket Number, BUR-C-39-03 (co-lead counsel in class action settlement resulted in PSEG repairing 3,000 defective gas meter sets throughout t NJ and resulted in the Board of Public Utilities adopting new gas meter regulations); Felderstein v. Orleans, Docket Number BUR-L-479-02 (co-lead counsel in \$345,000 class settlement in construction defect class action); Melnick v. Orleans, Docket Number BUR-L-152-01(co-lead counsel in \$1.4 million settlement in construction defect class action); Spectracom, Inc. v. Cell Direct Corporation and Fax.com, Inc., Docket Number CAM-C-116-02 (co-lead counsel in class action injunctive relief under the TCPA); Ward and Decker v. York International, et al., Docket Number BUR-L-2693-03(co-lead counsel in construction defect class action); Schmoll, et al. v. Hovnanian, Docket Number BUR-C-141-02 (co-lead counsel in construction defect class action); Staub v. Hoeganaes, Docket Number BUR-L-2080-03 (lead counsel in \$1.4 million dollar class settlement); Blasini v. Weichert South Jersey, Inc., Docket Number BUR-L-736-11 (lead counsel in \$525,000 for a class of 8,000 Weichert buyers charged an allegedly \$200 illegal administrative fee in violation of the NJ CFA fraud); Blasini v. Prudential Fox & Roach, Docket Number BUR-989-11 (lead counsel in class action involving 4,000 Prudential buyers charged an allegedly \$275 illegal administrative fee in violation of the NJ CFA); Espinosa & DeSimone v. MAMCO Property Management, et al., Docket No. CAM-L-180-11 (lead counsel in class action involving approximately 4,000 condominium residents allegedly overcharged processing and transfer fees by Defendant in violation of the NJ CFA); Baraldi v. Surety Title, (lead counsel in class action on behalf of 36,000 Surety consumers who were allegedly overcharged deed and mortgage recording fees and were refunded 100% of the overcharge through a claims process); Blasini v. Trident Land Transfer Company of New Jersey, LLP, Docket No. CAM-L -2355-11 (lead counsel in class action on behalf of 17,000 Trident consumers who were allegedly overcharged mortgage recording fees and were refunded 100% of the overcharge through a claims process); Gallagher v. The Title Company of Jersey, et al. Docket No. SLM-L-67-12 (lead counsel in class action on behalf of 16,000 consumers who were allegedly overcharged deed and mortgage recording fees and were refunded 100% of the overcharge through a claims process); Gloucester

Properties v. North American Title, et al, Docket No: CAM-L-5738-11 (lead counsel in class action on behalf of 11,000 consumers who were allegedly overcharged deed and mortgage recording fees and were refunded 100% of the overcharge through a claims process); Espinosa v. Integrity Title Agency, Inc., Docket Number BUR-L-2668-11 (lead counsel in class action on behalf of 5,000 consumers who were allegedly overcharged deed and mortgage recording fees and were refunded 100% of the overcharge through a claims process).

Mr. DeNittis has also lectured extensively on class action topics, including at the following seminars:

- **Lecturer/Moderator, “Consumer Law,” New Jersey Association of Justice, Boardwalk Seminar, April *, 2016;**
- **Lecturer, “Identifying Consumer Class Action,” New Jersey Association of Justice, Boardwalk Seminar, April 9, 2015;**
- **Lecturer, “Ascertainable Loss Under the NJ CFA – More than Just Out-of-Pocket Damages,” New Jersey Association for Justice, Meadowlands Seminar, November 15, 2013;**
- **Lecturer, “Ascertainable Loss Under the NJ CFA – More than Just Out-of-Pocket Damages,” New Jersey Association for Justice, Meadowlands Seminar, November 15, 2013;**
- **Lecturer, “Consumer Fraud Product Labeling Class Actions: One Label, Very Different Perspectives – Plaintiffs, Defendants and the Government,” Perrin Conferences, November 15, 2012;**
- **Lecturer, “Challenges for Plaintiffs and Defendants Posed by Recent NJ Class Action Decisions,” Camden County Bar Association Class Action Practice Committee, May 16, 2012;**
- **Lecturer, “The Impact of Recent Developments in Class Action Law in the Interests of Plaintiffs and Defendants – New Jersey and Beyond,” Camden County Bar Association Class Action Committee, April 19, 2011;**
- **Lecturer, “Anticipating Class Action,” Camden County Bar Association Class Action Practice Committee, March 23, 2010;**
- **Lecturer, “Private Practice Professional Development Symposium – Class Action Litigation,” Rutgers-Camden University School of Law, February 28, 2009;**
- **Lecturer, “Fair Labor Standards Act (FLSA) Collective Actions,” Camden County Bar Association Labor & Employment Law Committee, November 12, 2008;**

Mr. DeNittis is also co-author of the following article on class actions:

- **Co-Author, “A Plaintiff’s Perspective of the New Ascertainability Requirement in Federal Class Actions,” *New Jersey Lawyer*, April 2015 at 24.**

Mr. DeNittis was plaintiffs’ trial counsel in *Barkers v. Public Service Electric and Gas (PSEG)* where he obtained an order for PSEG to install excess flow valves or place cement protective bollards to approximately 2,800 residential and commercial gas meter sets located throughout the State of New Jersey. As a result of Mr. DeNittis’ efforts in the case, the New Jersey Board of Public Utilities proposed and adopted new rules and regulations in December of 2004 prohibiting any new or existing gas meters from being installed in the State of New Jersey within 3 feet of any garage door, driveway or parking area. Mr. DeNittis was also lead trial counsel in *Schmoll v. J.S. Hovnanian*, a class action that settled after four days of trial which resulted in J.S. Hovnanian repairing a construction defect found in 995 homes in the Holiday East development in Mt. Laurel, New Jersey.

Mr. DeNittis is also rated AV, the highest rating given by Martindale Hubbell, the country’s foremost legal directory. He has also been named a “New Jersey Super Lawyer” in 2013-2015 (and previously a “New Jersey Rising Star” from 2006 thru 2011) by Law and Politics Magazine and New Jersey Monthly where he was recognized in the top 2.5% of attorneys practicing in New Jersey. Also he has been recognized in 2011, 2012-2015 by SJ Magazine as Top Class Action lawyer and South Jersey Magazine as an “Awesome Attorney” in the field of Personal Injury.

Joseph A. Osefchen is a partner in the firm. His practice has focused almost exclusively on class actions for the last 23 years and he has participated in well over 170 certified class actions. These include: *Moench v. Robertson*, 62 F.3d 553 (3rd Cir.1995) (ERISA class action); *Mancuso v. Crystal Title Agency*, Docket No. MID-L-2990-14 (consumer fraud class action); *Espinosa v. MAMCO Property Management and Associations, Inc.*, 2011 WL 4478558 (D.N.J.2011) (consumer fraud class action); *Jones v. Commerce Bancorp. Inc.*, Civil Action No. 05-cv-05600-RBK-AMD (D.N.J.) (consumer fraud); *Carnival et. al. v. WMX, Technologies et. al.*, CIVIL ACTION NO. 97-5122 (D.N.J.)(toxic tort/trespass); *Arnold, et al. v. Ambassadors International, Inc., et al.*, Civil Action No. 01-CV-2020 (JEI) (D.N.J.)(consumer fraud); *Hawker v. Consovoy*, 198 F.R.D. 619 (D.N.J.2001)(class action civil rights); *Blasini v. Weichert South Jersey, Inc.*, Docket Number BUR-L-736-11 (consumer class action); *Blasini v. Prudential Fox & Roach*, Docket Number BUR-989-11 (consumer class action); *Baraldi v. Surety Title*, Docket Number BUR- L-3379-11 (consumer class action); *Lott v. Swift Transportation Co., Inc., et al.*, No. 09-cv-02287 BBD (W.D.Tn. 2011)(class action involving CDL testing); *Simel v. JP Morgan Chase*, No 05-9750-GBD (S.D.N.Y. 2011); *Bernhard, et al. v. TD Bank, N.A., et al.*, D.N.J. Civil Action No. 08-cv-4392 (D.N.J. 2010)(wage and hour class action); *McAlarnen v. Dolan, et al.*, Civil Action No. 09-cv-1737 (E.D.Pa.)(civil rights class action); *Skye v. Maersk Lines, Ltd., et al.*, Civil Action No. 08-4813 (D.N.J. 2008) (Jones Act class action); *Felderstein v. Orleans*, Docket Number BUR-L-479-02 (construction defect class action); *Melnick v. Orleans*, Docket Number BUR-L-152-01 (construction defect class action); *Ward and Decker v. York*

International, et al., Docket Number BUR-L-2693-03 (construction defect); Staub v. Hoeganacs, Docket Number BUR-L-2080-03 (toxic tort/trespass), Blasini v. Weichert South Jersey, Inc., Docket Number BUR-L-736-11 (consumer fraud); Thomas v. SmithKline Beecham Corp., 201 F.R.D. 386, 396 (E.D. Pa. 2001) (holding that plaintiffs' counsel in the SmithKline matter, including Joseph A. Osefchen, "**have extensive experience litigating class actions**").

Mr. Osefchen is also co-author of the following articles on class actions:

- **Co-Author, New Jersey Parts Company with the Federal Courts on Whether to Consider Merits Issues on Class Certification, 43 Rutgers L.J. 59 (2011);**
- **Co-Author, Leveling the Playing Field in the Garden State: A Guide to New Jersey Class Action Case Law, 37 Rutgers L.J. 399 (2006), cited with approval in *Illiadis v. Wal-Mart Stores, Inc.*, 191 N.J. 88, 105 (2007);**
- **Co-Author: Interlocutory Class Action Appeals, New Jersey Law Journal, Vol. CLX, No. 3, Index 173, (April 17, 2000); and**
- **Co-Author, "A Plaintiff's Perspective of the New Ascertainability Requirement in Federal Class Actions," New Jersey Lawyer, April 2015 at 24.**

Mr. Osefchen recently argued and won the appeal in Bernetich, Hatzell & Pascu, LLC v. Med. Records Online, Inc., No. A-0657-15T3, --- N.J. Super---, 2016 N.J. Super. LEXIS 56 (. App. Div. Apr. 22, 2016), resulting in an opinion approved for publication by the New Jersey Appellate Division which broke new ground as to the enforceability of arbitration agreements under New Jersey contract law. Mr. Osefchen received his Juris Doctor degree from Rutgers University School of Law, with High Honors, in 1992 . He was a staff member of the Rutgers Law Journal, (the law review of Rutgers University School of Law- Camden), a Ritcher Scholar and the 1992 recipient of the Donald F. D'Agui Memorial Award for Demonstrated Excellence in the Law of Torts. In 1992 and 1993, he served as judicial law clerk to the Honorable James D. Clyne,P.J.Cv., Ocean County Superior Court.

NOTABLE CASES

Class Actions

\$43,500,000 Million – Poole v. Merrill Lynch. The settlement was for 23,000 class members in the action captioned Jeffrey Poole v. Merrill Lynch, Pierce, Fenner & Smith, Incorporated, Case No. CV-06-1657 ("Poole"). Poole is a consolidation in the United States District Court for the District of Oregon of ten cases filed in several states throughout the United States against Merrill, Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch"). The action was brought on behalf of Financial Advisors and Financial Advisor Trainees of Merrill Lynch. The action alleged that Merrill Lynch failed to pay its Financial Advisors for overtime that they worked in violation of the Fair Labor Standards Act ("FLSA"), a federal statute, and various state wage and hour laws. The action also alleged that Merrill Lynch had improperly taken business expenses, such as the salary for financial assistants and errors in transactions with clients, from the wages of its Financial Advisors in violation of various state wage and hour laws.

In Re Title Agency Recording fee Overcharging Cases. The firm filed and settled on a class wide basis 31 cases against 31 different title agencies throughout the State of New Jersey between 2012 and the present time. The allegations in these cases involved consumer fraud violations for deed and recording fee overcharges for illegal fees imposed on consumers while refinancing or closing on a real estate purchase. Over 200,000 consumers received refunds in the range of \$30-\$200 representing a 100% refund over their overcharge.

\$9,000,000 - DeMarco v. National Collector's Mint, 229 F.R.D. 73 (S.D.N.Y. 2005) - The settlement, on behalf of a class of 176,000 people, provided a full refund (equaling almost \$9,000,000) to people who bought the Freedom Tower Silver Dollar from National Collector's Mint, Inc. (NCM) between September 1, 2004 and May 31, 2005. The class complaint alleged that NCM misrepresented the authenticity of the Freedom Tower Silver Dollars it sold to consumers. The class also claimed that NCM violated the Hobby Protection Act 15 U.S.C. § 2101(b) and should have marked the Freedom Tower Silver Dollars they sold with the word "COPY". The case was a matter of first impression in the United States District Court for Southern District of New York, and is now a published opinion in the Federal Reporters. September 2005.

\$6.200,000 - Telliho v. East Windsor Township, American Traffic Solutions and Redflex et. al., Civil Action No.: 3:12-cv-4800 (lead counsel in the New Jersey Red light camera cases which settled for \$6.2 million providing refunds to over 400,000 class members in the State);

\$5,100,000 - Carnival v. Waste Management Inc. - Civil Action No. 97 5122 - A \$5,100,000 settlement paid by Waste Management, Inc. for the property devaluation of approximately 2,000 property owners due to the alleged negligent operations of a municipal waste dump. September 1998.

\$5,500,000 - Arnold & Tiefert v. Ambassadors International, et. al - Civil Action No. 01 2020(JEI) - A \$5,500,000 valued settlement, (combination, of cash funds and vouchers) for a

class of 10,000 students who were allegedly induced through misrepresentations and false advertising to participate in an international sports tournament which was promoted by defendants. June 2002.

\$1,450,000 – Staub, et al. v. Hoeganaes, BUR-L-2080-03 - On August 16th, 2006, the Court granted final approval of a \$1.45 million class action settlement for industrial emissions damaging boat windows. Plaintiffs claimed that particulate iron from Hoeganaes Corporation plant in Riverton caused deterioration of transparent sheet windows called Isinglass on their motorboat. The settlement provided boat owners with compensation ranging between \$325 to \$1,330 depending on the boat's size, window repairs and other factors. Docket Number BUR-L-2080-03. August 2006.

\$1,400,000 – Melnick & Roberts v. Orleans Homebuilders, Inc – Docket No. BUR-C-152-01 - A \$1,400,000 valued settlement on behalf of 3,721 homeowners who resided in town homes and condominiums throughout Mt. Laurel, New Jersey. This settlement provided injunctive relief which included Orleans providing carbon monoxide detectors to each class member; two (2) years of inspections for each class member's home; and repairs of any construction defects in each class members' utility room. Allegations in the class members' complaint included construction defects and consumer fraud. March 2003.

\$5,500,000 – Pandel v. Tristar Inc. et. al. - A \$5,500,000 settlement was reached with defendant Tristar Inc. for a class of over 1 million purchasers, of the widely advertised electronic stimulated exercise belts called the Fast Abs. The settlement provided refunds to members of the class. The members of the class alleged that the marketers of Fast Abs falsely advertised that users would get "six pack" or "washboard" abs without exercise. August 2003.

Barkers v. Public Service Electric & Gas (PSE&G) et. al - A settlement was reached between a putative class of homeowners and PSE&G wherein PSE&G agreed to either install excess flow valves or place cement protective bollards to approximately 2,800 residential and commercial meter sets located throughout the State of New Jersey pursuant to a Work Plan that was filed with the Board of Public Utilities. Plaintiffs alleged that PSE&G negligently placed meters in a dangerous condition, in close proximity to persons' driveways, garage doors or parking areas. As a result of the efforts of Shabel & DeNittis, P.C. in pursuing this case, the Board of Public Utilities proposed and adopted new rules and regulations in December of 2004 prohibiting any new or existing gas meters from being installed within 3 feet of any garage door, driveway or parking area in the State of New Jersey. June 2004.

Schmoll v. J.S. Hovnanian, Docket Number, BUR-C-141-02 - A settlement was reached with homebuilder J.S. Hovnanian & Sons on behalf of 996 homeowners who reside in single family homes throughout Mt. Laurel, New Jersey. The settlement was reached after four days at trial. The settlement included defendants providing inspections and repairs of class members' homes. September 2005.

\$342,000 – Felderstein et. al. v. Orleans Homebuilders, Inc. – Docket No. BUR-L-479-02 - A cash settlement with defendant, Orleans Homebuilders, Inc., for a class of 57 homeowners in the

Laurel Creek development in Mt. Laurel, New Jersey. The members of the class alleged that there was a construction defect when the homes were constructed. The class members alleged defendants negligently constructed the homes when it failed to place flashing around the bay windows of their homes which led to substantial water damage. February 2003.

Personal Injury Awards

\$7,100,000 - Ingling v. Ryder Truck Rental Inc. et al., Docket No. CAM-L-7910-04 - A settlement was reached for a man who suffered a catastrophic brain injury due to a slip and fall on ice that occurred on a Ryder Truck parking lot in Pennsauken, New Jersey. This settlement was the largest individual slip and fall/premises liability settlement in the State of New Jersey in the year 2007 and the third highest ever reported in the State of New Jersey. March 23, 2007.

\$4,250,000 settlement for a man who suffered severe brain damage due to medical malpractice which occurred while he was admitted at a regional hospital in South Jersey subsequent to an automobile accident. This case was the fourth largest personal injury settlement in the State of New Jersey in the year 1999. June 1999.

\$435,000 verdict for wrongful death of a student who died while driving his automobile. The cause of his death was the allegation that government workers negligently maintained a highway. March 1998

\$750,000 settlement for the employment age/disability discrimination of a man who worked for a public Florida time-share company. October 1999.

\$310,000 verdict for a child burned due to a dangerously designed metal cellar door designed by Bilco Doors. October 1998.

\$550,000 settlement for a print shop worker who injured his hand in a printing press. June 1996.

\$975,000 settlement for a man severely injured when his all terrain vehicle flipped over while making a turn. 1995.

BRAGAR EAGEL & SQUIRE, P.C.

FIRM RESUME

Bragar Eigel & Squire, PC is a firm engaged in sophisticated commercial and securities litigation. Our partners have strong professional backgrounds including extensive experience in all aspects of commercial litigation.

Although the firm is small in size, our broad range of experience and expertise allows us to take on almost any matter for our clients. Our attorneys have decades of experience litigating securities class actions, derivative matters and consumer rights actions, obtaining well over a billion dollars in recoveries for clients and class members.

OUR PRACTICE

As a litigation specialty firm we handle a wide variety of matters. We deal with every aspect of a dispute in litigation from discovery through trial and appeal. The majority of the practice areas we handle can be summarized in the following categories:

- Alternative Dispute Resolution
- Bankruptcy and Insolvency-Related Litigation
- Class Actions, Securities and Derivatives
- General Commercial Litigation
- Real Estate and Construction Litigation

A more substantive discussion of each of these areas follows. In order to provide a better picture of the range of matters that we handle, each description is followed by a short list illustrating some of the representative matters we have handled in that area.

Alternative Dispute Resolution

Our attorneys have significant experience arbitrating matters in various forums. Prior to commencing litigation, we work closely with our clients to determine the best venue to bring their claims, and we advise clients with respect to arbitration provisions in their contracts. We are also often retained by clients to challenge in court an adverse ruling the client received in arbitration. We have experience prosecuting FINRA arbitrations and other matters under the rules of the American Arbitration Association.

BRAGAR EAGEL & SQUIRE, P.C.

Representative Matters

- ***Roffler v. Spear Leeds & Kellogg***. New York Supreme Court, New York County. Successfully confirmed a \$1,250,000 arbitration award in favor of a client of a securities firm after two adverse trial court and one adverse appellate court decisions (reported at 13 A.D. 3d 308, 788 N.Y.S.2d 326 (1st Dept. 2004)). Prevailed on standard of review of arbitration awards.
- ***Cellier des Samsons v. Excelsior Wine & Spirits Corp.*** United States District Court for the Southern District of New York. Successfully vacated a default judgment for \$122,905 against client. Subsequently conducted a one-week international arbitration in Zurich, Switzerland, resulting in award of \$211,000 for client and dismissal of all claims that had led to the default judgment. Prevailed on standards for vacating default judgment and then on practices in the wine importing industry.
- ***Overlook Terrace Corp. v. Excel Properties Corp.*** Represented one shareholder of a corporation in suit against another shareholder and accountants for the corporation. Successfully interpreted the agreement between the parties and established that defendants committed corporate waste. Achieved a settlement with the accountants and a verdict for \$750,000 after a two-week arbitration trial before a retired New Jersey Supreme Court judge. Case was originally pending in the Superior Court, Bergen County, State of New Jersey.
- ***Sendor v. Hammer***, United States District Court for the Southern District of New York. After compelling arbitration by court order, obtained an arbitrator's award based on interpretation of parties' agreement that clients owned half of magazine and were entitled to \$700,000.
- **Confidential FINRA Arbitration**. Commenced arbitration against financial advisor with respect to the drafting and implementation of a Rule 10b5-1 stock trading plan. Matter settled for \$925,000 on the eve of arbitration.

Bankruptcy and Insolvency-Related Litigation

Our knowledge of bankruptcy law and proceedings has helped us carve a niche in the often overlapping sphere of litigation. We have a particularly strong practice representing clients who have invested in companies undergoing reorganization. Because of our expertise, we have acted as bankruptcy counsel to other firms pursuing claims on behalf of their clients. We are also involved in more traditional aspects of reorganization and bankruptcy proceedings. For example, we have been appointed by creditors' committees to pursue claims for their benefit and the benefit of the estates in question. We are often retained by bankruptcy trustees and official committees to investigate and commence litigation arising out of financial misrepresentation and fiduciary breach claims.

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BRAGAR EAGEL & SQUIRE, P.C.

Representative Matters

- ***In re Pitt Penn Holding Co.***, No. 09-11475 (Bankr. D.Del). Representing Industrial Enterprises of America, Inc. in 12 different adversary proceedings in the Bankruptcy Court, District of Delaware and one civil action in the United States District Court for the District of Colorado. Bragar Eagel & Squire, P.C., along with another firm, represents a trustee in bankruptcy of a company that was the subject of a major fraud, for which the two principals were convicted and jailed. We have pursued the thirteen actions against one hundred and twenty defendants for a variety of wrongdoings ranging from orchestrating and assisting the fraud to constructive fraudulent conveyance and unjust enrichment.
- ***In re Universal Automotive Industries, Inc.***, No. 05-27778 (Bankr. D.N.J.). Represented trustee and secured lenders in claims against former officers and directors. Case resolved favorably for plaintiffs.
- ***In re Acclaim Entertainment, Inc.***, No. 04-85595 (Bankr. E.D.N.Y). Represented trustee in litigation against former officers and directors. Case resolved favorably for trustee.
- ***In re Allou Distributors, Inc.***, No. 03-82321 (Bankr. E.D.N.Y). Represented trustee and secured lenders in claims against former officers and directors. Case resolved favorably for plaintiffs.
- ***In re Worldcom***, No. 02-13533 (Bankr. S.D.N.Y.). Represented patent owner in multimillion dollar claim for patent infringement. Case resolved favorably for client.
- ***In re Enron Corp.***, No. 01-16034 (Bankr. S.D.N.Y). Shareholders filed suit against a corporation that withdrew from a merger agreement with the debtor corporation seeking to enforce the merger agreement. Case was settled for \$6 million.
- ***Arbor Place, L.P. v. Encore Opportunity Fund, L.L.C.***, No. 20436 (Del. Ch. 2003). Investors in a hedge fund sued for misrepresenting the value of the investments. Case resolved favorably for plaintiffs.

BRAGAR EAGEL & SQUIRE, P.C.

Class Actions, Securities & Derivative Actions

The core of our practice remains prosecuting class actions and derivative cases on behalf of shareholders and consumers. We have an active practice before the Delaware Court of Chancery and have achieved success before the Delaware Supreme Court litigating matters involving stockholder rights and the rights of limited partnerships. Our recent victory before the Delaware Supreme Court strengthens the rights of limited partners in public partnerships.

We have a strong securities litigation practice, particularly notable given our relatively small size. We represent both plaintiffs and defendants in securities fraud and other cases involving alleged corporate mismanagement. We frequently represent shareholders who institute derivative and/or securities class actions. We have also been involved on the other side in securities defense work representing our clients in litigations alleging fraud as well as SEC investigations.

We also have a robust practice litigating claims on behalf of consumers. These matters include claims arising out of loyalty programs, student loan administration, and the federal Fair Credit and Reporting Act. Our attorneys are also knowledgeable about a wide-range of issues affecting the public, including Internet privacy laws, whistle-blower protections, and food labeling violations.

Representative Matters

- ***In re Activision Blizzard, Inc. Stockholders Litigation***, No. 8885 (Del. Ch. 2013). Derivative settlement on eve of trial of \$275 million, by far the largest monetary settlement in the history of the Court of Chancery and the largest cash derivative settlement in the country. In addition, settlement provided significant corporate governance benefits to class.
- ***Gerber v. Enterprise Products Holdings LLC.***, No. 5989 (Del. Ch. 2013). We served as lead counsel for derivative and class claims arising out of a variety of master limited partnership transactions, alleging that the general partner's approvals of the transactions were done in bad faith and in breach of the implied covenant of good faith and fair dealing. One action was settled by defendants agreeing to a merger that increased the value of the limited partnership units by approximately \$400 million. In another action, after the trial court dismissed the complaint, we prevailed before the Delaware Supreme Court to reinstate the claims for breach of implied covenant. The matters settled for \$12.4 million for the Master Limited Partnership unitholders.

BRAGAR EAGEL & SQUIRE, P.C.

- ***In re El Paso Pipeline Partners, L.P. Derivative Litigation***, No. 7141 (Del. Ch. 2011). We prosecuted claims on behalf of El Paso Pipeline Partners, L.P., a public Master Limited Partnership, against its general partner and its sponsor, El Paso Corporation (now merged into Kinder Morgan, Inc.). The claims arose out of the 2010 “drop down” of certain pipeline assets from the general partner to the partnership. After trial, the Court found that the Special Committee which recommended approval of the transaction did not believe that the transaction was in the best interests of the partnership and, therefore, that the general partner breached the partnership agreement by engaging in the transaction. The Court found that the Partnership was damaged in the amount of \$171 million.
- ***Sateriale v. R.J. Reynolds Tobacco Co.***, No. 09-8394 (C.D. Cal.). United States District Court for the Central District of California. We brought claims against R.J. Reynolds Tobacco Co. (“RJR”) arising out of the Camel Cash Loyalty Program. The Ninth Circuit reversed the district court’s dismissal of the complaint, holding that RJR’s alleged communications concerning the Camel Cash program – “C-Notes” – constituted offers to enter into unilateral contracts. The Trial Court subsequently denied RJR’s motion for summary judgment, certified a California class and denied RJR’s motions to reconsider. A settlement agreement, subject to Court approval, has been reached whereupon RJR will reopen the Camel Cash program for a period of six months, allowing participants of the program to each redeem up to 3,000 C-Notes in exchange for non-tobacco merchandise commensurate to the non-tobacco products offered by RJR during the lifetime of the program. The parties also agreed that RJR would pay plaintiffs’ attorneys’ fees and costs.
- ***Brinckerhoff v. Texas Eastern Products Pipeline Company, LLC.***, No. 2427 (Del. Ch. 2010). We brought claims on behalf of TEPPCO’s common unitholders claiming that in transactions orchestrated by TEPPCO’s general partner, TEPPCO had been shortchanged by hundreds of millions of dollars. The action was resolved by a merger which benefitted TEPPCO’s unitholders by more than \$400 million.
- **Bennett Funding Litigation.** Successfully served as co-lead counsel and special insurance counsel to plaintiff’s lead counsel in class actions in both the Federal District Court, Southern District of New York and the Bankruptcy Court of the Northern District of New York. Actions settled suits against Assicurazioni Generali, S.p.A. Company for \$125 million as reported at 258 B.R. 78 (Bankr. N.D.N.Y. 2000) and against Sphere Drake Insurance PLC for \$27.5 million, as reported at 439 F.3d 155 (2d Cir. 2006). The matter involved a Ponzi scheme and dealt with complicated issues of identification of beneficiary of insurance policies as well as the intersection of bankruptcy and securities laws and of equities between class members and creditors of the bankrupt estate.

BRAGAR EAGEL & SQUIRE, P.C.

- ***Trinad Capital Master Fund Ltd. v Majesco Entertainment Company, et al.***, No. 06-05265 (D.N.J.). United States District Court for the District of New Jersey. Represented hedge fund in opt-out securities fraud litigation against officers and directors of public company. Case resolved favorably for client.

General Commercial Litigation

Our attorneys handle both plaintiff and defendant work encompassing all aspects of commercial litigation in traditional forums and through alternate dispute resolution. We have recently brought an arbitration against a national brokerage firm, prosecuted a consumer class action involving a marketing promotion, and defended a company and its founder against claims of fraud in connection with the sale of a high-tech start-up. Although frequently involved in trial practice, much of our work is consultative in nature. As such, we act in an advisory capacity or pre-litigation mode where we are attempting to solve business disagreements and partnership disputes without commencing a formal action. This often occurs when small businesses undergo a significant change such as a partnership split or business "divorce" or, in the case of a closely held business, a transition of ownership. Additional areas of focus include commercial contract actions and personal service contracts, both in negotiation and in contests questioning the parties' adherence to contract terms. In this regard, we have been involved in several arbitration cases involving major sports teams. We also handle cases involving insurance disputes including contesting insurance valuations and coverage refusals.

Representative Matters

- ***Dimension Trading Partners, LLC v. Jamie F. Lissette and Hammerstone NV, Inc.***, No. 650284/2013, New York Supreme Court, New York County. Defended proprietary trader against claim to collect on promissory note issued in connection with the establishment of trading relationship.
- ***Ator Limited v. Comodo Holdings Limited***, No. 12 -03083 (D.N.J.). Represented third-party defendants in dispute arising out of the sale of a start-up company.
- ***Financials Restructuring Partners v. Premier Bancshares, Inc.***, No. 651283/2013, New York Supreme Court, New York County. Defended former bank holding company against attempt to foreclose upon \$6 million in debt securities.
- ***Bellis v. Tokio Marine Insurance Company***, Procured a \$7 million settlement after obtaining a jury verdict on liability based on causation of damage in insurance claim. Also defeated a summary judgment motion reported at 2002 WL 193149 (S.D.N.Y.). The case involved attribution of liability for some priceless Tiffany glass that was damaged while on exhibit in Tokyo. Reported at 2004 WL 1637045 (S.D.N.Y.).

BRAGAR EAGEL & SQUIRE, P.C.

- ***Paquette v. Twentieth Century Fox***, Compelled Fox television to grant “created by/inspired by” credits to authors of comic book from which television series was adapted, establishing claim of reverse passing off, i.e. improperly taking credit for someone else’s work, under the Lanham Act. Reported at 2000 WL 235133 (S.D.N.Y.).
- ***Colton Hartnick Yamin & Sheresky v. Feinberg***, New York Supreme Court, New York County. Successfully reversed trial court’s denial of summary judgment to law firm on impropriety of claim of malpractice. On appeal, dismissed malpractice claim based on lack of facts to establish legal malpractice and punitive damages. Reported at 227 A.D.2d 233, 642 N.Y.S.2d 283.

Corporate/Partnership Disputes

- ***Mun v. Hong***, New York Supreme Court, New York County. Reversed a trial court’s dismissal of complaint seeking damages from breach of a partnership agreement to acquire real property. Reported at 44 A.D.3d 534, 843 N.Y.S.2d 505.
- ***Levine v. Murray Hill Manor Company***, New York Supreme Court, New York County. Represented partnership and general partner and successfully dismissed claims brought by assignees of limited partnership by establishing that the assignees may not sue the partnership and partners. Reported at 143 A.D.2d 298, 532 N.Y.S.2d 130.
- ***Marks v. Zucker***, New York Supreme Court, New York County. Represented partnerships and corporations dismissing claims of stockholder for accounting by successfully interpreting corporate law remedies and necessary parties to action. Reported at 118 A.D.2d 452, 499 N.Y.S.2d 740.

Real Estate and Construction Litigation

We have extensive experience with the issues facing real estate developers today, including construction, zoning and financing. Currently, we represent a large commercial developer in the greater New York Metropolitan area. We deal with a range of cases involving real estate including foreclosures, coping with regulatory restrictions, other potential lease or development limitations and restructurings. We also deal with the more traditional aspects of commercial real estate such as lease negotiations and establishing the ownership structure of a development.

BRAGAR EAGEL & SQUIRE, P.C.

Representative Matters

- ***Shmueli v. NRT N.Y., Inc.***, New York Supreme Court, New York County. Obtained reversal of punitive damages award. Reported at 107 A.D.3d 465.
- ***325 Schermerhorn LLC, et. al. v. Nevins Realty Corp. et. al.***, New York Supreme Court, Kings County. We prevailed on summary judgment to compel defendants to pay \$3.6 million plus interest representing a returned down payment on four properties. Reported decision at 23 Misc. 3d 1109(A), 886 N.Y.S.2d 69 (Sup. Ct., Kings Cty.); Affirmed 76 A.D.3d 625, 906 N.Y.S.2d 339.
- ***LeNoble Lumber Company v. 525 West 52nd St. LLC.***, New York Supreme Court, New York County. Represented minority owner asserting right of first refusal to purchase the balance of the building. Obtained a seven figure settlement.
- ***Jasinski v. City of New York***, New York Supreme Court, New York County. Reversed a trial court decision by prevailing on construction of indemnification clause in condominium documents to show that sponsor/owner of a condominium unit had been indemnified by condominium for personal injury sustained on a treewell in an adjacent sidewalk. Reported at 290 A.D. 2d 237, 735 N.Y.S.2d 126 (1st Dept. 2002).
- ***Menorah Nursing Home v. Zukov***, New York Supreme Court, Kings County. Obtained a \$2,000,000 settlement for a nursing home after six weeks of trial for defective masonry construction arising from \$180,000 contract.
- ***West Broadway Glass Co. v. I.T.M. Bar, Inc.***, New York Supreme Court. Obtained reversal of an Appellate Term decision that upheld a trial court's determination to abate rent entirely as a result of floods on commercial premises and remanded for calculation of actual damages. Reported at 245 A.D.2d 232, 666 N.Y.S.2d 629 (1st Dept. 1997).
- ***Sullivan Realty Company v. Rowan***, New York Supreme Court, Sullivan County. In a zoning case, won a trial and appeal to recover security deposit on land purchased for a 425 unit development by proving that the purchaser diligently attempted to obtain local government approvals, even though it failed to do so. Reported at 234 A.D.2d 701, 650 N.Y.S.2d 858 (3rd Dept. 1996) and 189 A.D.2d 1084, 593 N.Y.S.2d 102 (3rd Dept. 1993).

BRAGAR EAGEL & SQUIRE, P.C.

- **Berman & Brickell v. The Penn Central Corp.**, United States District Court for the Southern District of New York. Won a non-jury trial dismissing a multimillion dollar claim by broker against Penn Central, the owner of a Park Ave. building, proving that the broker was not the procuring cause of a lease of the space in the Federal District Court, Southern District of New York, and sustained the dismissal on appeal. Reported at 1986 U.S. Dist. LEXIS 21217.
- **Hillman v. Penn Central Corp.**, New York Supreme Court, Chemung County. Prevailed on interpretation of General Obligations Law recreational immunity to dismiss severe personal injury brought against a railroad. Successfully reversed trial court's denial of summary judgment. Reported at 204 A.D. 902, 612 N.Y.S.2d 489 (3rd Dept. 1994).
- **Marks v. Zucker**, New York Supreme Court, New York County. Obtained dismissal of core claims in partnership dispute involving numerous Manhattan buildings. Reported at 118 A.D.2d 452, 499 N.Y.S. 2d 740 (1st Dept. 1986).

OUR ATTORNEYS

Raymond A. Bragar

Ray Bragar started the firm in 1983 and practices general litigation with a sub-specialty in real estate and real estate litigation. He has over thirty years of experience practicing in New York State and Federal Courts. He has handled complex trials before juries and judges lasting several weeks and numerous appeals in both the State and Federal Courts. He also has extensive experience working in the nontraditional forums of alternate dispute resolution, including multiple-week trials.

Following graduation, Ray was law clerk to the Hon. Lloyd F. McMahon who was then Chief Judge for the United States District Court for the Southern District of New York. He also previously worked for the firm of Rosenman & Colin, LLP.

Ray is admitted in New York State, as well as in the United States District Courts for the Southern, Eastern, and Northern Districts of New York, the Second and Fourth Circuit Courts of Appeals, the District of Columbia Court of Appeals and the United States Supreme Court. He is a member of the American Bar Association, Litigation Section, the Association of the Bar of the City of New York, and the New York State Bar Association, where he has been a member of the Civil Practice Law & Rules Committee since 1985.

Ray is a 1972 graduate, *cum laude*, of the Harvard Law School and is a 1968 graduate *magna cum laude* of Rutgers University.

BRAGAR EAGEL & SQUIRE, P.C.

Lawrence P. Eagel

Larry Eagel is a partner in the firm and joined in 1994. Larry handles all types of litigation, but is particularly skilled in the areas of securities and bankruptcy related litigation, including class actions. Prior to 1994, he was associated with the firm of Proskauer Rose LLP. Larry was also a certified public accountant, and worked in the late 1970's as an auditor with Grant Thornton & Co. (formerly Alexander Grant & Co.) in the firm's Washington, D.C. office.

Larry is admitted in New York State and New Jersey and the United States District Court for the Southern, Eastern, and Northern Districts of New York, the United States District Court for the District of New Jersey, the Second and Third Circuit Courts of Appeals and the United States Tax Court. He is also a member of The Association of the Bar of the City of New York, where he was a member of the Committee on Federal Legislation from 1993-1997.

Larry is a 1983 *cum laude* graduate of the Brooklyn Law School, where he was a Comments Editor of the *Brooklyn Law Review*. He completed his undergraduate work at George Washington University in 1978, where he also earned an M.B.A. in 1980.

Jeffrey H. Squire

Jeffrey H. Squire is a partner in the firm. He is a graduate of Amherst College (B.A., cum laude, 1973) and the University of Pennsylvania (J.D. 1976) and is admitted to the bars in New York and Pennsylvania as well as the U.S. District Courts for the Southern, Eastern, and Northern Districts of New York and the U.S. Court of Appeals for the Second, Third, Seventh, and Ninth Circuits. Jeff was previously a partner at Kirby, McInerney & Squire LLP and Of Counsel to Wolf Popper LLP. Mr. Squire, as lead or co-lead counsel, has prosecuted scores of class and derivative actions on behalf of the shareholders of many corporations, including: Adelphia Communications Corporation, AT&T Corporation, Bennett Funding Group, Bisys Group, Inc, eBay, Inc., Ford Motor Company, The Limited Corporation, Morrison Knudsen, Washington Group, Inc., Waste Management, Inc., and Woolworth, Inc. In such cases, he has recovered over one billion dollars for the shareholders he has represented.

Mr. Squire's ability to prosecute sophisticated class actions successfully has often been the subject of judicial recognition:

"You have acted the way lawyers at their best ought to act. And I have had a lot of cases in 15 years now as a judge and I cannot recall a significant case where I felt people were better represented than they are here... I would say this has been the best representation that I have ever seen." *In re Waste Management, Inc. Securities Litigation*.

"Nonetheless, in this Court's experience, relatively few cases have involved as high level of risk, as extensive discovery, and, most importantly, as positive a final result for the class members as that obtained in this case." *In re Bisys Securities Litigation*.

BRAGAR EAGEL & SQUIRE, P.C.

David J. Stone

David J. Stone is a partner in the firm, having joined in May 2011. David has extensive experience litigating all types of commercial matters, including securities, mortgage-backed securities, and consumer class actions. Prior to joining the Firm, David was associated with Greenberg Traurig LLP, Morrison & Foerster LLP, and Cravath Swaine & Moore LLP.

David is a member of the bars of the State of New York and the State of California (inactive). He is admitted to practice before the United States District Courts for the Southern and Eastern Districts of New York, the Northern District of California, and the United States Court of Appeals for the Second Circuit.

David is a 1994 graduate of the Boston University School of Law, where he was an editor of the Law Review. He received his undergraduate degree in Philosophy from Tufts University.

Following graduation, David was law clerk to the Hon. Joseph L. Tauro who was then Chief Judge for the United States District Court for the District of Massachusetts.

J. Brandon Walker

J. Brandon Walker is a partner in the firm. Before joining the firm in 2015, Brandon was a partner at Kirby McInerney LLP. Brandon has a broad background in securities fraud, corporate governance and other complex class action and commercial litigation on behalf of shareholders. He has represented public retirement systems, union pension funds, European investment managers, and other institutional and individual investors before federal, state, and appellate courts throughout the country.

Brandon is a member of the bars of the State of New York and the State of South Carolina. He is admitted to practice before the United States District Courts for the Eastern and Southern Districts of New York and the United States Courts of Appeals for the First, Second, and Sixth Circuits.

Brandon is a 2008 graduate of Wake Forest University School of Law with an MBA from the Wake Forest University Graduate School of Management. He completed his undergraduate work at New York University.

Justin Kuehn

Justin A. Kuehn is an associate with the firm. Justin practices commercial litigation involving contract disputes, commercial and residential real estate, partnership disputes, business fraud, and bankruptcy litigation.

BRAGAR EAGEL & SQUIRE, P.C.

Justin is a 2007 graduate of The George Washington University Law School. He received a B.A. in Economics from Trinity College in 2004, where he was inducted into the Phi Gamma Mu Social Sciences Honor Society.

Justin is admitted in New York State and the United States District Court of the Southern District of New York.

Todd H. Henderson

Todd has an extensive background in shareholder derivative litigation. Many of his cases have involved breaches of fiduciary duties by public company boards of directors related to the payment of excessive compensation to executive officers, violations of the Foreign Corrupt Practices Act, and violations of the False Claims Act. He has represented institutional and individual shareholders in the mediation and settlement of numerous derivative actions and has significant experience in general litigation matters, including court appearances, depositions, complex document review, and accident site inspections. He focuses his practice on securities fraud, corporate governance, and other complex class action and commercial litigation on behalf of shareholders.

While attending law school, Todd was an Associate Managing Editor of the Brooklyn Journal of International Law. His note, "The English Premier League's Home Grown Player Rule under the Law of the European Union" was published in the Fall 2011 edition of the Brooklyn Journal of International Law (37 Brook. J. Int'l L. 259 (2011), Available at: <http://brooklynworks.brooklaw.edu/bjil/vol37/iss1/6>). Prior to attending law school, Todd gained experience as a paralegal for the Internal Revenue Service, Office of Chief Counsel. Todd is a 2012 graduate of Brooklyn Law School and a 2007 graduate of Cornell University.

Todd is admitted in New York State and the United States District Courts for the Eastern and Southern Districts of New York.

Derek Scherr

Derek Scherr is an associate with the firm. Derek practices commercial litigation involving contract disputes, commercial and residential real estate, partnership disputes, business fraud, and bankruptcy litigation.

Derek is a 2013 graduate of the Benjamin N. Cardozo School of Law. He received a B.A. in history from New York University in 2010.

Derek is admitted in New York State.

DeBenedictis & DeBenedictis LLC

Based in suburban Philadelphia, DeBenedictis & DeBenedictis LLC is a legal firm with significant experience across all aspects of the legal and securities markets. As a boutique class and complex litigation firm with unsurpassed qualifications, it has significant experience representing consumers and funds in state and federal courts throughout the United States.

DeBenedictis & DeBenedictis has been representing plaintiffs in such actions for nearly 15 years, and has prosecuted cases successfully against some of the largest corporations in the nation. Over time, the firm has built a successful track record, having helped secure verdicts and recoveries valued at over \$200,000,000.00 and currently representing varied plaintiffs with damage claims of over \$350,000,000.00.

Mr. DeBenedictis himself brings a uniquely qualified skill set to his practice and his clients. Having worked on Wall Street and with private equity funds, his intimate understanding of the market, investment community and major corporations, as well as the underlying financial statements, provides his clients with a level of representation and insight that is rarely available. An honors graduate of Dartmouth College and the University of Pennsylvania Law School, as well as the Wharton School of Business, Mr. DeBenedictis' representative cases include:

Representative Class Representation (non-exhaustive)

United States ex rel Petratos et al v. Genentech, Inc. et al No. 2:11cv3691 (D.NJ)(Putative Class Counsel in Qui Tam action alleging systematic overbilling of Medicare and Medicaid for the Cancer drug Avastin)

In Re Lamictal Indirect Purchaser and Antitrust Consumer Litigation Master File No. 2:12cv5120 (Liaison Counsel for putative indirect purchaser classes alleging collusion between branded and generic manufactures to inflate price)

In Re Lipitor Antitrust Litigation MDL No. 2332 Master Docket No. 3:12cv2389 (Putative class counsel of record for consolidated underlying indirect purchaser class alleging collusion between branded and generic manufactures to inflate price)

Wolf v. Nissan Motor Acceptance Corporation No. 1:10cv3338 (D.NJ) (Putative Class counsel in action on behalf of Servicemembers terminating automotive leases following deployment overseas)

Marc C. Demarest v Ford Motor Acceptance Corp. No. 3:11cv5501 (D.NJ) (Putative Class counsel in action on behalf of Servicemembers terminating automotive leases following deployment overseas)

W. Dana Venneman et al.v. BMW Financial Services NA, LLC No. 1:09cv5672 (D.NJ) (Putative Class counsel in action on behalf of Servicemembers terminating automotive leases following deployment overseas)

United States ex rel. Denenoe v. Allstate Ins. Co. No. 07cv2795 (E.D.La) (Qui Tam action alleging systematic overbilling of the National Flood Insurance Program by private insurance carriers following hurricane Katrina)

Kahana et al. v. Accutherm, Inc. et al. No. L-1823-06 (NJ) (Class Counsel in Medical monitoring class action on behalf of Children attending a daycare facility housed in a non-remediated former mercury thermometer plant.)

Opperman et al. v. Allstate New Jersey et al., No. 1:07cv1887 (D.N.J.) (Class Counsel in action alleging fraudulent insurance estimating databases)

In re Initial Public Offering Securities Litigation, 399 F. Supp. 2d 298, 307 n.55 (S.D.N.Y.2005), aff'd sub nom. Tenney v. Credit Suisse First Boston Corp., Inc., 2006 WL 1423785 (2d Cir. May 19, 2006). (Alleging analyst manipulation of earnings of companies associated CSFB' Frank Quattrone)

Madjeska et al. v PSE&G et. al., No. L-3484-05 (NJ) (Class Counsel in class action on behalf of approx 700 Camden residents seeking compensation for property damage)