

IN THE CIRCUIT COURT OF MARION COUNTY, MISSOURI,  
DISTRICT 1, PALMYRA, MISSOURI

FILED

JUL 03 2024

Cheryl L. Damron, Circuit Clerk  
Marion Co., Palmyra, MO District 1

SHERYL COUCH, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

HomeBank,

Defendant.

Case No. 23MM-CV00074

**[PROPOSED] ORDER GRANTING PLAINTIFF'S UNOPPOSED MOTION  
FOR PRELIMINARY APPROVAL  
OF CLASS ACTION SETTLEMENT**

THIS MATTER, having been brought before the Court on Plaintiff Sheryl Couch's ("Plaintiff") Unopposed Motion for Preliminary Approval of Class Action Settlement entered into with Defendant HomeBank ("HomeBank" or "Defendant"), by and through their respective attorneys, for an order granting preliminary approval of class action settlement (the "Motion"), and the Court having reviewed the submission of the Parties having found that the Parties are entitled to the relief they seek, and for good cause shown;

IT IS ORDERED that the Motion is GRANTED, and it is further ORDERED as follows:

1. The proposed Settlement Agreement, submitted with the Motion and filed with the Court, is within the range of that which may be approved as fair, reasonable, and adequate. Unless otherwise defined herein, all capitalized terms in this Preliminary Approval/Notice Order have the same meaning as the meaning described in the Settlement Agreement.

2. Based on the Motion, the Court concludes that the Settlement Agreement is within the realm of possible final approval because it is fair, reasonable, and adequate in light of the relevant factors set forth in *State ex rel. Byrd v. Chadwick*, 956 S.W.2d 369, 382 (Mo. App. 1997),

including the strength of Plaintiff's case weighed against the risk of continued litigation; the risk of maintaining class action status through trial; the amount offered in the Settlement; the extent of discovery completed and the stage of the proceedings; and the experience of Class Counsel.

3. Based upon the submissions of the Parties and the evidence submitted therein, the Court conditionally makes the following findings for settlement purposes only, subject to final affirmation at the Final Approval Hearing: (a) the members of the Settlement Class are so numerous as to make joinder impracticable; (b) there are questions of law and fact common to the Settlement Class, and such questions predominate over any questions affecting only individual Settlement Class Members; (c) Plaintiff's claims and the defenses thereto are typical of the claims of Settlement Class Members and the defenses thereto; (d) Plaintiff and her counsel can and have fairly and adequately protected the interests of the Settlement Class Members in the Action; and (e) a class action is superior to all other available methods for fairly and efficiently resolving this action and provides substantial benefits to the Parties, the Settlement Class Members and the Court. These findings are made for settlement purposes only. The Court expresses no opinion or conclusion in this Preliminary Approval/Notice Order or otherwise about whether class certification would be proper if this case proceeded on the merits.

4. Accordingly, for purposes of settlement only, the Court appoints Plaintiff Sheryl Couch as class representative for the Settlement Class, represented by Class Counsel set forth below, and conditionally certifies the Settlement Class defined as follows:

All current or former holders of a HomeBank personal or business checking account, regardless of the state of residence or citizenship of its account holder, who, between January 13, 2018 to and including the date on which the Court enters a Preliminary Approval Order as to this Settlement, were assessed an overdraft fee on a debit card transaction that was authorized on sufficient funds and settled on negative funds in the same amount for which the debit card transaction was authorized.

5. This matter is conditionally certified as a class action for settlement purposes only, under Missouri Rule of Civil Procedure 52.08.

6. Tiffany M. Yiatras of Consumer Protection Legal, LLC.; Sophia G. Gold of KalielGold PLLC; and Tyler B. Ewigleben and Christopher D. Jennings of Jennings PLLC are appointed as Class Counsel for the provisionally certified Settlement Class.

7. The Court hereby appoints KCC as the Claims Administrator to provide Notice to the Settlement Class and administer the Settlement.

8. Having reviewed the proposed forms of Class Notice attached as Exhibits 3 and 4 to the Settlement Agreement, the Court finds and determines that the form and content of the Notice constitutes the best notice practicable under the circumstances, constitutes due and sufficient notice of the matters set forth in the Notice, and fully satisfies the requirements of Rule 52.08 of the Missouri Rules of Civil Procedure and due process. Therefore, the Court approves such Notice and directs that within sixty (60) days after entry of this Preliminary Approval/Notice Order, the Claims Administrator shall begin disseminating Notice in accordance with the provisions of the Settlement Agreement and make all reasonable efforts to give notice to the Settlement Class.

9. Settlement Class Members shall exclude themselves from or object to the proposed Settlement within forty-five (45) days after the date the Notice must be delivered to Class Members.

10. To request exclusion from the Settlement, a Settlement Class Member must send an Exclusion Letter by mail to the Claims Administrator, postmarked on or before the Bar Date to Opt-Out, signed and dated by the Settlement Class Member with the statement that the Settlement Class Member wishes to exclude themselves from the Settlement.

11. Any Settlement Class Member who has not timely and validly requested exclusion from the Settlement and who wishes to object to the Settlement, must send a written objection to the Claims Administrator by first class mail, postage pre-paid, postmarked on or before the Bar Date to Object. To be valid and considered by the Court, the objection must include: (1) the objector's name, address, telephone number, and the contact information of any attorney retained by the objector in connection with the objection or otherwise in connection with the case; (2) a statement of the factual and legal basis for each objection and any exhibits the objector wishes the Court to consider in connection with the objection; and (3) a statement as to whether the objector intends to appear at the Final Approval Hearing, either in person or through counsel, and, if through counsel, identifying counsel by name, address, and telephone number.

12. A Final Approval Hearing shall be held before this Court on 12-4, 2024 at 9:30 9 a.m./p.m.

13. The Parties are hereby directed to carry out their obligations under the Settlement Agreement.

IT IS SO ORDERED.

DATED: 7-3-24

[Signature]  
CIRCUIT COURT JUDGE

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was filed electronically with the Clerk of Court on July 3, 2024, to be served on all counsel of record by operation of the Court's electronic filing system.

/s/ Tiffany Marko Yiatras