

**STATE OF ILLINOIS  
IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT  
COUNTY OF WINNEBAGO**

LINDSEY GARCIA, LARRY BENNER, and  
MICHAEL LUNGO, on behalf of themselves  
and all others similarly situated,

Plaintiffs,

v.

MIDLAND STATES BANK,

Defendant.

Case No. 2022-LA-0000104

**PRELIMINARY APPROVAL ORDER**

Plaintiffs Lindsey Garcia, Larry Benner, Michael Lungo, and Stephanie Enerson and Defendant Midland States Bank, by their respective counsel, have submitted a class action Settlement Agreement and Release (the “Settlement”), and Plaintiffs have applied under 735 ILCS 5/2-806 for an order: (1) preliminarily approving the terms and conditions set forth in the Settlement, (2) certifying Settlement Classes for purposes of Settlement, (3) approving the form and method of Notice to the Settlement Classes, and (4) scheduling a Final Approval hearing to consider Final Approval of the Settlement and the attorneys’ fees and costs awards and Service Awards. The Court has given due consideration to the terms of the Settlement, the exhibits to the Settlement, the submissions in support of Preliminary Approval of the Settlement, and the record of proceedings, and now finds that the proposed Settlement should be preliminarily approved pending Notice to the Potential Settlement Class Members and a Final Approval Hearing on whether the Settlement is fair, reasonable, and adequate to the Settlement Classes.

**ACCORDINGLY, IT IS HEREBY ORDERED:**

1. Terms capitalized herein and not otherwise defined shall have the meanings ascribed to them in the Settlement.
2. This Court has jurisdiction over the subject matter of this lawsuit and jurisdiction over the Plaintiffs, the members of the Settlement Classes, and Defendant in the above-captioned case.
3. The Court finds that for the purposes of settlement and notice the requirements of 735 ILCS5/2-801 have been met, specifically:
  - a. The Settlement Classes are each so numerous that joinder of all members is impracticable, as there are thousands of members;
  - b. There are questions of law or fact common to the Settlement Classes that predominate over any questions affecting only individual members based upon the claims raised in the lawsuit;
  - c. The Plaintiffs and Class Counsel will fairly and adequately protect the interests of the Settlement Classes; and
  - d. A class action is an appropriate method for the fair and efficient adjudication of this controversy.

The Court therefore **CERTIFIES** the following Settlement Classes:

“Midland APSN Fee Class”

All Accountholders who, from April 8, 2012, through April 30, 2022, were Midland States Bank personal checking Accountholders in Illinois and were assessed an OD Fee on a Debit Card Transaction that was authorized on a sufficient available balance and settled on negative funds in the same amount for which the Debit Card Transaction was authorized.

“Midland Fees-On-Fees Class”

All Accountholders who, from April 8, 2012, through April 30, 2022, were Midland States Bank personal checking Accountholders in Illinois and were assessed an OD Fee or an NSF Fee on a third-party merchant’s attempt to collect its own fee.

“Centrue APSN Fee Class”

All Accountholders who, from April 8, 2012, through June 12, 2017, were Centrue Bank personal checking Accountholders in Illinois and were assessed an OD Fee on a Debit Card Transaction that was authorized on a sufficient available balance and settled on negative funds in the same amount for which the Debit Card Transaction was authorized.

“Alpine APSN Fee Class”

All Accountholders who, from April 8, 2012, through February 28, 2018, were Alpine Bank & Trust Co. personal checking Accountholders in Illinois and were assessed an OD Fee on a Debit Card Transaction that was authorized on a sufficient available balance and settled on negative funds in the same amount for which the Debit Card Transaction was authorized.

“Alpine Retry Fee Class”

All Accountholders who, from April 8, 2012, through February 28, 2018, were Alpine Bank & Trust Co. personal checking Accountholders in Illinois and were assessed multiple NSF Fees, or one or more NSF Fees followed by an OD Fee related to a single check, ACH, wire transfer, or other item.

The Court appoints Plaintiffs as Class Representatives of these Settlement Classes and appoints Lynn Toops of Cohen & Malad, LLP, Sophia Gold of KalielGold PLLC, Jonathan Streisfeld of Kopelowitz Ostrow P.A., and Marty Schubert of Stranch, Jennings & Garvey PLLC as Class Counsel.

4. The Court finds that the terms of the Settlement are within the range of a fair, reasonable, and adequate Settlement between the Settlement Classes and Defendant under the circumstances of this case. The Court, therefore, preliminarily approves the Settlement and directs the Parties to the Settlement to perform and satisfy the terms and conditions of the Settlement that are triggered by such Preliminary Approval.

5. The proposed Notices in the form attached to the Settlement and the manner of distribution of such Email Notice and Postcard Notice are hereby approved by this Court as the best notice practicable to the Settlement Classes. The proposed Long Form Notice attached to the Settlement and the manner of distribution of such by posting to the Settlement Website and

making it available on request to the Settlement Administrator is hereby approved by the Court. The form and manner of Notice proposed in the Settlement complies with the requirements of Due Process.

6. Pursuant to 735 ILCS 5/2-806, a Final Approval Hearing shall be held before the undersigned at the Winnebago County Court House, 400 W. State St., Rockford, IL 61101 (or by telephone or video conference, if necessary) at \_\_\_\_\_ o'clock, on \_\_\_\_\_, 2025, for the purpose of: (a) determining whether the Settlement is fair, reasonable, and adequate and should be finally approved; (b) determining whether a Final Approval Order should be entered; and (c) considering Class Counsel's application for an award of attorneys' fees, expenses, and Service Awards to the Class Representatives. The Court may adjourn, continue, and reconvene the Final Approval Hearing pursuant to oral announcement without further notice to the Settlement Classes, and the Court may consider and grant Final Approval of the Settlement, with or without minor modification and without further notice to the Settlement Classes.

7. Class Counsel, through the Settlement Administrator, shall cause Notice to be sent to each member of the Settlement Classes as set forth in the Settlement.

8. Potential Settlement Class Members shall be afforded an opportunity to opt-out of the Settlement. An opt-out request must: (i) state that the member of the Settlement Classes wishes to be excluded from the Settlement Classes; (ii) contain the full name, the last four digits of the account number(s), current address, telephone number, and email address (if any); (iii) be personally signed by the Potential Settlement Class Member opting-out; and (iv) be sent to the Settlement Administrator by U.S. mail with a postmark no later than the last day of the Opt-Out Period, as specified on the Notices. A Potential Settlement Class Member may opt out on an

individual and personal basis only; so-called “mass” or “class” opt-outs shall not be allowed. Members of the Settlement Classes who submit a timely and valid opt-out requests shall not participate in and shall not be bound by the Settlement. Potential Settlement Class Members who do not timely and validly opt-out of the Settlement in accordance with the Notice shall be bound by all determinations and judgments in the action concerning the Settlement. If an Account has more than one Accountholder, and if one Accountholder excludes himself or herself from the Settlement Classes, then all Accountholders on that Account shall be deemed to have opted-out of the Settlement with respect to that Account, and no Accountholder shall be entitled to a payment under the Settlement.

9. Settlement Class Members who have not opted-out shall be afforded an opportunity to object to the terms of the Settlement. Any objection must contain: (a) the name of the Action; (b) the objector’s full name, address, telephone number, and email address (if any); (c) all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector’s counsel; (d) 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 or the Application for Attorneys’ Fees and Costs and Service Awards; (e) any and all agreements that relate to the objection or the process of objecting— whether written or oral—between objector or objector’s counsel and any other person or entity; (f) the identity of all counsel (if any) representing the objector who will appear at the Final Approval Hearing; (g) a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection (if any); (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). Class Counsel and/or Defendant

may conduct limited discovery on any objector. The objection must be sent by U.S. mail, first class and postage prepaid, with a postmark no later than the end of the Objection Period, as specified on the Notices, to the Settlement Administrator. If submitted by mail, an objection 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 by private courier (e.g., Federal Express), an objection shall be deemed to have been submitted on the shipping date reflected on the shipping label.

10. Any member of the Settlement Classes who does not make his or her objection known in the manner provided in the Settlement and Notice shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the proposed Settlement.

11. Any request for intervention in this action for purposes of commenting on or objecting to the Settlement must meet the requirements set forth above, including the deadline for filing objections, and also must be accompanied by any evidence, briefs, motions or other materials the proposed intervenor intends to offer in support of the request for intervention.

12. Any lawyer intending to appear at the Final Approval Hearing must be authorized to represent a Settlement Class Member, must be duly admitted to practice law before the Court, and must file a written appearance. Copies of the appearance must be served on Class Counsel and Defendant's Counsel in accordance with applicable rules of Court.

13. Class Counsel shall file with the Court the Settlement Administrator's sworn statement of all persons timely opting-out from the Settlement, along with copies of the requests.

14. Class Counsel shall file a Motion for Final Approval and Application for Attorneys' Fees, Costs, and Service Awards to be paid from the Settlement Fund, along with any supporting materials.

15. If the Settlement does not become effective or is rescinded pursuant to the Settlement Agreement, the Settlement and all proceedings had in connection therewith shall be without prejudice to the status quo ante rights of the Plaintiffs and Defendant, and all orders issued pursuant to the Settlement shall be vacated.

16. The Court retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

17. The Court hereby sets the following schedule of events:

Event	Date
<b>Defendant to Deliver Class List to Settlement Administrator</b>	_____, 2025 (21 days after Preliminary Approval Order)
<b>Notice Program Commences</b>	_____, 2025 (30 days after Delivery of the Class List)
<b>Notice Program Complete (including Initial Mailed Notice and the Notice Re-Mailing Process)</b>	_____, 2025 (30 days after Notice Program Commences)
<b>Motion for Final Approval and Application for Attorneys' Fees, Costs and Service Award</b>	_____, 2025 (45 before original Final Approval Hearing date)
<b>Opt-Out Deadline</b>	_____, 2025 (30 before original Final Approval Hearing date)
<b>Objection Deadline</b>	_____, 2025 (30 before original Final Approval Hearing date)
<b>Final Approval Hearing</b>	<b>September _____, 2025, at __:__.m.</b> (160 days after Preliminary Approval Order the parties request that the final approval hearing be set for the week of September 1, 2025)

**SO ORDERED.**

3/20/2025



Dated: \_\_\_\_\_

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Honorable Judge Lisa Fabiano  
Circuit Court of the 17<sup>th</sup> Circuit,  
Winnebago County, Illinois