

# **EXHIBIT 1**

## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Agreement” or “Settlement Agreement”) is entered into by and between First Federal Bank of Kansas City (“Defendant” or “FFBOKC,” as defined herein), and David Monk (“Plaintiff,” as defined herein), subject to the Court’s preliminary and final approval as required by Rule 52.08 of the Missouri Rules of Civil Procedure. As provided herein, FFBOKC, Class Counsel (as defined herein) and Plaintiff 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 FFBOKC in the action currently pending in the Circuit Court of Jackson County, Missouri at Kansas City as *Monk v. First Federal Bank of Kansas City*, Case No. 2416-cv04957 (the “Litigation”), shall be settled, compromised, and dismissed upon the terms and conditions contained herein.

### I. RECITALS

The following recitals and the exhibits to this Agreement (“Exhibits”) are material terms of this Settlement Agreement. Capitalized terms as used in these Recitals and the Exhibits hereto shall have the meaning ascribed to them herein and in the Definitions below. This Settlement Agreement is made with reference to, and in contemplation of, the following facts and circumstances:

1. Plaintiff in this Litigation challenges the methodology FFBOKC uses to assess the Challenged Fees (defined below). On February 23, 2024, Plaintiff filed her original Class Action Complaint (“Complaint”) alleging that FFBOKC improperly charged its checking account customers overdraft fees 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.
2. Plaintiff asserts two (2) claims on this basis: (i) Breach of Contract; and (ii) Breach of the Covenant of Good Faith and Fair Dealing.
3. Plaintiff takes the position in this Litigation that the Challenged Fees (defined below) were improper.
4. Shortly thereafter, the parties engaged in settlement discussions.
5. This Settlement Agreement resulted from a good faith, arm’s-length settlement negotiations.
6. FFBOKC denies any liability or wrongdoing of any kind associated with the alleged claims in the Litigation. FFBOKC has denied and continues to deny all claims asserted, or that could have been asserted, against it in the Litigation. Nothing herein shall constitute an admission of wrongdoing or liability, or of the truth of any allegations in the Litigation. Nothing herein shall constitute an admission by FFBOKC that the Litigation has been properly brought on a class or representative basis, or that classes may be certified in the Litigation, other than for settlement purposes. To this end, the settlement of the Litigation, the negotiation and execution of this Agreement, and all acts performed or documents executed pursuant to or in furtherance of the settlement: (i) are not and shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on the part of FFBOKC or of the truth of any of the

allegations in the Litigation; (ii) are not and shall not be deemed to be, and may not be used as an admission or evidence of any fault or omission on the part of FFBOKC in any civil, criminal, or administrative proceeding in any court, arbitration forum, administrative agency, or other tribunal; and (iii) are not and shall not be deemed to be and may not be used as an admission of the appropriateness of these or similar claims: (a) for class certification; or (b) for dispute resolution through any other mechanism.

7. Class Counsel have investigated the facts and the law regarding the Litigation. Class Counsel has reviewed account data and damages information provided by FFBOKC.

8. Based on their investigation, Class Counsel have concluded that a settlement according to the terms set forth below is fair, reasonable, adequate, and beneficial to and in the best interests of Plaintiff and the Class Members (as defined herein) recognizing: (i) the existence of complex and contested issues of law and fact; (ii) the risks inherent in litigation; (iii) the likelihood that future proceedings will be unduly protracted and expensive if the proceeding is not settled by voluntary agreement; (iv) the magnitude of the benefits derived from the contemplated settlement in light of both the maximum potential and likely range of recovery to be obtained through further litigation and the expense thereof, as well as the potential of no recovery whatsoever; and (v) Plaintiff's determination that the settlement is fair, reasonable, adequate, and will substantially benefit the Class Members.

9. The Parties shall use their best efforts to effectuate this Agreement, including, but not limited to, cooperating in promptly seeking the Court's approval of this Agreement, certification of the Settlement Class, and release by the Releasers of the Released Claims.

10. No Party shall be deemed the drafter of this Agreement or any provision thereof. No presumption shall be deemed to exist in favor of or against any Party as a result of the preparation or negotiation of this Agreement.

11. This Agreement shall be governed by, and construed and enforced in accordance with, the substantive laws of the state of Missouri without regard to conflict of laws principles. If any dispute related to this Settlement Agreement arises, the Parties agree to attempt to resolve the dispute informally prior to engaging in litigation.

12. Nothing express or implied in this Agreement is intended or shall be construed to confer upon or give any person or entity other than the Parties, Released Parties, and Settlement Class Members any right or remedy under or by reason of this Agreement. Each of the Released Parties is an intended third-party beneficiary of this Agreement with respect to the Released Claims and shall have the right and power to enforce the release of the Released Claims in his, her, or its favor against all Releasers.

13. This Agreement may be executed in multiple counterparts, all of which taken together shall constitute one and the same Settlement Agreement.

14. This Agreement may not be modified or amended unless such modification or amendment is in writing executed by the Parties, except as specifically permitted by this Agreement.

15. Where this Agreement requires any Party to provide notice or any other communication or document to any other Party, such notice, communication, or document shall be provided by email or letter by overnight delivery to their Counsel in the Litigation using the mail and email addresses identified in this Agreement.

16. In consideration of the covenants, agreements, and releases set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed by and among the undersigned that the Litigation be settled and compromised, and that the Releasors release the Released Parties of the Released Claims, without costs as to the Released Parties, Plaintiff, Class Counsel, or the Settlement Class, except as explicitly provided in this Agreement, subject to the approval of the Court, with respect to all Recitals in Section I of this Agreement and the following terms and conditions.

## II. DEFINITIONS

In addition to the terms defined at various points within this Agreement, the following defined terms (“Definitions”), as used in this Agreement and the attached Exhibits, apply and shall have the following meanings:

17. “Administrative Expenses” shall mean the expenses associated with the Settlement Administrator and the performance of the Settlement Administrator’s duties hereunder, including but not limited to, costs in providing notice, maintaining the Settlement Website, maintaining or disbursing the Settlement Fund, communicating with Class Members or Counsel for the Parties, and disbursing Cash Award payments to the proposed Settlement Class Members, or disbursing any other payments called for hereunder.

18. “Cash Award” means a cash payment to an eligible Settlement Class Member as described in Section VI of this Agreement.

19. “Challenged Fees” mean fees Overdraft Fees on debit card transactions that were authorized on sufficient funds and settled on negative funds in the same amount for which the debit card transaction was authorized.

20. “Class” or “Class Members” mean all current and former holders of a FFBOKC personal checking account who, during the Class Period, incurred the Challenged Fees. “Class” excludes all judicial officers presiding over this Litigation and their staff, and any of their immediate family members, as well as Plaintiff’s counsel and FFBOKC’s officers and employees.

21. “Class Counsel” refers individually and collectively to Tiffany Marko Yiatras of Consumer Protection Legal, LLC; and Sophia Gold and Jeff Kaliel of KalielGold PLLC.

22. “Class List” means a confidential (unredacted) compilation of Settlement Class Members, identified by name and mail address, denoting each Settlement Class Member’s calculated Cash Award amount. The Class List shall be compiled by the Settlement Administrator, using information provided by FFBOKC. The Class List shall be kept and maintained by FFBOKC and FFBOKC’s Counsel, and shall be disclosed only as described in Paragraph 80, *infra*. The Settlement Administrator shall prepare and provide to Class Counsel a redacted, anonymized

version of the Class List (“Redacted Class List”) denoting Class Members by a unique identifier number.

23. “Class Period” is defined as February 23, 2019 to and including the date on which the Court enters a Preliminary Approval Order as to this Settlement Agreement.

24. “Class Release” shall have the meaning set forth in Section VII of this Agreement.

25. “Class Representative” or “Plaintiff” refers to David Monk, the named plaintiff in the Litigation.

26. “Counsel” refers collectively to both Class Counsel and FFBOKC’s Counsel, as defined herein.

27. “Court” shall mean the Circuit Court of Jackson County, Missouri at Kansas City.

28. “De-Identified Notice Database” means a de-identified version of the Notice Database (as defined herein) with the names and mail addresses of Class Members removed such that Members are identifiable solely by reference to the randomly generated numbers associated with each Class Member.

29. “Effective Date” shall mean five (5) business days after all of the following events or conditions have occurred:

- a. the Court has entered a Final order with respect to any attorneys’ fees and expenses to be awarded to Class Counsel, and with respect to any Service Award to Plaintiff, and any such order(s) is/are final and non-appealable;
- b. the time for appeal has expired and no appeal has been timely filed; or the settlement is affirmed on appeal without material change; no other appeal or petition is pending, and the time period during which any petition for rehearing or certiorari could be filed has expired and relief from the failure to file such a petition is not available; and
- c. the Final Approval Order and judgment of dismissal are Final as defined herein.

30. “Email Notice” means the notice of proposed class action settlement that will be provided to FFBOKC accountholders who have provided an email address to FFBOKC in accordance with Paragraph 103 of this Agreement, to be approved by the Court, and substantially in the form attached hereto as Exhibit 4.

31. “Escrow Account” means the escrow account established by the Settlement Administrator to hold the Settlement Fund following the Settlement Funding Deadline (defined in Paragraph 64 *infra*).

32. “Execution Date” shall mean the date on which this Agreement is fully executed by all Parties.

33. “Final” means the Final Approval Order and judgment of dismissal have been entered on the Court’s docket in the Litigation and: (a) the time to appeal from such order and judgment has expired and no appeal has been timely filed; (b) if such an appeal has been filed, it has been finally resolved and has resulted in an affirmation of the Final Approval Order and judgment; or (c) the Court following the resolution of the appeal enters a further order or orders approving settlement on the material terms set forth herein, and either no further appeal is taken from such order(s) or any such appeal results in affirmation of such order(s).

34. “Final Approval Hearing” means the hearing before the Court in which Plaintiff will request the Final Approval Order be entered by the Court approving the Settlement Agreement, approving Class Counsel’s request for an award of attorneys’ fees and costs, and approving a Service Award to the Class Representatives. The Parties will request that the Court schedule the Final Approval Hearing no fewer than one hundred twenty (120) days after entry of the Preliminary Approval Order.

35. “Final Approval Order” shall mean the final approval order and judgment of dismissal substantially in the form as shown in Exhibit 2, or as otherwise agreed to by the Parties, to be entered by the Court, granting final approval of the settlement. The Final Approval Order shall contain such provisions as set forth in Exhibit 2 and described in Section XIV. The form of the Final Approval Order and Judgment as attached hereto as Exhibit 2 is a material term of this Settlement Agreement.

36. “Long Form Notice” means the notice of proposed class action settlement that will be posted on the Settlement Website pursuant to Section X, *infra*, to be approved by the Court, and substantially in the form as Exhibit 5 to this Agreement.

37. “Net Settlement Fund” shall have the meaning set forth in Paragraph 71 of this Agreement.

38. “NSF Fees” are nonsufficient funds fees charged by FFBOKC when it returns an item because the balance in the customer’s account was not sufficient to cover the transaction.

39. “Notice” or “Settlement Class Notice” means the notice of proposed class action settlement that will be provided: (i) via email for current Class Members who have provided their email address to FFBOKC; (ii) via U.S. mail to Class Members who have not provided an email address or to whom the Email Notice is not successfully delivered; and/or (iii) via posting of the Long Form Notice on the Settlement Website, all pursuant to Section X of this Settlement Agreement, which the Parties will ask the Court to approve in connection with the motion for preliminary approval of the settlement, substantially in the forms attached hereto as Exhibits 3 (Postcard Notice), 4 (Email Notice), and 5 (Long Form Notice).

40. “Notice Database” means a file containing data sufficient to identify, to the extent reasonably available in FFBOKC’s records, each Class Member’s name, last known email address, and last known mail address.

41. “Notice Program” means the method provided for in this Settlement Agreement for giving Notice to Class Members, as provided in Section X, *infra*, of this Settlement Agreement.

42. “Opt-Out” shall mean a written request for exclusion from the Settlement Class as provided in Section XI of this Settlement Agreement.

43. “Opt-Out Period” shall have the meaning set forth in Section XI of this Settlement Agreement.

44. “Overdraft Fees” are paid item fees that FFBOKC charged customers when the balance in the customer’s account was insufficient to fully cover the amount of the customer’s transaction but FFBOKC paid the item.

45. “Party” or “Parties” shall mean FFBOKC, Plaintiff, and the proposed Settlement Class Members.

46. “Postcard Notice” means the notice of proposed class action settlement that will be provided via U.S. Mail in accordance with the procedures set forth in Paragraph 103 of this Agreement, to be approved by the Court, substantially in the form attached hereto as Exhibit 3.

47. “Preliminary Approval Order” shall mean an order substantially in the form as shown in Exhibit 1 to be entered by the Court preliminarily approving the Settlement Agreement. The Preliminary Approval Order shall contain such provision as set forth in Exhibit 1 and described in Section VIII.

48. “Released Claims” shall mean the claims against the Released Parties described in Paragraph 90 of this Agreement.

49. “Released Parties” means FFBOKC and each of its respective past, present, and future parents, subsidiaries, acquired and affiliated companies and corporations, and each of their respective past, present, and future directors, officers, managers, employees, agents, general partners, limited partners, principals, insurers, reinsurers, shareholders, attorneys, advisors, representatives, predecessors, successors, divisions, assigns, or related entities, and each of their respective executors, successors, and legal representatives.

50. “Releasers” shall refer, jointly and severally, and individually and collectively, to Plaintiff, the Settlement Class Members, and each of their predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing, and anyone claiming by, through, or on behalf of them.

51. “Residual Funds” shall refer to all proceeds remaining in the Net Settlement Fund following the initial Cash Award distributions provided for in Section VI(b), *infra*.

52. “Service Award” means the award that the Court may individually provide to Plaintiff in connection with her participation in this Litigation to be paid solely from the Settlement Fund.

53. “Settlement Administrator” means the entity (which will be mutually selected and retained by the Parties), to administer the settlement and perform all settlement, escrow, notice, fund distribution, and such other administration functions set forth in this Agreement. FFBOKC will also execute a Non-Disclosure Agreement (“NDA”) with the Settlement Administrator to

protect Class Members' personally identifiable financial and other confidential information. FFBOKC's Counsel and Class Counsel may, by agreement, substitute a different organization to perform some or all of the functions of the Settlement Administrator, subject to approval by the Court if the Court has previously granted Preliminary Approval or Final Approval of the settlement.

54. "Settlement Class" or "Settlement Class Members" shall mean all persons who are members of the Class who do not timely and validly request exclusion from the Settlement Class. The persons comprising the Settlement Class shall be identified by name and mail address on the confidential Class List to be created by the Settlement Administrator.

55. "Settlement Amount" means the total sum of \$300,000 (Three Hundred Thousand Dollars) that FFBOKC will pay to settle the Litigation and obtain a release of all Released Claims.

56. "Settlement Website" means the website that the Settlement Administrator will establish as soon as practicable following the Preliminary Approval Order, and prior to issuance of the Email Notice and the Postcard Notice, as a means for Class Members to obtain notice and information about the settlement, through and including hyperlinked access to this Agreement, the Long Form Notice, the Email Notice, the Postcard Notice, the Preliminary Approval Order, Class Counsel's motion for attorneys' fees, costs, and Service Award, and such other documents as Counsel together agree to post or that the Court orders posted on the Settlement Website. An additional description of the contemplated Settlement Website and its contents is provided in Section X, *infra*,

57. "FFBOKC" or "Defendant" shall mean First Federal Bank of Kansas City, its past and present parents, predecessors, successors, affiliated or acquired companies, holding companies, subsidiaries, partners, employees, agents, assigns, and board members.

58. "FFBOKC's Counsel" or "Defendant's Counsel" refers collectively to George F. Verschelden of Stinson LLP.

59. "*Monk* Litigation" shall mean the matter in the Circuit Court of Jackson County, Missouri at Kansas City titled *Monk v. First Federal Bank of Kansas City*, Case No. 2416-cv04957.

### **III. SETTLEMENT CLASS CERTIFICATION**

60. FFBOKC disputes that any litigation class could be certified on the claims asserted in the Litigation. However, solely for purposes of avoiding the expense and inconvenience of further litigation, FFBOKC does not oppose the certification of the Class for settlement purposes only. Preliminary certification of the Class for settlement purposes shall not be deemed a concession that certification of a litigation class is appropriate, nor would FFBOKC be precluded from challenging class certification in further proceedings in the Litigation or in any other action if the Settlement Agreement is not finalized or finally approved. If the Settlement Agreement is not finally approved by the Court for any reason whatsoever, any certification of the Class will be void, and no doctrine of waiver, estoppel, or preclusion will be asserted against FFBOKC in any litigated certification proceedings in the Litigation. No agreements made by or entered into by FFBOKC in connection with the Settlement Agreement may be used by Plaintiff, Class Members, or any other person to establish any of the elements of class certification in any litigated

certification proceedings, whether in the Litigation, any other judicial proceeding or any non-judicial proceeding.

61. Subject to Court approval, and for settlement purposes only, the following Settlement Class shall be certified: "All current and former holders of a FFBOKC personal checking account, who, during the Class Period, incurred a Challenged Fee."

62. If for any reason this settlement is not granted preliminary and final approval, or if this Agreement is terminated in accordance with its terms, the Parties, pleadings and proceedings will return to the status quo ante as if no settlement had been negotiated or entered into. Plaintiff shall file such motions and pleadings as are necessary to return this case to the Litigation posture that existed before this settlement was reached. FFBOKC's agreement herein to certification of the Settlement Class as described in the Complaint or otherwise shall not be used for any purpose, including in resolving Plaintiff's motion for class certification in the Litigation or any request for certification in any other proceeding.

#### **IV. SETTLEMENT OF LITIGATION AND ALL CLAIMS AGAINST THE RELEASED PARTIES**

63. Final approval of this Settlement Agreement will settle and resolve with finality, on behalf of Plaintiff and the Settlement Class Members, the Litigation and the Released Claims.

#### **V. ESTABLISHMENT OF SETTLEMENT FUND AND NET SETTLEMENT FUND**

In consideration of a full, complete, and final settlement and dismissal of the Litigation with prejudice as set forth herein and of the Release provided in Section VII below, and, subject to Court approval as provided herein, the Parties agree to the following relief.

##### **(a) ESTABLISHMENT OF SETTLEMENT FUND**

64. Within fourteen (14) business days after entry of the Preliminary Approval Order by the Court, the Settlement Amount of \$300,000 shall be held by FFBOKC in a separate internal account at FFBOKC ("FFBOKC Holding Account"), as the settlement fund ("Settlement Fund"). FFBOKC shall transfer the Settlement Fund, less the total amount that will be credited to Settlement Class Members by FFBOKC as provided in Paragraph 81(a) below, to the Escrow Account no later than ten (10) business days after the Effective Date ("Settlement Funding Deadline"). Notwithstanding anything in this Agreement to the contrary, FFBOKC shall not be required to pay more than a total of \$300,000 towards the Settlement Fund, inclusive of all attorneys' fees, costs, expenses, notice expenses, any Service Award, any other amounts ordered by the Court, and any and all Administrative Expenses. For the avoidance of doubt, FFBOKC shall not bear any other fees, costs, charges, or expenses incurred by Plaintiff or Class Counsel, including but not limited to, those of any experts retained by Plaintiff or by Class Counsel.

65. The Settlement Fund shall be used for the following purposes:

- a. payment and distribution of all Cash Awards (including, without limitation and for the avoidance of doubt, *de minimis* Cash Awards) to Settlement Class Members, pursuant to Section VI, *infra*;

- b. payment of the Court-ordered Service Award to the Class Representative, pursuant to Section XVII, *infra*;
- c. payment of any of Class Counsel's attorneys' fees, costs, and expenses, that are awarded by the Court, pursuant to Section XVII, *infra* (subject to FFBOKC reserving its right to challenge a request for attorneys' fees that exceed one-third of the Settlement Amount);
- d. payment of all costs, expenses, fees, and invoices associated with the Administrative Expenses, including but not limited to, all costs, expenses, and fees of the Settlement Administrator in performing any and all settlement administration, notice, or escrow related functions under this Agreement as well as FFBOKC's Expert Expenses;
- e. payment of all costs, expenses, fees, and taxes associated with establishing and maintaining the Settlement Fund as a Qualified Settlement Fund as set forth in Section XIX, or otherwise, including but not limited to any payments to any escrow agent providing services hereunder; and disposition of Residual Funds after the initial distribution of Cash Awards to Settlement Class Members pursuant to Section VI, Paragraph 81 of this Agreement, including without limitation payment of the Administrative Expenses associated with such disposition of Residual Funds; and
- f. additional fees, costs, and expenses not specifically enumerated in subparagraphs (a) through (e) above, subject to agreement and approval of Class Counsel and FFBOKC's Counsel.

66. Notwithstanding the foregoing, any other award of attorneys' fees, Administrative Expenses, or any other fees, costs, expenses, or benefits otherwise awarded by the Court in connection with the Settlement Agreement shall be payable solely out of the Settlement Fund.

67. As more fully set forth below in Section XIX, after the Settlement Funding Deadline, the Settlement Fund payments provided by FFBOKC to the Settlement Administrator will be maintained by the Settlement Administrator in an Escrow Account to be held as a Court-approved Qualified Settlement Fund pursuant to Section 1.468B-1 *et seq.* of the Treasury Regulations promulgated under Section 468B of the Internal Revenue Code of 1986, as amended, and shall be deposited in an interest-bearing escrow account.

68. Provided that this Agreement is finally approved by the Court without material modification or amendment, the Net Settlement Fund (defined in Paragraph 71 of this Agreement) will be used to satisfy the Cash Award for Settlement Class Members in exchange for a release and covenants set forth in this Agreement, including, without limitation, a full, fair, and complete release of all the Released Parties from Released Claims, and dismissal of the Litigation with prejudice.

69. The Court may require changes to the method of allocation to Settlement Class Members without invalidating this Settlement Agreement, provided that the other material terms

of the Settlement Agreement are not materially altered, including but not limited to the scope of the Release, the Class Period, and the amount of the Settlement Fund.

70. FFBOKC's contribution to the Settlement Fund shall be fixed under this Section and be final. FFBOKC shall have no obligation to make further payments into the Settlement Fund and shall have no financial responsibility or obligation relating to the settlement beyond establishing the Settlement Fund. If the Settlement Agreement is not finally approved, or is terminated in accordance with this Agreement, the Settlement Fund belongs to and shall be returned to FFBOKC, less any Administrative Expenses paid to date.

**(b) NET SETTLEMENT FUND**

71. The net settlement fund ("Net Settlement Fund") is equal to the Settlement Fund plus any interest earned on that fund, less the following:

- a. the amount of the Court-ordered Service Award to the Class Representatives;
- b. the amount of any Court-ordered award of Class Counsel's attorneys' fees, costs, and expenses;
- c. the amount of any other Court-ordered award of fees in connection with the settlement;
- d. the amount of all Administrative Expenses, including but not limited to, all costs, expenses, and fees of the Settlement Administrator in performing any and all settlement administration, notice, distribution, or escrow related functions hereunder;
- e. the amount of all costs, expenses, fees, and taxes associated with establishing or maintaining the Settlement Fund as a Qualified Settlement Fund as set forth in Section XIX, or otherwise, including but not limited to any payments to any Escrow Agent providing services hereunder;
- f. the amount of all Administrative Expenses associated with issuance of Cash Awards and/or disposition of Residual Funds after distribution of Cash Awards to Settlement Class Members;
- g. and additional fees, costs, and expenses not specifically enumerated in subparagraphs (a) through (f) above, subject to agreement and approval of Class Counsel and FFBOKC's Counsel.

**VI. PAYMENTS TO CLASS**

Cash Awards shall be determined and calculated as set forth herein.

**(a) Cash Award Calculations**

72. Plaintiff has retained an expert to identify Class Members and implement the allocation of the Net Settlement Fund as provided in this Section of this Agreement (Section VI).

The identification and allocation methodologies set forth in this Section VI shall be applied as consistently, sensibly, and conscientiously as reasonably practicable recognizing and taking into consideration the nature and completeness of the data and the purpose of the computation.

73. To identify Class Members, Plaintiff's expert will examine FFBOKC's data from the Class Period to identify FFBOKC personal checking account customers who incurred Challenged Fees.

74. The following methodology shall be used by Plaintiff's expert to calculate Cash Awards to Settlement Class Members who paid Challenged Fees: (i) to be credited to Settlement Class Members who are current accountholders; or (ii) paid by check to Settlement Class Members who are former accountholders ("Qualifying Settlement Class Members"):

- a. Identify all Challenged Fees charged to Settlement Class Members ("Gross Fees");
- b. Reduce the Gross Fees, on an individual Settlement Class Member basis, to account for any refunds or similar credits of Challenged Fees to those accountholders ("Net Fees");
- c. Quantify each Settlement Class Member's relative proportion of the total Net Fees charged to the Settlement Class;
- d. Determine whether: (i) a Cash Award is appropriate; and (ii) a *de minimis* Cash Award to a Settlement Class Member is necessary of \$5 if the calculated Cash Award is too small for distribution to a Settlement Class Member so they will not qualify for a Cash Award; and
- e. Determine Cash Award based on each Settlement Class Member's proportion of the Net Fees charged to the Settlement Class or determine if a *de minimis* Cash Award is appropriate, per Paragraph 65 *supra*.

75. After FFBOKC's Cash Award calculations are complete, the Settlement Administrator shall update the Class List to reflect the corresponding Cash Award amounts for Settlement Class Members and provide the Redacted Class List to Class Counsel upon completion of the Cash Award calculations as described in Paragraph 74 above.

76. FFBOKC may retain an expert to review and approve Plaintiff's expert's calculation of the Cash Awards. FFBOKC's expert will be paid by FFBOKC.

77. Plaintiff's expert shall make available to FFBOKC's expert: (i) an anonymized list identifying Settlement Class Members and calculated Cash Awards ("Cash Award File"), and (ii) a file containing de-identified transactional data necessary for FFBOKC's expert to review and approve Plaintiff's expert's calculations set forth in the Cash Award File ("Supporting Data File"). The Cash Award File and Supporting Data File shall be provided as soon as reasonably feasible after the deadline to opt out of the Settlement. For the avoidance of confusion, any Settlement Class Member for whom account data is provided under this Agreement shall be identified solely by reference to the random identifier number assigned to the Account. FFBOKC's expert shall then have twenty-one (21) days from receipt to review the Cash Award File and Supporting Data File to assess whether the allocation methodology was performed and applied by Plaintiff's expert in accordance with this Agreement ("Review Period"). In the event

FFBOKC's expert raises any concerns, the Parties shall cooperate in good faith to resolve any concerns as expeditiously as possible. If the Parties cannot reach agreement, then the dispute shall be submitted to a mediator for assisting the Parties with resolution. The Parties shall cooperate together to ensure that the Cash Awards are calculated in advance of final approval time and sufficiently in advance so as to permit payment in accordance with the time schedule set forth in Section VI(b), *infra*.

78. Upon expiration of the Review Period, and subject to resolution of any objections, the final allocation results shall be transmitted to the Settlement Administrator for purposes of effectuating payment of Cash Awards and for purposes of creating the confidential Class List. The Settlement Administrator shall prepare the Class List within five (5) business days of receipt of the final allocation results.

79. The confidential Class List shall be maintained by Plaintiff's expert and provided to the Settlement Administrator for the sole purpose of facilitating the notice and payments contemplated herein. The confidential Class List and identities of Settlement Class Members shall *not* be disclosed to anyone else, including Class Counsel, except that Plaintiff's expert or FFBOKC shall disclose information about the identity of Settlement Class Members to the limited extent required for Class Counsel to provide necessary assistance in response to a question from a Settlement Class Member.

80. The Parties agree the foregoing methodologies are exclusively for purposes of computing retrospectively, in a reasonable and efficient fashion, Cash Awards. The fact that the methodologies are used herein is not intended and shall not be used for any other purpose or objective whatsoever.

**(b) Distribution of Cash Awards & Residual Funds**

81. Within forty-five (45) days of the Effective Date and subject to applicable tax reporting or withholding requirements, every Settlement Class Member shall be paid as follows:

- a. For Settlement Class Members who are current accountholders, FFBOKC shall credit the Cash Award payments to the Settlement Class Members' accounts, using funds within the FFBOKC Holding Account defined in Paragraph 64 *supra*.
- b. For Settlement Class Members who are former accountholders, the Settlement Administrator shall cause a check from the Net Settlement Fund to be mailed to the former accountholder's last known mail address (as updated by the Settlement Administrator).
- c. Checks shall be made payable to the accountholder, and where applicable, jointly to the joint accountholders during the Class Period. Cash Award checks shall be mailed to the mail addresses of record used for Class Notice purposes, or such other mail addresses as the Settlement Administrator identifies as valid Settlement Class Member mail addresses through the Notice Program. The Settlement Administrator will make reasonable efforts to locate the proper mail address for any Settlement Class Member whose check is returned by the Postal Service as undeliverable, and will re-mail it once to the updated mail address.

- d. Checks shall be valid for one hundred and twenty (120) days from the date of the check and the check shall state that it is invalid after one hundred and twenty (120) days of issuance. If any Settlement Class Member fails to negotiate their check within that time period, such Settlement Class Member shall forever waive his/her claim for payment hereunder. In the event that checks sent to Settlement Class Members are not cashed within one hundred and twenty (120) days of their initial mailing date, whether because the checks were not received or otherwise, those checks will become null and void as provided for herein.

82. If it is administratively feasible to do so, unclaimed Residual Funds in the Settlement Fund held in the Escrow Account shall be used to make a second distribution, on a pro rata basis, to all Settlement Class Members who received an account credit or cashed a Settlement Award check ("Second Cash Award Distribution"). The Parties will confer as to whether a Second Cash Award Distribution is administratively feasible, with input from the Settlement Administrator. If the Parties dispute whether there should be a Second Cash Award Distribution, they will jointly ask a mediator to assist with resolution of the issue. In the event that any redistributed checks are not cashed within one hundred and twenty (120) days of their mailing date, whether because the checks were not received or otherwise, those checks will become null and void.

83. Cash Awards shall be distributed and paid solely from the Net Settlement Fund. If this Settlement Agreement is not approved, or for any reason the Effective Date does not occur, no Cash Award payments or distribution of any kind shall be made to Settlement Class Members under this Agreement.

84. The Parties make no representation regarding the tax treatment of Cash Awards received by Settlement Class Members. The Parties will defer to the Settlement Administrator's recommendation regarding when Settlement Class Members must provide a W-9 form and/or a Taxpayer Identification or Social Security Number, as may be required by applicable Internal Revenue Service reporting requirements. Class Counsel and Plaintiff shall timely furnish to the Settlement Administrator any required tax information or forms before any payments are made to them from the Settlement Fund.

85. The Parties agree that the Settlement Administrator has permission to seek reasonable documentation before distributing settlement funds to an estate.

**(c) Cy Pres Distribution**

86. Any funds in the Net Settlement Fund following a Second Cash Award Distribution, or any Residual Funds in the Net Settlement Fund held in the Escrow Account if a Second Cash Award Distribution is not feasible ("*Cy Pres* Funds"), shall be paid through *cy pres* to non-profit charities that assist low-income consumers and/or provide consumer financial education in the geographic area of the Settlement Class Members, subject to Court approval. The Parties shall confer in good faith about appropriate *cy pres* beneficiaries after the stale date on checks to Settlement Class Members passes, and shall each propose beneficiaries for Court approval. Plaintiff will propose a beneficiary for 50% of the *Cy Pres* Funds, subject to approval

by Defendant. Defendant will propose a beneficiary for 50% of the *Cy Pres* Funds, subject to approval by Plaintiff.

87. The Court may revise this *cy pres* provision as necessary without terminating or otherwise impacting this settlement, provided the Court's revision does not increase the amount that Defendant would otherwise pay under this Agreement.

## VII. RELEASE

88. In addition to the effect of any final judgment entered by the Court in accordance with this Agreement, upon the Effective Date, and for other valuable consideration as described herein, the Released Parties shall be completely released, acquitted, and forever discharged from any and all Released Claims ("Class Release").

89. As of the Effective Date, and with the approval of the Court, Plaintiff and each Settlement Class Member, as well as their respective, heirs, assigns, executors, administrators, beneficiaries, successors, and agents, hereby release, resolve, relinquish, and discharge each and all of the Released Parties from each of the Released Claims (as defined below). The Settlement Class Members further agree that they will not institute any action or cause of action (in law, in equity, or administratively), suits, debts, liens, or claims, known or unknown, fixed or contingent, which they may have or claim to have, in state or federal court, in arbitration, or with any state, federal, or local government agency or with any administrative or advisory body, arising from the Released Claims. The release does not apply to members of the Class who timely opt-out of the settlement.

90. "Released Claims" means any and all claims, demands, damages, costs, attorneys' fees, disputes, liabilities, actions, rights, suits or causes of action, losses or remedies of any kind or nature whatsoever, against Released Parties, whether based on any federal law, state law, common law, territorial law, foreign law, contract, rule, regulation, any regulatory promulgation (including, but not limited to, any opinion or declaratory ruling), or any legal or equitable theory, right of action or otherwise, whether known or unknown, suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, matured or unmatured, accrued or unaccrued, actual or contingent, liquidated or unliquidated, punitive or compensatory, as of the date of the Final Approval Order, that arise out of, or relate to, or are based upon or in any manner related or connected with: (i) any Challenged Fee charged by FFBOKC in connection with a personal checking account; (ii) a claim that FFBOKC assessed any fee on any FFBOKC personal checking account based on re-presentation of a checking account transaction; (iii) any claim related to the assessment of Challenged Fees that was, or could be, asserted in connection with the Litigation; and (iv) any alleged failure to adequately or clearly disclose FFBOKC's practices and policies related to the assessment of the Challenged Fees. Such release applies regardless of how such claims are pled. This Agreement does not imply that any such claims exist or are valid.

91. Provided that the Plaintiff has been paid a Service Award, in such amount as the Court approves and consistent with the terms of this Agreement, and without in any way limiting the generality of the foregoing release, and in addition to the Release provided by Plaintiff in Paragraph 90 as to the Released Claims, Plaintiff, as well as her respective heirs, assigns, executors, administrators, beneficiaries, successors, and agents, hereby releases, resolves,

relinquishes, and discharges each and all of the Released Parties from any and all claims, demands, damages, costs, attorneys' fees, disputes, liabilities, actions, rights, suits or causes of action, and losses or remedies of any kind or nature whatsoever related to Plaintiff's checking account, whether on her own behalf and on behalf of her heirs, assigns, executors, administrators, beneficiaries, successors and agents, and whether based on any federal law, state law, common law, territorial law, foreign law, contract, rule, regulation, any regulatory promulgation (including, but not limited to, any opinion or declaratory ruling), or any legal or equitable theory, right of action or otherwise, whether known or unknown, suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, matured or unmatured, accrued or unaccrued, actual or contingent, liquidated or unliquidated, punitive or compensatory, as of the Execution Date, against the Released Parties.

92. Plaintiff or any Settlement Class Member may hereafter discover facts other than or different from those that he/she knows or believes to be true with respect to the subject matter of the claims released pursuant to the terms of this Section VII, or the law applicable to such claims may change. Nonetheless, each of those individuals expressly agrees that, as of the Effective Date, he/she 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, and contingent or non-contingent claims with respect to all of the matters described in or subsumed by this Section VII. Further, each of those individuals agrees and acknowledges that he/she shall be bound by this Agreement, including by the releases contained in this Section VII, and that all of their claims in the Litigation 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 never receives actual notice of the settlement or never receives a distribution of Cash Award or other funds from the settlement.

93. The provisions of the Class Release shall apply according to their terms, regardless of the provisions of Section 1542 or any equivalent, similar, or comparable present or future law or principle of law of any jurisdiction.

94. Each Releasor waives any and all defenses, rights, and benefits that may be derived from the provisions of applicable law in any jurisdiction that, absent such waiver, may limit the extent or effect of the release contained in this Agreement.

95. The Parties and each member of the proposed Settlement Class agree that the amounts to be paid under this Settlement Agreement to each Settlement Class Member represent the satisfaction of that Settlement Class Member's claims for the Released Claims. No portion of such settlement represents the payment of punitive or exemplary damages. In consideration for the satisfaction of each Settlement Class Member's claim for compensatory damages, claims for punitive or exemplary damages arising from the Released Claims shall be released. Without limiting the foregoing, Plaintiff agrees and covenants, and each Settlement Class Member shall be deemed to have agreed and covenanted, not to sue any Released Party with respect to any of the Released Claims, or otherwise to assist others in doing so, and agree to be forever barred from doing so, in any court of law or equity or any other forum. In addition, Plaintiff and each Settlement Class Member are hereby enjoined from asserting as a defense, including as a set-off

or for any other purpose, any argument that if raised as an independent claim would be a Released Claim.

**VIII. PRELIMINARY APPROVAL AND SETTLEMENT CLASS CERTIFICATION**

96. This settlement shall be subject to approval of the Court. As set forth in this Agreement, FFBOKC shall have the right to withdraw from the settlement and the Settlement Agreement if the Court does not issue the Preliminary Approval Order or the Final Approval Order or if the Class is not certified for settlement purposes or as otherwise permitted under this Agreement.

97. Within no later than sixty (60) days following execution of this Agreement by all Parties, Plaintiff through Class Counsel shall submit to the Court a motion (the "Preliminary Approval Motion"), consistent with the terms of this Agreement: (a) for certification of the Settlement Class; and (b) for preliminary approval of the Agreement, and authorization to disseminate notice of class certification and settlement contemplated by this Settlement Agreement to all potential Class Members. Consistent with the terms of this Agreement, the Preliminary Approval Motion shall apply for entry of the Preliminary Approval Order in the form attached hereto Exhibit 1. The Preliminary Approval Motion shall also request that Plaintiff be appointed as class representatives for the Class and that Class Counsel be appointed as counsel for the Class.

The Preliminary Approval Order shall contain such provisions as set forth in Exhibit 1 including provisions:

- a. preliminarily certifying the Class for settlement purposes only;
- b. preliminarily approving this settlement and finding this settlement sufficiently fair, reasonable, and adequate to allow Notice to be disseminated to the Class;
- c. approving the form, content and manner of Settlement Class Notice;
- d. appointing KCC Class Action Services LLC as the Settlement Administrator;
- e. setting a schedule for proceedings with respect to final approval of this settlement, including scheduling a Final Approval hearing for no earlier than 120 days from the date of the Preliminary Approval Order;
- f. providing that, pending entry of a Final Approval Order and Judgment, no member of the Settlement Class (either directly or in any representative or other capacity) shall commence or continue any action against Defendant or any of the Released Parties asserting any of the Released Claims;
- g. staying the Litigation, other than such proceedings as are related to this settlement; and
- h. providing that no admissions have been made by FFBOKC.

## **IX. SETTLEMENT ADMINISTRATOR**

98. Class Counsel and FFBOKC's Counsel have jointly selected and Verita to serve as the Settlement Administrator. The Settlement Administrator shall administer various aspects of the settlement as described in Paragraph 99 of this Agreement, and perform such other functions as are specified for the Settlement Administrator elsewhere in this Settlement Agreement including, but not limited to, establishing the Settlement Fund, providing mailed notice or other required notices to Class Members, distributing settlement funds as provided herein, and returning the Settlement Fund to FFBOKC in the event of termination of this Agreement, as set forth in Section XVI of this Agreement.

99. The duties of the Settlement Administrator, in addition to other responsibilities that are described elsewhere in this Agreement, include:

- a. obtaining from FFBOKC's Counsel or Plaintiff's expert the names, last known email addresses, and last known mail addresses for the Class Members in the Notice Database; verifying and updating the mail addresses so received through the National Change of Address database; and completing Class Notice as provided in Section X of this Agreement;
- b. establishing and maintaining a Post Office box for Opt-Out requests as set forth in Section XI of this Agreement, as well as for correspondence from Class Members;
- c. establishing and maintaining a Settlement Website that will contain and make available to Class Members certain information regarding the Litigation and the settlement through that website;
- d. responding to any mailed Class Member inquiries;
- e. processing all requests for exclusion from Class Members;
- f. providing to Counsel written monthly reports, and a written final report no later than five (5) business days after the end of the Opt-Out Deadline, that lists all timely and valid Opt-Outs from the Settlement, and other pertinent information;
- g. interfacing with any escrow agents who may assist with the Qualified Settlement Fund (if different from the Settlement Administrator);
- h. preparing and providing to FFBOKC's Counsel the confidential Class List and the Redacted Class List to Class Counsel;
- i. at Class Counsel and/or FFBOKC's Counsel request in advance of the Final Approval Hearing, preparing an affidavit to submit to the Court that identifies each Class Member who timely and properly requested exclusion from the Settlement Class and that confirms that the Notice Program as set forth in this Agreement was completed in a timely manner;

- j. processing and transmitting Cash Award checks from the Net Settlement Fund to the Settlement Class Members who are former accountholders in accordance with the terms of this Agreement;
- k. providing its recommendation concerning whether sufficient Residual Funds remain in the Net Settlement Fund for a Second Cash Award Distribution (defined *supra*) to Qualifying Settlement Class Members, as set forth in Paragraph 82 of this Agreement, and providing a report and/or affidavit of such pertinent information to Counsel;
- l. if sufficient funds remain, processing and transmitting a Second Cash Award Distribution to Qualifying Settlement Class Members and providing a report and/or affidavit of such pertinent information to Counsel;
- m. qualifying under, and agreeing to comply with, all applicable confidentiality, privacy, and security protocols required by FFBOKC;
- n. providing, at the direction and on behalf of FFBOKC, such notice(s) of the settlement as may be required in accordance with the timing and notice requirements of the Class Action Fairness Act;
- o. establishing an escrow account and maintaining the Settlement Fund therein as a Qualified Settlement Fund and performing such duties and functions as associated therewith, including without limitation the duties and functions set forth in Section XIX *infra*, or elsewhere in this Agreement; and
- p. performing any other tasks reasonably required to effectuate the settlement.

100. In the event of termination as provided in Section XVI of this Agreement, the Settlement Administrator shall return the Settlement Fund to FFBOKC within seven days of termination, less any money that the Settlement Fund has already paid, or incurred an obligation to pay, in accordance with the terms of this Agreement for Administrative Expenses. Plaintiff shall have no financial responsibility for any Administrative Expenses paid out of the Settlement Fund in the event that the Settlement Agreement is not finally approved or terminated.

**X. NOTICE TO PROPOSED CLASS MEMBERS**

**(a) Form of Notice**

101. In the event the Court enters the Preliminary Approval Order, Notice shall be provided to Class Members via email, mail and/or website, as provided herein:

- a. For Class Members who have provided their email address to FFBOKC, the Settlement Administrator will provide Email Notice substantially in the Form shown in Exhibit 4, subject to approval by the Court, to the most recent email address provided by the customer to FFBOKC.

- b. For Class Members who have not provided an email address or, if the Email Notice is not successfully delivered (as shown by an undeliverable message back to the Settlement Administrator), the Settlement Administrator will provide Postcard Notice substantially in the form shown in Exhibit 3, subject to approval by the Court.
- c. Notice of the settlement (substantially in the form of Exhibit 5, the Long Form Notice) shall also be posted by the Settlement Administrator on the Settlement Website by the Notice Deadline. The Settlement Administrator shall establish and administer the Settlement Website, which website shall contain information about the settlement, including electronic copies of Exhibits 3 and 4 (or any forms of these notices that are approved by the Court), this Settlement Agreement, and all court documents related to the settlement or otherwise agreed to by Counsel. The URL of the Settlement Website shall be [www.Monkfeesettlement.com](http://www.Monkfeesettlement.com) or such other URL as Counsel may subsequently agree upon in writing. The Settlement Website shall not include any advertising and shall not bear or include the FFBOKC logo or FFBOKC's trademarks. Ownership of the Settlement Website URL shall be transferred to FFBOKC within 10 days of the date on which operation of the Settlement Website ceases. The Settlement Website shall remain operational until sixty days past the stale date of any check mailed to Settlement Class Members. Other than the Settlement Website, there shall be no publication notice (except as FFBOKC or its affiliates may be required or advised to make under applicable law), and there shall be no press release or other public communication by or on behalf of Plaintiff and/or Class Counsel.

102. The Notice shall be used for the purpose of informing proposed Class Members, prior to the Final Approval Hearing, that there is a pending settlement, and to further (i) inform Class Members as to how they may obtain a copy of the Settlement Agreement; (ii) protect their rights regarding the settlement; (iii) request exclusion from the Settlement Class and the proposed settlement, if desired; (iv) object to any aspect of the proposed settlement, if desired; and (v) participate in the Final Approval Hearing, if desired. The Notice shall make clear the binding effect of the settlement on all Class Members who do not timely request exclusion from the Settlement Class.

103. **Email Notice & Postcard Notice.** Email Notice and Postcard Notice will be provided by the Settlement Administrator, as follows:

- a. To facilitate the provision of Email Notice and Postcard Notice, FFBOKC will provide to the Settlement Administrator, within ten (10) business days of entry of the Preliminary Approval Order, in an electronically searchable and readable format, a Notice Database containing data sufficient to identify, to the extent reasonably available in FFBOKC's records, each Class Member's name and last known email address and last known mail address. FFBOKC is obligated to provide only such information as is contained and reasonably available in its computerized account records for the applicable Class Period. The Settlement Administrator will prepare and provide a De-Identified Notice Database to Class Counsel.

- b. Any personal information relating to members of the Class that is provided to the Settlement Administrator pursuant to this Settlement Agreement shall be provided solely for the purpose of providing Settlement Class Notice to members of the Class and allowing them to recover under this settlement. Such information shall be kept in strict confidence, shall be used only for purposes of this settlement, and shall not be disclosed to any third party.
- c. Prior to mailing the Postcard Notice, the Settlement Administrator shall run the last known mail addresses for Class Members (as contained in the Notice Database) through the United States Postal Services' National Change of Address Database, and shall update the mail addresses accordingly for mailing and other settlement administration purposes in the Notice Database. Once this process is complete, the Settlement Administrator shall cause individual Postcard Notice (substantially in the form of Exhibit 3) to be sent by the Notice Deadline (as defined in Paragraph 108 of this Agreement), through U.S. Mail to potential Class Members ("Initial Postcard Notices").
- d. The Settlement Administrator shall cause Email Notice (substantially in the form of Exhibit 4) to be sent to the last known email address in FFBOKC's records by the Notice Deadline (as defined in Paragraph 108 of this Agreement).
- e. For all Initial Postcard Notices that are returned undeliverable and without a forwarding mail address and for Email Notices that are not successfully delivered, the Settlement Administrator shall perform reasonable address traces. No later than 15 days after the Notice Deadline in Paragraph 108 of this Agreement, the Settlement Administrator shall mail Postcard Notices to those Class Members: (i) whose new mail addresses were identified as of that time through address traces; (ii) whose initial emails were not successfully delivered and the Settlement Administrator located a mail address; or (iii) for whom there was a forwarding mail address ("Notice Remailing Process"). Except as set forth herein, there shall be no further obligation or attempt to obtain a forwarding mail address for any such returned mail or to further re-mail any such Postcard Notices or returned mail after this Notice Remailing Process is complete.
- f. Within seven days after the Objection Deadline, the Settlement Administrator shall provide Class Counsel and FFBOKC's Counsel with an affidavit that confirms that the Notice Program as set forth in this Agreement was completed in a timely manner, reports the details of returned and undeliverable notices, and reports any objections or Opt Outs received by the Settlement Administrator.
- g. Within seven days after the date the Settlement Administrator completes the later of the Email Notice and the Notice Remailing Process, the Settlement Administrator shall provide FFBOKC's counsel with an updated Notice Database reflecting any new email address information.

104. Class Counsel shall file the affidavits of completion that it receives from the Settlement Administrator pursuant to Paragraph 103(f), *supra*, with the Court as exhibits to or in conjunction with Plaintiff's motion for Final Approval of the Settlement.

105. CAFA Notice. At the request, expense, and direction of FFBOKC, the Settlement Administrator shall be responsible for serving the Class Action Fairness Act ("CAFA") notice required by 28 U.S.C. § 1715 within ten (10) days of the filing of the Preliminary Approval Motion. It is FFBOKC's obligation to ensure that notice required by 28 U.S.C. § 1715 is timely provided to the appropriate recipients.

106. Before Class Notice is commenced, Counsel for the Parties shall first be provided with proof copies of the final form of the Class Notices and shall have the right to inspect and approve the same for compliance with the Settlement Agreement and with the Court's orders.

107. The Parties agree that compliance with the procedures described in this Section X is the best notice practicable under the circumstances and shall constitute due and sufficient notice to the Settlement Class of the pendency the Litigation, certification of the Settlement Class, the terms of the Settlement Agreement, and the Final Approval Hearing, and shall satisfy the requirements of the Missouri Rules of Civil Procedure, the United States Constitution, and any other applicable rule or regulation.

(c) **Notice Deadline**

108. Both the Email Notice and the Initial Postcard Notices shall be sent directly to all identified potential Class Members as soon as reasonably practicable following transmission of the Notice Database to the Settlement Administrator and no later than forty-five (45) days after the date that the Court enters the Preliminary Approval Order, or such other date that the Court may set ("Notice Deadline").

**XI. OPT-OUTS**

109. **Opt-Out Period.** Class Members will have up to and including approximately forty-five (45) days following the Notice Deadline to opt out of the settlement in accordance with this Section (the "**Opt-Out Deadline**"). If the settlement is finally approved by the Court, all Settlement Class Members who have not opted out by the Opt-Out Deadline will be bound by the Settlement Agreement and the Class Release, and the relief provided by the settlement will be their sole and exclusive remedy for the claims alleged by the Settlement Class.

110. **Opt-Out Process**

- a. Any Class Member who wishes to be excluded from the Settlement Class must provide a written request for exclusion to the Settlement Administrator, known as an "Opt-Out." The Opt-Out may be made online on the Settlement Website established by the Settlement Administrator and included in the Notice. The Opt-Out may also be mailed, by first class mail, postage prepaid, and postmarked and addressed to the address of the Settlement Administrator indicated in the Notice on or before the Opt-Out Deadline. The Settlement Administrator will provide Counsel for the Parties copies of each request for exclusion it receives.

- b. In order to be valid, the Opt-Out must be in writing and include: (i) the Class Member's name, address, telephone number, and the last four digits of the account number; (ii) the name and/or number of this Litigation; and (iii) a statement that the Class Member wishes to be excluded from the Settlement Class. An Opt-Out must be signed by the Class Member. An Opt-Out request that does not contain the required information, is not signed, or is not postmarked by the Opt-Out Deadline, shall be invalid and the person serving such a request shall be considered a member of the Settlement Class and shall be bound by the settlement, if approved.
- c. Except as provided in this Section XI, no Class Member may purport to exercise any exclusion rights of any other person, or purport to exclude other persons as a group, aggregate, or class involving more than one person, or as an agent or representative. Any such purported exclusion shall be invalid and any Class Member that does not submit an opt-out request on his or her own behalf shall be a Settlement Class Member and be bound as a Settlement Class Member for all purposes. If an accountholder for any joint account submits a valid-opt out request, the request will be effective for all accountholders or signatories to such account.
- d. A list reflecting all timely and valid Opt-Outs shall also be filed with the Court at the time of the motion for final approval of the settlement.

## **XII. OBJECTIONS**

111. Class Members who have not validly opted-out of the settlement in accordance with its terms may object to this Agreement up to and including the date set by the Court in the Preliminary Approval Order, which shall be approximately forty-five (45) days following the Notice Deadline ("Objection Deadline").

112. The Parties will request that the Court order that any Class Member who has any objection to certification of the Settlement Class, to approval of this Settlement Agreement or any of its terms, or to the approval process must send his, her or its objection to the Settlement Administrator providing the following elements ("Required Objection Elements"):

- a. the case name and case number(s) of this Litigation;
- b. the objector's full name, current address, and the last four digits of the account number of any FFBOKC account the objector claims was charged Challenged Fees in this Litigation;
- c. a statement that the Settlement Class Member objects to the Settlement, in whole or in part;
- d. the reasons why the objector objects to the settlement along with any supporting materials;
- e. the identity of any lawyer who assisted, provided advice, or represents the objecting Class Member as to this case or such objection, if any;

Approval of the Class Settlement. Class Counsel and/or FFBOKC may file a memorandum addressing any Objections submitted to the settlement. The dismissal orders, motions, or stipulation to implement this Section shall, among other things, seek or provide for a dismissal with prejudice and waive any rights of appeal. The motion for entry of a Final Approval Order will include a declaration from the Settlement Administrator stating that the Notice required by the Agreement has been completed in accordance with the terms of the Court's Preliminary Approval Order.

119. The Parties shall jointly submit to the Court a proposed Final Approval Order and Judgment, in the form attached hereto as Exhibit 2, that, without limitation, approves the settlement and certifies the Settlement Class pursuant to Missouri Rule Civil Procedure 52.08 and:

- a. finds that this Agreement is fair, reasonable, and adequate and was entered into in good faith and without collusion, and approves and directs consummation of this Agreement according to its terms;
- b. finds that the Class Notice provided satisfied the requirements of due process and of Missouri Rule of Civil Procedure 52.08(c);
- c. approves the Class Release provided in Section VII and finds that, as of the Effective Date, the Settlement Class Members will each be bound by this Agreement, including the Release and Covenant not to sue set forth in Section VII;
- d. dismisses, on the merits and with prejudice, all Released Claims of Plaintiff and of the Settlement Class Members against FFBOKC in the Litigation, without costs and fees except as ordered by the Court;
- e. permanently enjoins each and every Settlement Class Member from bringing, joining, or continuing to prosecute any Released Claim, or from asserting as a defense, including as a set-off or for any other purpose, any argument that if raised as an independent claim would be a Released Claim, against FFBOKC or any of the Released Parties;
- f. reserves continuing and exclusive jurisdiction over the settlement and this Agreement, including but not limited to the Litigation, the settlement, the Settlement Class Members, and FFBOKC, for the purposes of administering, consummating, supervising, construing, and enforcing the Settlement Agreement and the Settlement Fund; and
- g. finds that there is no just reason for delay of entry of Final Judgment with respect to the foregoing.

120. This Agreement is subject to and conditioned upon the issuance by the Court of a Final Approval Order that grants final approval of this Agreement and enters a Final Judgment as set forth in this Agreement. Class Counsel shall use their best efforts to assist FFBOKC in obtaining dismissal with prejudice of the Litigation accordingly and take all steps necessary and appropriate to otherwise effectuate all aspects of this Agreement.

**XV. FINAL ORDER**

121. As part of the Final Approval Order and Judgment, the Court's order shall operate to permanently enjoin any and all pending or future claims by Settlement Class Members against the Released Parties raising or arising out of any Released Claim.

122. The Court's Final Approval Order and Judgment shall enjoin and forever bar any and all Settlement Class Members from commencing and/or maintaining any action, legal or otherwise, against the Released Parties raising or arising out of any Released Claim.

123. This provision is not intended to prevent or impede the entitlement to Cash Awards under this Settlement Agreement.

**XVI. TERMINATION OF THE SETTLEMENT**

124. Plaintiff and FFBOKC shall have the right to unilaterally terminate this Agreement by providing written notice of its election to do so ("Termination Notice") to each other hereto within ten (10) calendar days of any of the following occurrences:

- a. the Court rejects, materially modifies, materially amends or changes, or declines to preliminarily or finally approve the Settlement Agreement;
- b. an appellate court reverses the Final Approval Order, and the Settlement Agreement is not reinstated without material change by the Court on remand;
- c. any court incorporates into, or deletes or strikes from, or modifies, amends, or changes, the Preliminary Approval Order, Final Approval Order and Judgment, or the Settlement Agreement in a way that is material, unless such modification or amendment is accepted in writing by all Parties;
- d. notification from the Settlement Administrator that more than one percent (1%) or 500 of the Class Members Opt-Out, whichever is less;
- e. the Effective Date does not occur; or
- f. any other ground for termination provided for elsewhere in this Agreement occurs.

125. In the event the Settlement Agreement is not approved or does not become final, or is terminated consistent with this Settlement Agreement, the Parties, pleadings, and proceedings will return to the *status quo ante* as if no settlement had been negotiated or entered into, and the Parties will negotiate in good faith to establish a new schedule for the Litigation. In such event, the Parties' rights and defenses will be restored, without prejudice, to their respective positions as if this Agreement had never been executed, and any orders entered by the Court in connection with this Agreement will be vacated.

126. In the event of a termination as provided for herein or elsewhere in this Agreement, the Settlement Administrator shall return the Settlement Fund to FFBOKC within

seven days of termination, less any money that the Settlement Fund has already paid or incurred an obligation to pay in accordance with the terms of this Agreement for Administrative Expenses.

## **XVII. ATTORNEYS' FEES AND SERVICE AWARD**

127. Class Counsel shall file any petition to the Court for an award of attorneys' fees and costs from the Settlement Fund at least fifteen (15) days prior to the Objection Deadline. FFBOKC will take no position on a request for attorneys' fees that is one-third or less of the Settlement Amount, but FFBOKC reserves the right to object to any request for attorneys' fees that exceeds one-third of the Settlement Amount. FFBOKC also agrees to take no position on a request for reimbursement of Counsel's reasonably incurred expenses.

128. In no event will FFBOKC have any financial responsibility or liability whatsoever for attorneys' fees, expenses, or costs beyond its obligation to establish the Settlement Fund, as set forth in this Agreement. In particular and without limiting the foregoing, FFBOKC shall have no financial responsibility or liability for attorneys' fees and costs sought by any member of the Class or by any counsel representing or working on behalf of one or more Class Members or the Settlement Class, and no obligation for allocation of fees and costs among Class Counsel or attorneys representing or working on behalf of Class Members.

129. At the same time Class Counsel seeks approval of their attorneys' fees and costs, Class Counsel shall petition the Court for a Service Award for the Class Representatives in an amount not to exceed \$5,000. The Service Award shall be paid solely from the Settlement Fund and no interest shall accrue or otherwise be due or payable in connection with any such award. The Service Award shall be paid to Plaintiff in addition to any Cash Award, and Plaintiff shall be entitled to any Cash Award. The Parties warrant that they commenced negotiations on the proposed Service Award only after they reached agreement on all other material terms of this Settlement Agreement.

130. The payments of attorneys' fees, costs, and a Service Award set forth in Paragraphs 127 and 129 above are subject to and dependent upon the Court's approval of the settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class. However, this settlement is not dependent or conditioned upon the Court approving Plaintiff's and/or Class Counsel's request for such payments or awarding the particular amounts sought by Plaintiff and/or Class Counsel. In the event the Court declines Plaintiff's and/or Class Counsel's requests or awards less than the amounts sought, this settlement, including but not limited to the Releases provided herein, shall continue to be effective and enforceable by the Parties.

## **XVIII. REPRESENTATIONS**

131. The Parties agree that the Settlement Agreement provides fair, equitable, and just compensation, and a fair, equitable, and just process for determining eligibility for compensation for any given Settlement Class Member related to the Released Claims.

132. The Parties shall use their best efforts to conclude the settlement and obtain the Final Approval Order and Judgment, including affirmatively supporting the settlement in the event of an appeal or an objection.

133. The Parties specifically acknowledge, agree, and admit that this Settlement Agreement and its Exhibits, along with all related drafts, motions, pleadings, conversations, negotiations, correspondence, orders or other documents shall be considered a compromise within the meaning of Missouri Rules of Evidence Rule 408, and any other equivalent or similar rule of evidence of any state, and shall not: (a) constitute, be construed, be offered, or received into evidence as an admission of the validity of any claim or defense, or the truth of any fact alleged or other allegation in the Litigation or in any other pending or subsequently filed action, or of any wrongdoing, fault, violation of law, or liability of any kind on the part of any Party; or (b) be used to establish a waiver by FFBOKC of any defense or right, or to establish or contest jurisdiction or venue in other litigation. Notwithstanding the foregoing, any Party shall be entitled to use this Settlement Agreement and its Exhibits in connection with enforcement of the obligations and waivers set forth herein and for all other purposes set forth below at Paragraph 135.

134. The Parties also agree that this Settlement Agreement and its Exhibits, along with all related drafts, motions, pleadings, conversations, negotiations, correspondence, orders, or other documents entered in furtherance of this Settlement Agreement, and any acts in the performance of this Settlement Agreement are not intended to establish grounds for certification of any class involving any Class Member other than for certification of the Class for settlement purposes.

135. The provisions of this Settlement Agreement, and any orders, pleadings, or other documents entered in furtherance of this Settlement Agreement, may be offered or received in evidence solely: (i) to enforce the terms and provisions hereof or thereof; (ii) as may be specifically authorized by a court of competent jurisdiction after an adversary hearing upon application of a Party hereto; (iii) in order to establish payment, or an affirmative defense of preclusion or bar in a subsequent case; (iv) in connection with any motion to enjoin, stay or dismiss any other action; or (v) to obtain Court approval of the Settlement Agreement.

136. Subject to settlement notice process set forth in Section X, the Parties agree that they will not initiate any publicity of the settlement and will not respond to requests by any media (whether print, online, or any traditional or non-traditional form), except to say "no comment" and direct any inquiries to the information on the settlement website about the settlement. Notice of the settlement will be delivered exclusively through the notice process set forth in Section X above. Nothing in this provision shall be interpreted to limit representations that the Parties or their attorneys may make to the Court to assist it in its evaluation of the proposed settlement, nor shall this provision prohibit Class Counsel from having communications about the settlement directly with the Settlement Administrator or with Class Members.

137. This Agreement shall be deemed executed as of the date that the last Party signatory signs the Agreement. This Agreement and the Exhibits hereto constitute the entire agreement between the Parties and shall fully supersede any previous agreement entered into by the Parties and represent the full and final agreement between the Parties.

138. The Parties agree to request that the Court approve the forms of the Preliminary Approval Order attached hereto as Exhibit 1, the Final Approval Order and Judgment attached as Exhibit 2, the Postcard Notice attached as Exhibit 3, the Email Notice attached as Exhibit 4,

and the Long Form Notice attached as Exhibit 5. The fact that the Court may require non-substantive changes to any of these documents does not invalidate this Settlement Agreement.

## **XIX. TAXES**

139. **Qualified Settlement Fund.** The Parties agree that the escrow account into which the Settlement Fund is deposited, following the Settlement Funding Deadline, is intended to be and will at all times constitute a “qualified settlement fund” within the meaning of Treas. Reg. §1.468B 1 (“Qualified Settlement Fund”). The Settlement Administrator shall timely make such elections as necessary or advisable to carry out the provisions of Section VI. It shall be the responsibility of the Settlement Administrator to cause the timely and proper preparation and delivery of the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

140. **The Settlement Administrator is “Administrator.”** For the purpose of §1.468B of the Code and the Treasury regulations thereunder, the Settlement Administrator shall be designated as the “administrator” of the Settlement Fund. The Settlement Administrator shall cause to be timely and properly filed all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including, without limitation, the returns described in Treas. Reg. §1.468B 2(k)). Such returns shall reflect that all Taxes (including any estimated taxes, interest, or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund.

141. **Taxes Paid by Administrator.** All taxes arising in connection with income earned by the Settlement Fund, including any taxes or tax detriments that may be imposed upon Defendant or any of the other Released Parties with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a Qualified Settlement Fund for federal or state income tax purposes shall be paid by the Settlement Administrator from the Settlement Fund.

142. **Expenses Paid from Fund.** Any Administrative Expenses reasonably incurred by the Settlement Administrator in carrying out its duties, including fees of tax attorneys and/or accountants, shall be paid by the Settlement Administrator from the Settlement Fund.

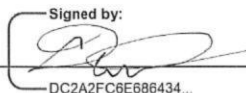
143. **Responsibility for Taxes on Distribution.** Any person or entity that receives a distribution from the Settlement Fund shall be solely responsible for any taxes or tax-related expenses owed or incurred by that person or entity by reason of that distribution. Such taxes and tax-related expenses shall not be paid from the Settlement Fund.

144. **FFBOKC Is Not Responsible.** In no event shall FFBOKC or any of the other Released Parties have any responsibility or liability to Plaintiff, Settlement Class Members, or to Class Counsel for taxes or tax-related expenses arising in connection with the payment or distribution of the Settlement Fund to Plaintiff, Settlement Class Members, or Class Counsel. The Settlement Fund shall indemnify and hold FFBOKC and the other Released Parties harmless for all such taxes and tax-related expenses (including, without limitation, taxes, and tax-related expenses payable by reason of any such indemnification).

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed, dated as of October \_\_, 2024.

DATED: 2/24/2025

Plaintiff David Monk

Signed by:   
DC2A2FC8E686434...

DATED: 2/27/25

Defendant First Federal Bank of Kansas City

By: 


Name: J.R. Buckner

Title: CEO | President

APPROVED AS TO FORM AND CONTENT

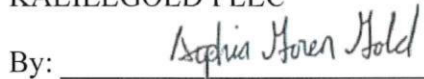
DATED: 2/24/2025

CONSUMER PROTECTION LEGAL, LLC

By:   
DocuSigned by:  
Tiffany M. Yaras  
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DATED: 2/19/2025

KALIELGOLD PLLC

By:   
Sophia Gold

*Counsel for Plaintiff and Class Counsel*

DATED: \_\_\_\_\_

STINSON LLP

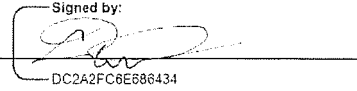
By: \_\_\_\_\_  
George F. Verschelden

*Attorneys for Defendant First Federal Bank of Kansas City*

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DATED: 2/24/2025

Plaintiff David Monk

Signed by:   
DC2A2FC6E686434

DATED: 2/27/25

Defendant First Federal Bank of Kansas City

By: 

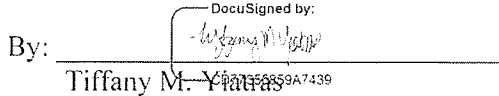
Name: J.R. Buckner

Title: CEO / President

APPROVED AS TO FORM AND CONTENT

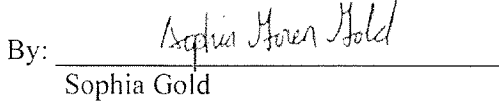
DATED: 2/24/2025

CONSUMER PROTECTION LEGAL, LLC

DocuSigned by:   
Tiffany M. Yaras  
56A77EE689A7439

DATED: 2/19/2025

KALIELGOLD PLLC

By:   
Sophia Gold

*Counsel for Plaintiff and Class Counsel*

DATED: \_\_\_\_\_

STINSON LLP

By:   
George F. Verschelden

*Attorneys for Defendant First Federal Bank of Kansas City*



**EXHIBIT 1**  
**PROPOSED ORDER RE:**  
**PRELIMINARY APPROVAL**

**IN THE SIXTEENTH JUDICIAL CIRCUIT COURT  
OF JACKSON COUNTY, MISSOURI,  
AT KANSAS CITY**

<p><b>DAVID MONK, on behalf of himself and all others similarly situated,</b></p> <p style="text-align:center">Plaintiff,</p> <p style="text-align:center">v.</p> <p><b>FIRST FEDERAL BANK OF KANSAS CITY,</b></p> <p style="text-align:center">Defendant.</p>	<p><b>CASE NO. 2416-cv04957</b></p>
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**[PROPOSED] ORDER GRANTING PLAINTIFFS’ MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION SETTLEMENT AND CONDITIONAL  
CERTIFICATION OF THE SETTLEMENT CLASS**

1. Plaintiff David Monk (“Plaintiff”) and Defendant First Federal Bank of Kansas City (“FFBOKC”) (collectively, the “Parties”), by and through their respective counsel, have submitted a Class Action Settlement Agreement (the “Agreement”) and apply under Rule 52.08 for an order: (1) preliminarily approving the Class Action Settlement Agreement as fair, adequate, and reasonable to the Settlement Class, finding it to be within the range of possible final approval; (2) conditionally certifying the Settlement Class for settlement purposes only, appointing Plaintiff David Monk as Class Representative, and appointing Kaliel Gold PLLC, Jennings & Early, PLLC, and Consumer Protection Legal, LLC as Class Counsel for the Settlement Class for settlement purposes only; (3) approving the forms of Class Notice and finding that the notice constitutes the best notice practicable under the circumstances, provides due and sufficient notice to the Settlement Class, and fully satisfies the requirements of due process; (4) directing that notice be provided to the Settlement Class in accordance with the Class Action Settlement Agreement by the

Notice Deadline; (5) establishing a procedure for persons in the Settlement Class to object to the Class Action Settlement Agreement or exclude themselves from the Settlement Class by the Objection/Exclusion Deadline; (6) barring all persons in the Settlement Class from commencing or prosecuting against any of the Released Parties any action asserting any of the Released Claims pending Final Approval of the Settlement; (7) staying all proceedings in the Litigation except those related to the effectuation of the Class Action Settlement Agreement; and (8) scheduling the Fairness Hearing on Final Approval of the Class Action Settlement Agreement, which shall be one hundred and twenty (120) days after Preliminary Approval, or such other date ordered by the Court (the “Motion”).

**ACCORDINGLY, IT IS HEREBY ORDERED:**

This Court conducted a hearing on the Motion on \_\_\_\_\_, 2026. Upon consideration and review of the proposed Settlement, the Court hereby orders:

2. This Order incorporates, as if fully set forth herein, the definitions contained in the Class Action Settlement Agreement entered by the Parties.

3. This Court has jurisdiction over the Class Representative and FFBOKC in the above captioned case.

4. The Court finds that, solely for the purposes of settlement and notice, the requirements of Missouri Rule 52.08 have been met, specifically:

- a. The Settlement Class is so numerous that joinder of all members is impracticable, as there are thousands of class members;
- b. There are questions of law and fact common to the Settlement Class based upon the claims raised in the Litigation;

- c. The Class Representative' claims are typical of the claims of the Settlement Class;
- d. The Class Representative and Class Counsel will fairly and adequately protect the interests of the Settlement Class;
- e. Questions of law and fact common to the class members predominate over any questions affecting only individual members, and a class action is superior to other available methods for fairly and efficiently adjudicating this lawsuit.

5. The Court therefore **CERTIFIES** the following Settlement Class for settlement purposes only:

All current and former holders of a FFBOKC personal checking account who, during the Class Period, incurred Overdraft Fees on debit card transactions that were authorized on sufficient funds and settled on negative funds in the same amount for which the debit card transaction was authorized.

6. This Court finds that the Agreement on its face appears to have been negotiated at arm's-length and further finds that the terms of the Agreement are within the range of a fair, reasonable, and adequate settlement between the Settlement Class and FFBOKC under the circumstances of this case. The Court therefore preliminarily approves the Agreement and directs the Parties to the Agreement to perform and satisfy the terms and conditions of the Agreement that are triggered by such preliminary approval.

7. David Monk is hereby appointed as Class Representative of the Settlement Class.

8. KalieGold PLLC, Jennings & Early, PLLC, and Consumer Protection Legal, LLC are hereby appointed Class Counsel for the Settlement Class.

9. Pursuant to Rule 52.08, a fairness hearing shall be held before this Court at \_\_\_\_\_ a.m./p.m. on \_\_\_\_\_, 2026, at the Circuit Court of Jackson County, Missouri or via

video or teleconference, for the purpose of considering: (a) whether the Agreement should be finally approved as fair, reasonable, and adequate; (b) whether a final judgment should be entered thereon; and (c) whether Class Counsel's application for attorneys' fees, costs, Administration Costs, and Service Awards for the Class Representative should be approved by the Court. Plaintiff will file their Motion for Final Approval no later than thirty (30) days before the Fairness Hearing. Similarly, Plaintiff will file their motion for an award of attorneys' fees, costs, Administration Costs, and Service Awards no later than thirty (30) days before the Fairness Hearing.

10. The Court approves the proposed Notices of the Settlement in the form of Exhibits 3,4, and 5 attached to the Settlement Agreement, which is attached to the Suggestions in Support of Plaintiff's Motion for Preliminary Approval as Exhibit A. The Notices reasonably inform the Settlement Class of the essential features of the Litigation, the terms of the proposed Settlement, and their rights with respect thereto.

11. The Court appoints Verita Global to serve as the Class Action Settlement Administrator overseeing the Settlement. Plaintiff is hereby directed to require the Class Action Settlement Administrator to distribute the Notice in accordance with the Agreement, on a date commencing no later than thirty (30) days from the entry of this Order. Furthermore, the Class Action Settlement Administrator is directed to establish and maintain a Settlement Website in conformity with the Agreement.

12. The Court's approval of the Notices is approval of the materials in substantially the same form as that presented to the Court. The Court acknowledges that the Class Action Settlement Administrator may need to make typesetting, formatting, or other non-material adjustments to conform to its practices. The Parties are authorized to confer on such changes and jointly approve them without the Court's involvement, provided that the Notices still materially conform to those

versions presented to the Court. If the Parties cannot agree on any proposed formatting or non-material changes, then the Court will resolve the dispute.

13. The Court finds that, under the circumstances, the distribution of notice described herein constitutes the best notice practicable to inform Settlement Class Members of the Fairness Hearing, the proposed Settlement, Class Counsel's application for attorneys' fees, costs, and other matters set forth in the Notice, and that the Notice fully complies with the requirements of the Missouri Rules of Civil Procedure and Due Process and is due and sufficient notice to all persons entitled to notice of the Settlement. This Notice procedure, as contemplated by this Order, is reasonably calculated to communicate actual notice of the litigation and the proposed Settlement to Settlement Class Members.

14. Any person falling within the definition of the Settlement Class may, upon the person's request, be excluded from the Settlement. Any such person must submit a request for exclusion by the Objection/Exclusion Deadline. Requests for exclusion must include: (1) the Settlement Class Member's name, address, and phone number; (2) be personally signed and/or e-signed by the Settlement Class Member; and (3) include the statement "I/we request to be excluded from the class settlement in *Monk v. First Federal Bank of Kansas City*." Settlement Class Members who submit a timely and valid request for exclusion from the Settlement Class shall not participate in and shall not be bound by the Agreement. Members of the Settlement Class who do not timely and validly opt out of the Settlement Class in accordance with the Notice shall be bound by all determinations and judgments in the Litigation concerning the Agreement.

15. Any person falling within the definition of the Settlement Class who does not request exclusion in the manner set forth above can object to the Agreement by submitting a written objection to the Class Action Settlement Administrator by the Objection/Exclusion Deadline. All

written objections and supporting papers must state: (1) the case name and case number(s) of this Litigation; (2) the objector's full name, current address, and the last four digits of the account number of any FFBOKC account the objector claims was charged Challenged Fees in this Litigation; (3) a statement that the Settlement Class Member objects to the Settlement, in whole or in part; (4) the reasons why the objector objects to the settlement along with any supporting materials; (5) the identity of any lawyer who assisted, provided advice, or represents the objecting Class Member as to this case or such objection, if any; (6) the objector's signature; and (7) a statement indicating whether the objecting Settlement Class Member intends on appearing at the Final Approval Hearing either pro se or through counsel and whether the objecting Settlement Class Member plans on offering testimony at the Final Approval Hearing. Should any timely filed objections meeting the required procedure be submitted, Class Counsel must file any responses to any written objections at least fourteen (14) calendar days before the Fairness Hearing.

16. Any Settlement Class Member who does not submit a written objection to the Agreement, or to Class Counsel's application for attorneys' fees, costs, Administration Costs, and Service Awards for the Class Representative, in accordance with the procedure set forth in the Agreement and in this Order, shall be deemed to have waived his or her objections and forever be barred from making any such objections in the Litigation or in any other Litigation or proceeding concerning the Released Claims.

17. The Court may, for good cause, extend any of the deadlines set forth in this Order or adjourn, continue, or reconvene the Fairness Hearing without further notice to the Settlement Class, and the Court may consider and grant final approval of the Agreement, with or without minor modifications and without further notice to the Class.

18. In the event that the Settlement is not finally approved by the Final Approval Order (as that term is defined in the Agreement) in complete accordance with the terms of the Agreement, then this Preliminary Approval Order shall be rendered null and void and be vacated, and the Agreement shall be rendered null and void in accordance with the Agreement.

19. The Court retains continuing jurisdiction over the Parties and the Litigation to consider all further applications arising out of or connected with the proposed Agreement.

20. In further aid of the Court's jurisdiction to implement and enforce the Settlement, Plaintiff and all Settlement Class Members shall be enjoined from commencing or prosecuting against any of the Released Parties any action asserting any of the Released Claims pending Final Approval of the Settlement.

**WHEREFORE**, for the reasons set forth herein, Plaintiff's Motion for Preliminary Approval of Class Action Settlement and Conditional Certification of the Settlement Class is **GRANTED**.

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

# **Exhibit 2**

## **Proposed Final Order and Judgement**

**IN THE CIRCUIT COURT OF  
JACKSON COUNTY, MISSOURI,  
AT KANSAS CITY**

<p><b>DAVID MONK, on behalf of himself and all others similarly situated,</b></p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p><b>FIRST FEDERAL BANK OF KANSAS CITY,</b></p> <p style="text-align: center;">Defendant.</p>	<p><b>CASE NO. 2416-cv04957</b></p>
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**[PROPOSED] FINAL ORDER AND JUDGEMENT GRANTING PLAINTIFF’S  
UNOPPOSED MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT  
AND UNOPPOSED APPLICATION FOR AN AWARD OF ATTORNEYS’ FEES,  
EXPENSES, AND SERVICE AWARDS  
TO CLASS REPRESENTATIVES**

This matter comes before the Court on Plaintiff’s Motion for Final Approval of Class Action Settlement (“Motion for Final Approval”) and Plaintiff’s and Class Counsel’s Unopposed Application for An Award of Attorneys’ Fees, Expense, Service Awards to Class Representative (“Application”). The Motion for Final Approval and the Application came before the Court for hearing on \_\_\_\_\_ pursuant to the Court’s Order Granting Plaintiff’s Motion for Preliminary Approval of Class Action Settlement and Conditional Certification of the Settlement Class (“Preliminary Approval Order”) dated \_\_\_\_\_. In the Preliminary Approval Order, the Court preliminarily certified a settlement class (“Settlement Class”) defined as:

All current and former holders of a FFBOKC personal checking account who, during the Class Period, incurred Overdraft Fees on debit card transactions that were authorized on sufficient funds and settled on negative funds in the same amount for which the debit card transaction was authorized.

The Court also approved the form, content, and method of disseminating Class Notice, appointed Class Representative and Class Counsel, and scheduled a fairness hearing on \_\_\_\_\_.

The Court held the fairness hearing in this matter on \_\_\_\_\_ to consider whether: (1) the Settlement is fair, reasonable, and adequate; (2) whether a judgment should be entered dismissing the action with prejudice; and (3) whether and in what amount to award attorneys' fees and litigation expenses to Class Counsel and service awards to the Class Representative. Having considered all matters submitted to it at the fairness hearing and otherwise, and with due and adequate notice given to the Settlement Class as directed by the Court in its Preliminary Approval Order, the Court finds that the Motion for Final Approval and the Application should be **GRANTED**.

**THE COURT HEREBY FINDS, CONCLUDES, AND ORDERS** as follows:

1. This Order incorporates by reference the Preliminary Approval Order dated \_\_\_\_\_, and the Settlement Agreement dated \_\_\_\_\_ (“Agreement”), including the definitions contained therein. All terms used in this Final Order and Judgment shall have the same meaning as set forth in the Agreement and Preliminary Approval Order.

2. The Court has jurisdiction over the subject matter of the Action and over all of the Parties, including all Settlement Class Members.

3. The Court hereby reaffirms its findings and conclusions in the Preliminary Approval Order that, for purposes of the Agreement and the Settlement, the standards for class certification under Rule 52.08 of the Missouri Rules of Civil Procedure and applicable case law have been met for the Settlement Class. Accordingly, the Court grants final certification of the Settlement Class defined as:

All current and former holders of a FFBOKC personal checking account who, during the Class Period, incurred Overdraft Fees on debit card transactions that were authorized on sufficient funds and settled on negative funds in the same amount for which the debit card transaction was authorized.

4. The Court also reaffirms its findings and conclusions in the Preliminary Approval Order that the named Plaintiff in this Action, David Monk, and Plaintiff's attorneys, Kaliel Gold PLLC, Jennings & Earley, PLLC, and Consumer Protection Legal, LLC are adequate to represent the Settlement Class as Class Representative and Class Counsel, respectively.

5. The Court appoints David Monk as Class Representative for the Settlement Class and finds that it meets the requirements of Rule 52.08 of the Missouri Rules of Civil Procedure.

6. The Court appoints KalielGold PLLC, Jennings & Earley, PLLC, and Consumer Protection Legal, LLC as Class Counsel and finds that they meet the requirements of Rule 52.08 of the Missouri Rules of Civil Procedure.

7. The Court has conducted a thorough examination of the record and has determined that the Settlement is fair, reasonable, and adequate pursuant to Missouri Rule of Civil Procedure 52.08 and applicable case law. In evaluating the fairness of the Settlement, the Court has considered: "(1) the existence of fraud or collusion behind the Settlement; (2) the complexity, expense, and likely duration of the litigation; (3) the stage of the proceedings and the amount of discovery completed; (4) the probability of the plaintiff's success on the merits; (5) the range of possible recovery; and (6) the submissions of class counsel, class representatives, and absent class members." *Bachman v. A. G. Edwards. Inc.*, 344 S.W.3d 260, 266 (Mo. App. 2011) (quoting *Ring v. Metro. St. Louis Sewer Dist.*, 41 S.W.3d 487, 492 (Mo. App. 2000).) The Court finds that each of these factors supports granting final approval of the Settlement. With respect to these factors, the Court finds and concludes as follows:

a) First, the Court finds that the Settlement is the result of arm's length negotiations between two adverse parties. There is no suggestion or evidence that the Settlement is the product of fraud or collusion. The Settlement was reached after arm's length negotiations by counsel experienced in litigating and settling class actions. The Settlement involves significant concessions by both sides and provides substantial relief to members of the Settlement Class, including monetary relief for persons charged the Challenged Fees.

b) Second, the factual and legal issues in this case are relatively complex and would require expensive and protracted litigation to resolve. Plaintiff's allegations present intricate issues regarding whether Defendant charged Overdraft Fees on debit card transactions that were authorized on sufficient funds and settled on negative funds in the same amount for which the debit card transaction was authorized.

c) Third, the Settlement was reached by parties with sufficient information to effectively evaluate the terms of the Settlement and represent the Settlement Class. The Parties engaged in a sufficient amount of formal and informal discovery to drive the Parties' settlement discussions, including FFBOKC's production of information related to the nature, timing, and implementation of Defendant's contractual documents; the approximate number of customers who were charged the Challenged Fees; and the approximate Challenged Fees charged.. This key information, along with the Parties' extensive settlement negotiations, allowed Plaintiff and Class Counsel to meaningfully assess the strengths and weaknesses of their novel claims. Further, prior to the commencement of litigation, Class Counsel engaged in an independent investigation of Plaintiff's claims and FFBOKC's fee practices, as well as potential claims of other Settlement Class Members.

d) Fourth, the Court finds that success on the merits is far from certain. This Action faced potential obstacles at all levels that could have resulted in no recovery at all for the Settlement Class;

e) Fifth, the Settlement falls within the range of possible recovery the Class could achieve at trial if Plaintiff were to succeed on the merits. Furthermore, it is possible that the Settlement Class would receive no recovery if the case were resolved through continued litigation and a trial. The Settlement provides immediate and certain benefits to the Class that may not be available through continued litigation.

f) Sixth, the Court finds that the opinions of Class Representative and Class Counsel and the response of absent Settlement Class members weigh in favor of final approval. Class Representative and Class Counsel, who have extensive knowledge of the factual and legal issues in the case and actively have been involved in the negotiations and mediation, support the proposed Settlement as fair, reasonable, and adequate. Their assessment of the benefits provided by the Settlement in light of the risks associated with continued litigation is entitled to appropriate weight. In addition, all available evidence indicates that the Settlement enjoys overwhelming support from the Settlement Class, as there have been \_\_\_ objections to the settlement and just \_\_\_ requests for exclusion from the settlement.

8. Based upon its evaluation of the foregoing factors and the record submitted by the Parties, the Court finds that the Agreement and Settlement are fair, reasonable, and adequate. The Court, therefore, **GRANTS** final approval of the Settlement in all respects. The parties are directed to implement the terms of the Settlement as provided in the Agreement. Without further order of the Court, the parties may agree to reasonably necessary extensions of time to carry out any of the provisions of the Agreement.

9. The notice to the Settlement Class of this action and the proposed Settlement, issued pursuant to the Settlement Agreement and the Court's Preliminary Approval Order, was adequate and constituted the best notice practicable under the circumstances. Notice of the Settlement reached over \_\_\_\_\_ class members. The notice was reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. The Court reaffirms its findings in the Preliminary Approval Order that the notice issued to the Settlement Class satisfies the requirements of Rule 52.08(e), due process, and Missouri law.

10. The Court also agrees with the proposed recipient of any *cy pres* fund remaining from the Cash Fund: the recipient of any remaining monies in the Cash Fund shall be \_\_\_\_\_.

11. The Court also has considered Plaintiff's and Class Counsel's Application for reasonable attorneys' fees and litigation expenses. The Court finds that Class Counsel has achieved an excellent Settlement for the Settlement Class. Given the substantial results obtained for the Settlement Class, the efforts and skill shown by Class Counsel in investigating and bringing this class action to a successful resolution, and the considerable risk Class Counsel incurred in pursuing this matter on a contingency basis, the Court finds that Plaintiff's and Class Counsel's request for an award of \$100,000, representing approximately 33.33% of the settlement value, is reasonable and will be rewarded. The Court further finds \$\_\_\_\_\_ in taxable litigation costs and expenses, is reasonable and will be awarded. The award of attorneys' fees, costs, and expenses will be paid from the Settlement Amount and will not be paid by Defendant. The Court finds and concludes that the requested award is fair and reasonable for numerous reasons, including the following:

12. Under the percentage of recovery approach, Class Counsel's total fee and expense request of \$100,000 represents 33.33% of the total value of the monetary benefits provided by the Settlement. A fee award of 33.33% easily falls within the range of awards routinely granted by courts in Missouri. *See Bachman*, 344 S.W.3d at 267 (holding that a fee award of approximately one-third of the value of a settlement is "not unreasonable" in class action cases); *Hale*, 2009 WL 2206963, ¶ 30 ("The 38.3% fee requested in this case is customary and well in line with attorneys' fees award in similar cases."); *McLean v. First Horizon Home Loan Corp.*, No. CV228590, 2007 WL 5674689, ¶ 11 (Mo. Cir. Ct. Jackson Cnty. June 7, 2007) (Scoville, J.) ("[33.3]% contingency fee is well within the average recovery from recent class action settlements."); *In re Ampicillin Antitrust Litig.*, 526 F. Supp. 494, 499 (D.D.C. 1981) (awarding 45% of \$7.3 million gross settlement fund as reasonable attorneys' fees).

13. Based on the foregoing, the Court **GRANTS** Plaintiff's and Class Counsel's application for an award of attorneys' fees and expenses in the amount of \$100,000. In addition to compensating Class Counsel for its reasonable attorneys' fees incurred in prosecuting this Action to a successful resolution, this award will reimburse Class Counsel for the \$\_\_\_\_\_ in litigation costs and expenses reasonably incurred in this litigation, including court costs, filing and service fees, mediation costs, and pro hac vice related costs; and other expenses that are typically awarded to class counsel. *See* 2 Joseph M. McLaughlin, *McLaughlin on Class Actions* § 6:24 (8th ed. 2011) (noting that "class counsel also is entitled to reimbursement from the class recovery (without interest) for the costs and reasonable out-of-pocket expenses incurred in prosecuting the litigation"); *Hale*, 2009 WL 2206963, ¶ 30 ("computer-assisted research, photocopying, telephone, facsimile charges, postal messenger, express mail, deposition fees,

transcripts, expert witnesses, travel and meals, and subpoena services are reasonably incurred in connection with the prosecution of a [modern], complex litigation.”).

14. The Court has also considered Class Counsel’s application for a service award to Class Representative in the amount of \$5,000 for Plaintiff David Monk. The Court finds that Class Counsel’s request for a service award is fair and reasonable. *See* McLaughlin on Class Actions, supra, § 6:28 (“[I]t is fair and reasonable to compensate class representatives, ordinarily within the range of \$1,000-\$20,000, for the efforts they make in obtaining a recovery on behalf of the class.”); *Bachman*, 2010 WL 5648344, ¶ 4 (awarding \$10,000 each to the two representative plaintiffs).

15. In determining the reasonableness of a service award, the Court considers: “(1) the actions the named class representatives have taken to protect the interests of the class; (2) the degree to which the class has benefited from those actions; and (3) the amount of time and effort the named class representatives expended in pursuing the litigation.” *Hale*, 2009 WL 2206963, ¶ 43. The Court finds that the time and effort Plaintiff devoted to this matter contributed to the overall result and benefitted the Settlement Class. Here, the successful outcome in this case would not have been possible without the efforts of Plaintiff, and their initiative and efforts on behalf of the Settlement Class should be rewarded. *See id.* at ¶43 (“The purpose of service awards, or supplemental compensation, for class representatives is to encourage people with significant claims to pursue actions on behalf of others similarly situated.”). The Court hereby approves a service award of \$5,000 to each named Plaintiff.

16. The Court hereby dismisses this action against Defendant with prejudice as to all members of the Settlement Class, as outlined in the Agreement. Upon Final Judgment, and except as to such rights or claims as may be created by the Agreement, and in consideration for

the settlement benefits described in the Agreement, Plaintiff and the Settlement Class shall fully release and discharge FFBOKC as well as their respective, heirs, assigns, executors, administrators, beneficiaries, successors, and agents from each of the Released Claims (as defined below). The Settlement Class Members further agree that they will not institute any action or cause of action (in law, in equity, or administratively), suits, debts, liens, or claims, known or unknown, fixed or contingent, which they may have or claim to have, in state or federal court, in arbitration, or with any state, federal, or local government agency or with any administrative or advisory body, arising from the Released Claims. The release does not apply to members of the Class who timely opt-out of the settlement.

17. With respect to the Released Claims, each Settlement Class Member shall be deemed to have waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits of California Civil Code section 1542 (and equivalent, comparable or analogous provisions of the laws of the United States of America or any state or territory thereof, or of the common law or civil law). Section 1542 provides that:

**A GENERAL RELEASE DOES NOT EXTEND TO THE CLAIMS WHICH THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

Each term of this paragraph shall inure to the benefit of each and all of the Released Persons, and each and all of their respective successors and personal representatives, which persons and entities are intended to be beneficiaries of this paragraph. None of the above releases includes release of claims or otherwise affects rights to enforce the terms of the Settlement Agreement.

18. Neither this Final Judgment and Order, nor any terms or provisions of the Agreement, shall be admissible as evidence for any purpose against the Parties in any pending or future litigation involving any of the parties. This Final Judgment and Order shall not be construed as an admission, concession, or declaration by or against Defendant of any fault, wrongdoing, breach, or liability in any civil, criminal, or administrative proceeding in any court, administrative agency or other tribunal, and Defendant specifically denies any such fault, wrongdoing, breach, or liability. Nor shall this Final Judgment and Order be construed or used as an admission, concession, or declaration by or against Plaintiff or the Class that their claims lack merit or that the relief requested in the action is inappropriate, improper, or unavailable. Neither the fact of, nor any provision contained in the Agreement or the documents submitted in connection with the Settlement, nor any actions taken thereunder shall be deemed evidence of a concession or admission of any kind as to the truth of any fact alleged or validity of any legal argument that has been, could have been, or in the future might be asserted. Nothing in this Final Judgment and Order shall be relied upon, cited as, constitute evidence of, or constitute an admission that class or collective action certification is or may be appropriate in any other action.

19. Without affecting the finality of the Judgment entered herein in any way, the Court hereby retains continuing jurisdiction to implement the Settlement through enforcement of this Judgment and to construe, enforce, and administer the Agreement pursuant to its terms. Specifically, the Court retains continuing jurisdiction over the Action to enforce Defendant's obligations under the Agreement to provide compensation to the Settlement Class as provided in the Agreement, pay Class Representative service awards as provided in this Judgment and the Agreement, and pay Class Counsel any award of attorneys' fees and expenses made by the Court, subject to the terms of the Agreement. If Defendant fails to fulfill its obligations, the

Court has the power to vacate the provision of this Judgment releasing, relinquishing, and discharging, and barring and enjoining the prosecution against the Released Persons arising from or relating to the allegations in the Complaint.

**IT IS SO ORDERED.**

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**EXHIBIT 3**  
**POSTCARD NOTICE**

*Monk v. First Federal Bank of Kansas City*

**NOTICE OF PENDING CLASS ACTION  
AND PROPOSED SETTLEMENT**

**READ THIS NOTICE FULLY AND  
CAREFULLY; THE PROPOSED  
SETTLEMENT MAY AFFECT  
YOUR RIGHTS!**

**IF YOU HAVE OR HAD A CHECKING  
ACCOUNT WITH FIRST FEDERAL  
BANK OF KANSAS CITY AND YOU  
WERE CHARGED CERTAIN  
OVERDRAFT FEES BETWEEN  
FEBRUARY 23, 2019, AND  
MONTH     , 2026, THEN YOU MAY BE  
ENTITLED TO A PAYMENT FROM A  
CLASS ACTION SETTLEMENT**

The Circuit Court of Jackson County, Missouri  
at Kansas City has authorized this Notice; it is  
not a solicitation from a lawyer.



VISIT THE  
SETTLEMENT  
WEBSITE BY  
SCANNING  
THE PROVIDED  
QR CODE

**ABC**

*Monk v. First Federal Bank of Kansas*

City Settlement Administrator

P.O. Box #####

City, ST ZIP

«3of9 Barcode»

«BARCODE»

Postal Service: Please do not mark barcode

ABC: ClaimID: «Claim Number»

«FIRST1» «LAST1»

«ADDRESS LINE 2»

«ADDRESS LINE 1»

«CITY», «STATE»«PROVINCE» «POSTALCODE»

«COUNTRY»

You may be a Class Member in *Monk v. First Federal Bank of Kansas City*, Case No: 2416-cv04957 pending in the Circuit Court of Jackson County, Missouri at Kansas City in which the plaintiff alleges that First Federal Bank of Kansas City (“Defendant”) improperly assessed certain overdraft fees for debit card payments between February 23, 2019, and **Month**, 2026. Defendant denies any and all liability to Plaintiff and the members of the Settlement Classes in the Action, and believes it would ultimately be successful in its defense of all claims asserted in the Action, but nevertheless desires to settle the Action, and all claims that could have been alleged therein, on the terms set forth in this Agreement solely for the purpose of avoiding the burden, expense, risk, and uncertainty of continuing these proceedings.

If you are a Class Member and if the settlement is approved, you may be entitled to receive a cash payment from the \$300,000 Settlement Fund.

The Court has preliminarily approved this settlement. It will hold a Final Approval Hearing in this case on **[INSERT DATE]**. At that hearing, the Court will consider whether to grant final approval to the settlement, and whether to approve payment from the Settlement Fund of up to \$5000 for a service award to the class representative (David Monk), up to \$100,000 as attorneys’ fees, which is equal to one third of the Value of the Settlement, and reimbursement of costs to the attorneys and the Settlement Administrator. If the Court grants the Final Approval Order and you do not request to be excluded from the settlement, you will release your right to bring any claim covered by the settlement. In exchange, Defendant has agreed to issue a credit to your account or make a cash payment to you if you are no longer a customer.

**To obtain a more detailed explanation of the settlement terms and other important documents please visit **[INSERT WEBSITE ADDRESS]**. Alternatively, you may call **[INSERT PHONE #]**.**

**If the Final Approval Hearing is held by Zoom or by other remote means, information on how to access the hearing can be found on **[INSERT WEBSITE ADDRESS]**.**

*If you do not want to participate in this settlement—you do not want to receive a credit or cash payment and you do not want to be bound by any judgment entered in this case—you may exclude yourself by submitting an opt-out request postmarked no later than **[PARTIES TO INSERT DATE]**. If you want to object to this settlement because you think it is not fair, adequate, or reasonable, you may object by submitting an objection postmarked no later than **[PARTIES TO INSERT DATE]**. You may learn more about the opt-out and objection procedures by visiting **[PARTIES TO PROVIDE WEBSITE ADDRESS]** or by calling **[Insert Phone #]**.*

**EXHIBIT 4**  
**EMAIL NOTICE**

Monk v. First Federal Bank of Kansas City

**NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT  
READ THIS NOTICE FULLY AND CAREFULLY; THE PROPOSED SETTLEMENT  
MAY AFFECT YOUR RIGHTS!**

**IF YOU HAVE OR HAD A CHECKING ACCOUNT WITH FIRST  
FEDERAL BANK OF KANSAS CITY AND YOU WERE CHARGED  
CERTAIN OVERDRAFT FEES BETWEEN FEBRUARY 23, 2019, AND  
MONTH \_\_\_\_, 2026, THEN YOU MAY BE ENTITLED TO A PAYMENT  
FROM A CLASS ACTION SETTLEMENT**

The Circuit Court of Jackson County, Missouri at Kansas City has authorized this Notice;  
it is not a solicitation from a lawyer.

You may be a Class Member in *Monk v. First Federal Bank of Kansas City*, Case No: 2416-cv04957 pending in the Circuit Court of Jackson County, Missouri at Kansas City in which the plaintiff alleges that First Federal Bank of Kansas City (“Defendant”) improperly assessed certain overdraft fees for debit card payments between February 23, 2019, and Month \_\_\_\_, 2026. Defendant denies any and all liability to Plaintiff and the members of the Settlement Classes in the Action, and believes it would ultimately be successful in its defense of all claims asserted in the Action, but nevertheless desires to settle the Action, and all claims that could have been alleged therein, on the terms set forth in this Agreement solely for the purpose of avoiding the burden, expense, risk, and uncertainty of continuing these proceedings.

If you are a Class Member and if the settlement is approved, you may be entitled to receive a cash payment from the \$300,000 Settlement Fund.

The Court has preliminarily approved this settlement. It will hold a Final Approval Hearing in this case on [INSERT DATE]. At that hearing, the Court will consider whether to grant final approval to the settlement, and whether to approve payment from the Settlement Fund of up to \$5000 for a service award to the class representative (David Monk), up to \$100,000 as attorneys’ fees, which is equal to one third of the Value of the Settlement, and reimbursement of costs to the attorneys and the Settlement Administrator. If the Court grants the Final Approval Order and you do not request to be excluded from the settlement, you will release your right to bring any claim covered by the settlement. In exchange, Defendant has agreed to issue a credit to your account or make a cash payment to you if you are no longer a customer.

**To obtain a more detailed explanation of the settlement terms and other important documents please visit [INSERT WEBSITE ADDRESS]. Alternatively, you may call [INSERT PHONE #].**

**If the Final Approval Hearing is held by Zoom or by other remote means, information on how to access the hearing can be found on [INSERT WEBSITE ADDRESS].**

*If you do not want to participate in this settlement—you do not want to receive a credit or cash payment and you do not want to be bound by any judgment entered in this case—you may exclude yourself by submitting an opt-out request postmarked no later than [PARTIES TO INSERT DATE]. If you want to object to this settlement because you think it is not fair, adequate, or reasonable, you may object by submitting an objection postmarked no later than [PARTIES TO INSERT*

*DATE]. You may learn more about the opt-out and objection procedures by visiting [PARTIES TO PROVIDE WEBSITE ADDRESS] or by calling [Insert Phone #].*

**EXHIBIT 5**  
**LONG FORM NOTICE**

*Monk v. First Federal Bank of Kansas City*  
CASE NO. 2416-CV04957

**NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT**

**READ THIS NOTICE FULLY AND CAREFULLY; THE PROPOSED SETTLEMENT  
MAY AFFECT YOUR RIGHTS!**

**IF YOU HAVE OR HAD A CHECKING ACCOUNT WITH FIRST  
FEDERAL BANK OF KANSAS CITY AND YOU WERE CHARGED  
CERTAIN OVERDRAFT FEES BETWEEN FEBRUARY 23, 2019, AND  
MONTH \_\_\_\_\_, 2026, THEN YOU MAY BE ENTITLED TO A PAYMENT  
FROM A CLASS ACTION SETTLEMENT**

The Circuit Court of Jackson County, Missouri at Kansas City has authorized this Notice;  
it is not a solicitation from a lawyer.

<b>SUMMARY OF YOUR OPTIONS AND THE LEGAL EFFECT OF EACH OPTION</b>	
<b>DO NOTHING</b>	If you don't do anything, you will receive a payment from the Settlement Fund so long as you do not opt out of or exclude yourself from the settlement (described in the next box).
<b>EXCLUDE YOURSELF FROM THE SETTLEMENT; RECEIVE NO PAYMENT BUT RELEASE NO CLAIMS</b>	You can choose to exclude yourself from the settlement or "opt out." This means you choose not to participate in the settlement. You will keep your individual claims against Defendant, but you will not receive a payment for relevant fees. If you exclude yourself from the settlement but want to recover against Defendant, you will have to file a separate lawsuit or claim.
<b>OBJECT TO THE SETTLEMENT</b>	You can file an objection with the Court explaining why you believe the Court should reject the settlement. If your objection is overruled by the Court, then you may receive a payment and you will not be able to sue Defendant for the claims asserted in this litigation. If the Court agrees with your objection, then the settlement may not be approved.

These rights and options – *and the deadlines to exercise them* – along with the material terms of the settlement are explained in this Notice.

## **BASIC INFORMATION**

### **1. What is this lawsuit about?**

In the lawsuit, the Plaintiff alleges that First Federal Bank of Kansas City (“Defendant”) improperly charged its checking account customers overdraft fees 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 between February 23, 2019, and **Month \_\_\_\_\_, 2026**.

The lawsuit being settled is entitled *Monk v. First Federal Bank of Kansas City*, Case No. 2416-cv04957 pending in the Circuit Court of Jackson County, Missouri at Kansas City. The lawsuit is a “class action.” That means that the “Class Representative,” David Monk, is an individual who is acting on behalf of current and former holders of a First Federal Bank of Kansas City personal checking account who during the Class Period, incurred an Overdraft Fees on debit card transactions that were authorized on sufficient funds and settled on negative funds in the same amount for which the debit card transaction was authorized (“Challenged Fees”). The Class Representative has asserted claims for breach of contract and breach of the implied covenant of good faith and fair dealing.

Defendant denies any liability or wrongdoing of any kind associated with the alleged claims in the Litigation. Defendant has denied and continues to deny all claims asserted, or that could have been asserted against it in the Litigation. The settlement is not an admission of wrongdoing or liability, or of the truth of any allegations in the Litigation.

### **2. Why did I receive this Notice of this lawsuit?**

You received this Notice because Defendant’s records indicate that you were charged one or more Challenged Fees that are the subject of this action. The Court directed that this Notice be sent to all Class Members because each such member has a right to know about the proposed settlement and the options available to him or her before the Court decides whether to approve the settlement.

### **3. Why did the parties settle?**

In any lawsuit, there are risks and potential benefits that come with a trial versus settling at an earlier stage. It is the Class Representative’s and his lawyers’ job to identify when a proposed settlement offer is good enough that it justifies recommending settling the case instead of continuing to trial. In a class action, the Class Representative’s lawyers, known as Class Counsel, make this recommendation to the Class Representative. The Class Representative has the duty to act in the best interests of the class as a whole and, in this case, it is his belief, as well as Class Counsel’s opinion, that this settlement is in the best interest of all Class Members.

There is legal uncertainty about whether a judge or a jury will find that Defendant was contractually and otherwise legally obligated not to assess the fees at issue. And even if it was contractually wrong to assess these fees, there is uncertainty about whether the Class Representative’s claims are subject to other defenses that might result in no or less recovery to Class Members. Even if the Class Representative was to win at trial, there is no assurance that the Class Members would be awarded more than the current settlement amount and it may take years of litigation before any

payments would be made. By settling, the Class Members will avoid these and other risks and the delays associated with continued litigation.

While Defendant disputes the allegations in the lawsuit and denies any liability or wrongdoing, it enters into the settlement solely to avoid the expense, inconvenience, and distraction of further proceedings in the litigation.

### **WHO IS IN THE SETTLEMENT**

#### **4. How do I know if I am part of the settlement?**

If you received this notice, then Defendant's records indicate that you are a Class Member who is entitled to receive a payment or credit to your account.

### **YOUR OPTIONS**

#### **5. What options do I have with respect to the settlement?**

You have three options: (1) do nothing and you will receive a payment according to the terms of this settlement; (2) exclude yourself from the settlement ("opt out" of it); or (3) participate in the settlement but object to it. Each of these options is described in a separate section below.

#### **6. What are the critical deadlines?**

There is no deadline to receive a payment. If you do nothing, then you will get a payment.

The deadline for sending a letter to exclude yourself from or opt out of the settlement is [REDACTED].

The deadline to file an objection with the Court is also [REDACTED].

#### **7. How do I decide which option to choose?**

If you do not like the settlement and you believe that you could receive more money by pursuing your claims on your own (with or without an attorney that you could hire) and you are comfortable with the risk that you might lose your case or get less than you would in this settlement, then you may want to consider opting out.

If you believe the settlement is unreasonable, unfair, or inadequate and the Court should reject the settlement, you can object to the settlement terms. The Court will decide if your objection is valid. If the Court agrees, then the settlement may not be approved, and no payments will be made to you or any other Class Member. If your objection (and any other objection) is overruled, and the settlement is approved, then you may still get a payment and will be bound by the settlement.

If you want to participate in the settlement, then you don't have to do anything; you will receive a payment if the settlement is approved by the Court.

#### **8. What has to happen for the settlement to be approved?**

The Court has to decide that the settlement is fair, reasonable, and adequate before it will approve it. The Court already has decided to provide Preliminary Approval of the Settlement, which is why

you received a Notice. The Court will make a final decision regarding the settlement at a “Fairness Hearing” or “Final Approval Hearing,” which is currently scheduled for [REDACTED].

### **THE SETTLEMENT PAYMENT**

#### **9. How much is the settlement?**

Defendant has agreed to create a Settlement Fund of \$300,000.

As discussed separately below, attorneys’ fees, litigation costs, and the costs paid to a third-party Settlement administrator to administer the settlement (including mailing and emailing Notice) will be paid out of the Settlement Fund. The Net Settlement Fund will be divided among all Class Members entitled to Class Member payments based on formulas described in the Agreement.

#### **10. How much of the Settlement Fund will be used to pay for attorneys’ fees and costs?**

Class Counsel will request the Court to approve attorneys’ fees of not more than \$100,000, equal to one third of the Value of the Settlement and will request that it be reimbursed for litigation costs incurred in prosecuting the case. The Court will decide the amount of the attorneys’ fees and costs based on a number of factors, including the risk associated with bringing the case on a contingency basis, the amount of time spent on the case, the amount of costs incurred to prosecute the case, the quality of the work, and the outcome of the case.

#### **11. How much of the Settlement Fund will be used to pay the Class Representatives Service Awards?**

Class Counsel will request that the Class Representative be paid a Service Award in the amount of \$ 5,000 for his work in connection with this case. The Service Award must be approved by the Court.

#### **12. How much will my payment be?**

The balance of the Settlement Fund after attorneys’ fees and costs, the Service Awards, and the Settlement Administrator’s fees, also known as the Net Settlement Fund, will be divided among all Class Members entitled to Class Member payments in accordance with the formulas outlined in the Agreement. Current customers of Defendant will receive a credit to their accounts for the amount they are entitled to receive. Former customers of Defendant shall receive a check from the Settlement administrator.

#### **13. Do I have to do anything if I want to participate in the settlement?**

No. If you received this Notice, then you may be entitled to receive a Class Member payment without having to make a claim, unless you choose to exclude yourself from the settlement, or “opt out.”

#### **14. When will I receive my payment?**

The Court will hold a Final Approval Hearing on [REDACTED], at [REDACTED] to consider whether the settlement should be approved. If the Court approves the settlement, then payments should be made, or credits should be issued within 45 days of the Effective Date. However, if someone objects to the settlement, and the objection is sustained, then there is no settlement. Even if all objections are overruled and the Court approves the settlement, an objector could appeal, and it might take months or even years to have the appeal resolved, which would delay any payment.

### **EXCLUDING YOURSELF FROM THE SETTLEMENT**

#### **15. How do I exclude myself from the settlement?**

If you do not want to receive a payment or if you want to keep any right you may have to sue Defendant for the claims alleged in this lawsuit, then you must exclude yourself, or “opt out.”

To opt out, you **must** send a letter to the Settlement Administrator saying that you want to be excluded. Your letter can simply say “I hereby elect to be excluded from the settlement in the *Monk v. First Federal Bank of Kansas City* class action.” Be sure to include your name, the last four digits of your account number(s) or former account number(s), address, telephone number, and email address. Your exclusion or opt out request must be postmarked by [REDACTED], and sent to:

Monk v. First Federal Bank of Kansas City

Attn:

**ADDRESS OF THE SETTLEMENT ADMINISTRATOR**

#### **16. What happens if I opt out of the settlement?**

If you opt-out of the settlement, you will preserve and not give up any of your rights to sue Defendant for the claims alleged in this case. However, you will not be entitled to receive a payment from the settlement.

### **OBJECTING TO THE SETTLEMENT**

#### **17. How do I notify the Court that I do not like the settlement?**

You can object to the settlement or any part of it that you do not like **IF** you do not exclude yourself, or opt-out, from the settlement. (Class Members who exclude themselves from the settlement have no right to object to how other Class Members are treated.) To object, you **must** send a written document by mail or private courier (e.g., Federal Express) to the Settlement administrator at the address below. Your objection must include the following information:

- The case name and case number of this Litigation;
- Your full name, current address, and the last four digits of the account number or former account number of any First Federal Bank of Kansas City account you claim was charged Challenged Fees in this litigation, and the contact information for any attorney you have retained in connection with this case;

- A statement that you object to the Settlement, in whole or in part;
- The reasons why you object to the settlement along with any supporting materials;
- The identity of any lawyer who assisted, provided advice, or represents you as to this case or such objection, if any;
- Your signature; and
- A statement indicating whether you intend to appear at the Final Approval Hearing either yourself or through counsel and whether you plan on offering testimony at the Final Approval Hearing.

All objections must be post-marked no later than [REDACTED], and must be mailed to the Settlement administrator as follows:

<b>CLAIMS ADMINSTRATOR</b>
Monk v. First Federal Bank of Kansas City Settlement administrator Attn: <b>ADDRESS OF THE SETTLEMENT ADMINISTRATOR</b>

**18. What is the difference between objecting and requesting exclusion from the settlement?**

Objecting is telling the Court that you do not believe the settlement is fair, reasonable, and adequate for the Class Members, and asking the Court to reject it. You can object only if you do not opt out of the settlement. If you object to the settlement and do not opt out, then you are entitled to a Class Member payment if the settlement is approved, but you will release claims you might have against Defendant. Excluding yourself or opting-out is telling the Court that you do not want to be part of the settlement, and do not want to receive a Class Member payment or release claims you might have against Defendant for the claims alleged in this lawsuit.

**19. What happens if I object to the settlement?**

If the Court sustains your objection, or the objection of any other Class Member, then there is no settlement. If you object, but the Court overrules your objection and any other objection(s), then you will be part of the settlement.

**THE COURT’S FINAL APPROVAL HEARING**

**20. When and where will the Court decide whether to approve the settlement?**

The Court will hold a Final Approval or Fairness Hearing at [REDACTED] on [REDACTED], 2024 at [REDACTED] which is located at [REDACTED]. At this hearing, the Court will consider whether the settlement is fair, reasonable and adequate. If there are objections, the Court will consider them. The Court may also decide how much to award Class Counsel for attorneys' fees and litigation costs and the amount of the Service Awards to the Class Representatives. The hearing may be virtual, in which case the instructions to participate shall be posted on the website at [www.\[REDACTED\]](http://www.[REDACTED]).

**21. Do I have to come to the hearing?**

No. Class Counsel will answer any questions the Court may have. You may attend if you desire to do so. If you have submitted an objection, then you may want to attend.

**22. May I speak at the hearing?**

If you have objected, you may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must include with your objection, described in Question 17, above, the statement, "I hereby give notice that I intend to appear at the Final Approval Hearing."

**THE LAWYERS REPRESENTING YOU**

**23. Do I have a lawyer in this case?**

The Court ordered that the lawyers and their law firms referred to in this notice as "Class Counsel" will represent you and the other Class Members.

**24. Do I have to pay the lawyer for accomplishing this result?**

No. Class Counsel will be paid directly from the Settlement Fund.

**25. Who determines what the attorneys' fees will be?**

The Court will be asked to approve the amount of attorneys' fees at the Final Approval Hearing. Class Counsel will file an application for attorneys' fees and costs and will specify the amount being sought as discussed above. You may review a physical copy of the fee application at the website established by the Settlement administrator.

**GETTING MORE INFORMATION**

This Notice only summarizes the proposed settlement. More details are contained in the Settlement Agreement, which can be viewed/obtained online at [\[WEBSITE\]](#).

For additional information about the settlement and/or to obtain copies of the Settlement Agreement, or to change your address for purposes of receiving a payment, you should contact the Settlement administrator as follows:

Monk v. First Federal Bank of Kansas City

Settlement Administrator

Attn:

[ADDRESS OF THE SETTLEMENT ADMINISTRATOR](#)

For more information, you also can contact the Class Counsel as follows:

KALIEL GOLD, PLLC  
Sophia Goren Gold, Esq.  
Jeff Kaliel  
950 Gilman Street, Suite 200  
Berkeley, CA 94710

CONSUMER PROTECTION LEGAL, LLC  
Tiffany Marko Yiatras  
308 Hutchinson Road  
Ellisville, MO 63011

***PLEASE DO NOT CONTACT THE COURT OR ANY REPRESENTATIVE OF  
DEFENDANT CONCERNING THIS NOTICE OR THE SETTLEMENT.***