

EXHIBIT 1

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Agreement”) is made and entered into this 16th day of August, 2016, by and among (1) Plaintiffs, Sylvia Hawkins, William Hawkins, Peter Teselsky, and Mark Zurales (“Plaintiffs”), individually and on behalf of the Settlement Class, and (2) First Tennessee Bank National Association d/b/a First Tennessee Bank (“First Tennessee”), subject to preliminary and final approval as required by Tennessee Rule of Civil Procedure 23.05. As provided herein, Plaintiffs, Class Counsel and First Tennessee 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 First Tennessee in the action titled *Sylvia Hawkins v. First Tennessee Bank National Association*, Circuit Court of Shelby County, 30th Judicial Circuit Memphis, No. CT-004085-11 Division VII (the “Action”), shall be settled and compromised upon the terms and conditions contained herein.

I. Recitals

1. On September 6, 2011, Plaintiffs Sylvia and William Hawkins initiated this litigation against First Tennessee by filing their Class Action Complaint in the Action, alleging improper assessment and collection of overdraft fees and seeking, *inter alia*, monetary damages, interest, attorney’s fees, restitution, and equitable relief.

2. On November 21, 2011, First Tennessee moved to dismiss the Class Action Complaint. First Tennessee also filed its Motion to Strike Plaintiffs’ Jury Demand and Request for Punitive and Exemplary Damages. Plaintiffs Sylvia and Williams Hawkins responded to the motion to dismiss on December 21, 2011. By

agreement of the parties, the motion to dismiss was not heard or decided because Plaintiffs Sylvia and Williams Hawkins elected to amend their complaint.

3. On December 21, 2011, by the agreement of the parties, the Court entered a Consent Order Granting Defendant's Motion to Strike Plaintiffs' Jury Demand and Request for Punitive and Exemplary Damages Without Prejudice.

4. On January 13, 2012, by reason of the need for recusal, the Court entered an Order Transferring Case, which transferred the case from Division I to Division VII before the Honorable Donna M. Fields who presided over all substantive trial court proceedings prior to the parties' agreement to settle the Action and enter into this Agreement.

5. On January 24, 2012, an Amended Class Action Complaint ("Amended Complaint") was filed by Plaintiffs Sylvia and Williams Hawkins, and Plaintiffs Peter Teselsky and Mark Zurales were added as co-plaintiffs. The Amended Complaint asserted claims for breach of contract (First Claim for Relief), breach of the implied covenant of good faith and fair dealing (Second Claim for Relief), unconscionability (Third Claim for Relief), conversion (Fourth Claim for Relief), and unjust enrichment (Fifth Claim for Relief Count IV).

6. First Tennessee filed its Motion to Dismiss the Amended Complaint. Following briefing consisting of First Tennessee's memorandum of law in support of the motion, Plaintiffs' responsive memorandum of law, First Tennessee's reply in support of the motion, multiple notices of supplemental authority filed by Plaintiffs, and a hearing on July 3, 2012, the Court entered its August 12, 2012 Order Granting in Part and Denying in Part Defendant's Motion to Dismiss Plaintiffs' Amended Class Action

Complaint. That order denied First Tennessee's argument that Plaintiffs' claims (a) were preempted by the National Bank Act and related federal regulations; (b) were barred by contractual provisions in the Bank Depositor Agreement and Disclosures stating a requirement of pre-suit notice of claims and setting forth a one year statute of limitations, indicating that would be an issue of fact; and (c) failed to state causes of action for breach of contract, breach of the covenant of good faith and fair dealing, conversion, and unjust enrichment. The Court dismissed Plaintiff's unconscionability claim, concluding that it was not an affirmative claim for relief under Tennessee law.

7. On September 19, 2012, First Tennessee filed its Motion for Interlocutory Appeal and to Stay Proceedings seeking the right under Rule 9 of the Tennessee Rules of Appellate Procedure to appeal to the Tennessee Court of Appeals. First Tennessee argued that an interlocutory appeal should be granted and stay of the proceedings be entered to allow the appellate court to develop a uniform body of law, citing to different rulings on motions to dismiss entered by Tennessee trial courts on the claims similar to the ones Plaintiffs were pursuing in the Action involving overdraft fees, and claiming that an interlocutory appeal would prevent irreparable injury and needless, expensive, and protracted litigation. Plaintiffs opposed that motion in a responsive memorandum of law. First Tennessee filed a reply memorandum.

8. On March 15, 2013, First Tennessee filed Defendant's Motion for Reconsideration of the Court's Order on its Motion to Dismiss, claiming that an opinion issued by the federal Ninth Circuit Court of Appeals addressing National Bank Act preemption of certain overdraft fee claims should result in the Court's reconsidering First Tennessee's preemption argument. Plaintiffs opposed that motion in a responsive

memorandum of law dated June 11, 2013. First Tennessee filed a reply memorandum on June 18, 2013, along with a later filed supplemental brief.

9. On September 3, 2013, First Tennessee filed its Answer and Affirmative Defenses to the Amended Class Action Complaint.

10. Following hearings on June 21, 2013, August 16, 2013, and February 17, 2014, the Court entered its March 5, 2014 Order on Defendant's Motion for Reconsideration of the Court's Order on its Motion to Dismiss, ruling that "where a cause of action is premised exclusively upon a bank's choice of posting methods, that cause of action would be preempted by the National Bank Act." The Court ruled that "Plaintiffs' allegations of misleading statements by the bank regarding its posting order and debit card transaction overdraft procedures are not preempted." The Court also reconsidered its ruling on the conversion claim and dismissed that claim.

11. Also following the hearings on June 21, 2013, August 16, 2013, and February 17, 2014, the Court entered its March 5, 2014 Order on Defendant's Motion for Interlocutory Appeal and to Stay Proceedings, in which the Court granted First Tennessee's motion to file an application to appeal with the Tennessee Court of Appeals of the Order Granting in Part and Denying In Part Defendant's Motion to Dismiss Plaintiffs' Amended Class Action Complaint. The Court also stayed discovery except with regard to a small portion of the document discovery that Plaintiff sought.

12. On or about March 17, 2014, First Tennessee filed its Application for Permission to Appeal with the Tennessee Court of Appeals under Tenn. Ct. App. Case No. W2014-00499-COA-R9-CV, to which Plaintiffs responded on April 28, 2014. On May 28, 2014, the Court of Appeals denied that Application. Thereafter, First Tennessee

filed its Application for Permission to Appeal from Denial of Rule 9 Application, under Tenn. Sup. Ct. Case No. W2014-00499-SC-R11-CV, seeking review by the Tennessee Supreme Court. Plaintiffs answered that Application in opposition. The Supreme Court denied the Application on August 20, 2014.

13. On January 12, 2015, First Tennessee filed its Motion for Judgment on the Pleadings, renewing its preemption argument, arguing that Plaintiffs were required to plead fraud claims premised on misrepresentations, and that Plaintiffs had not pled their claims in the Amended Complaint with the required specificity. Plaintiffs opposed that motion in their June 2, 2015 memorandum in opposition. On June 15, 2015, the Court entered its Order denying the Motion for Judgment on the Pleadings, which prompted First Tennessee to file a motion for interlocutory appeal of that ruling on July 8, 2015, in response to which Plaintiffs filed a memorandum in opposition on September 22, 2015. Following a September 25, 2015 hearing on the motion, the Court denied the motion in its October 9, 2015 Order on Defendant's Motion for Interlocutory Appeal. First Tennessee in turn filed an Application for Extraordinary Appeal Pursuant to Rule 10 of the Tennessee Rules of Appellate Procedure on or about October 23, 2015, seeking review by the Tennessee Court of Appeals under Tenn. Ct. App. Case No. W2015-02060-COA-R10-CV, which that court denied on November 5, 2015.

14. On October 23, 2014, the Court entered its Scheduling Order establishing class certification deadlines for disclosure of experts, deposition of experts, and class certification motion briefing; a date certain for the class certification motion hearing; and a detailed listing of pretrial deadlines that would govern the Action following the ruling on Plaintiffs' class certification motion. By agreement of the Parties, and with the

Court's consent, an Amended Scheduling Order was entered on March 25, 2015 and a Second Amended Scheduling Order was entered on December 16, 2015. These amended orders were entered to allow the parties to complete pretrial discovery directed at class certification issues, including, but not limited to, class certification expert witness discovery. On February 5, 2016, the Parties entered into a Stipulation Regarding Expert Discovery to make drafts of expert reports, declarations, affidavits, or other disclosures, as well as communications between a party's counsel and the party's experts, non-discoverable. On May 16, 2016, the Court entered an Agreed Order to amend the Second Amended Scheduling Order specific to the schedule for briefing Plaintiffs' Motion for Class Certification.

15. In November 1, 2013, the Court entered the Parties' Agreed Confidentiality Stipulation and Protective Order relating to the production of documents and information and its use in the Action. On September 23, 2014, the Parties entered into a Stipulated Discovery Plan for Electronically Stored Information ("ESI"), after which the parties negotiated ESI search terms to govern First Tennessee's search for and production of documents responsive to Plaintiffs' written discovery requests.

16. Discovery commenced on February 21, 2012. During the course of fact and expert discovery focused primarily on class certification issues, each side served multiple sets of document requests, interrogatories, and requests for admissions. The parties responded to those written discovery requests and also amended and/or supplemented their responses both voluntarily and as a result of meet and confers concerning the parties' respective written discovery responses. A few discovery disputes were decided by the Court.

17. On May 21, 2013 First Tennessee filed a Motion to Stay Further Discovery pending the determination of First Tennessee's Motion for Reconsideration of the Court's Order on its Motion to Dismiss and Motion for Interlocutory Appeal and to Stay Proceedings. Plaintiffs responded in opposition on May 28, 2013. After hearing argument from counsel for the parties, the Court issued its June 20, 2013 Order staying further discovery pending rulings on First Tennessee's motions for reconsideration and for interlocutory appeal.

18. During the course of discovery, Class Counsel deposed nine (9) current and former First Tennessee employees, including several who were designated under Tennessee Rule of Civil Procedure 30.02(6) and others identified by Plaintiffs as fact witnesses, and two (2) expert witnesses designated by First Tennessee. First Tennessee conducted seven (7) depositions, one of each of the four Plaintiffs, a fact witness related to the account of Plaintiff Peter Teselsky, a fact witness related to the account of Plaintiff Mark Zurales, and one expert witness designated by Plaintiffs. First Tennessee also issued third party document subpoenas to nonparty financial institutions seeking documents particular to Plaintiffs' other banking relationships, which resulted in motion practice pertaining to the extent of discovery that First Tennessee would be permitted from those non-parties.

19. During the course of discovery, First Tennessee produced 452,306 pages of documents, as well as voluminous electronic data files and spreadsheets in native format.

20. On June 16, 2015, the Parties participated in mediation under the auspices of Former Tennessee Supreme Court Justice William C. Koch, Jr in Nashville,

Tennessee. The mediation ended in an impasse, and the Parties continued their active litigation thereafter.

21. On May 26, 2016, Plaintiffs filed their Motion for Class Certification seeking to certify a class of First Tennessee Bank accountholders on the basis of Plaintiffs' breach of contract, breach of the covenant of good faith and fair dealing, and unjust enrichment claims. First Tennessee opposed that motion in its memorandum in opposition filed on June 24, 2016.

22. On July 12, 2016, First Tennessee filed its Motion to Exclude Testimony of Plaintiff's Expert Arthur Olsen.

23. Counsel for the parties reinitiated settlement discussions, leading them to reach an agreement in principle to resolve the Action on July 22, 2016. On July 26, 2016, the Parties filed a Joint Notice of Settlement with the Court.

24. Following further negotiations and discussions, the Parties resolved all remaining issues, culminating in this Agreement.

25. The Parties now agree to settle the Action in its entirety, without any admission of liability, with respect to all Released Claims of the Releasing Parties. The Parties intend this Agreement to bind Plaintiffs, First Tennessee, and all Settlement Class Members who do not timely request to be excluded from the Settlement.

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

II. Definitions

In addition to the terms defined at various points within this Agreement, the following Defined Terms apply throughout this Agreement:

26. “Account” means any consumer checking, demand deposit or savings account maintained by First Tennessee in the United States linked to and/or accessible by a Debit Card at any time during the Class Period and on which an Overdraft Fee could be applied.

27. “Account Holder” means any person who has or had any interest, whether legal or equitable, in an Account during the Class Period.

28. “Action” means *Sylvia Hawkins, et al. v. First Tennessee Bank National Association*, Circuit Court of Shelby County for the 30th Judicial District at Memphis, No. CT-004085-11, Division VII.

29. “First Tennessee” means First Tennessee Bank National Association.

30. “Class Counsel” means:

KOPELOWITZ OSTROW P.A.
Jeffrey M. Ostrow, Esq.
Jonathan M. Streisfeld, Esq.
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Fort Lauderdale, FL 33301

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Jeffrey Kaliel, Esq.
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1828 L Street Northwest
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and such other counsel as are identified in Class Counsel's request for attorneys' fees and costs.

31. "Class Period" means the period from September 6, 2005 through February 20, 2013.

32. "Class Representatives" mean Sylvia Hawkins, William Hawkins, Mark Zurales and Peter Teselsky.

33. "Court" means the Circuit Court of Shelby County for the 30th Judicial District in Memphis, Tennessee.

34. "Current Account Holder" means the holder of an Account, individually or jointly, at any time during the Class Period, who continues to hold the same Account, individually or jointly, as of the date that the Net Settlement Fund is distributed to Settlement Class Members pursuant to this Agreement.

35. "Debit Card" means a card or similar device issued or provided by First Tennessee, including a debit card, check card, or automated teller machine ("ATM") card that can or could be used to debit funds from an Account by Point of Sale and/or ATM transactions.

36. "Debit Card Transaction" means any debit transaction effectuated with a Debit Card, including Point of Sale transactions (whether by PIN or signature/PIN-less) and ATM transactions. For avoidance of doubt, Debit Card Transaction does not include a debit transaction effectuated by paper or electronic check, by preauthorized transaction, by wire transfer or Automated Clearing House ("ACH") transaction, or a transfer to another account such as a credit card account or line of credit.

37. “Effective Date” means the third business day after which all of the following events have occurred:

a. All Parties, First Tennessee’s counsel, and Class Counsel have executed this Agreement;

b. The Court has entered without material change the Final Approval Order; and

c. The time for seeking rehearing or appellate or other review has expired, and no appeal or petition for rehearing or review has been timely filed; or the Settlement is affirmed on appeal or review without material change, no other appeal or petition for rehearing or review is pending, and the time period during which further petition for hearing, review, appeal, or certiorari could be taken has finally expired and relief from a failure to file same is not available.

38. “Escrow Account” means the account to be established consistent with the terms and conditions described in Section X hereof.

39. “Escrow Agent” means Epiq Class Action & Claims Solutions, Inc. (“Epiq”). Class Counsel and First Tennessee may, by agreement, substitute a different Escrow Agent, subject to approval by the Court if the Court has previously approved the Settlement, preliminarily or finally. In the absence of agreement, either Class Counsel or First Tennessee may move the Court to substitute a different Escrow Agent, upon a showing that the responsibilities of Escrow Agent have not been adequately executed by the incumbent. The Escrow Agent shall administer the Escrow Account.

40. “Final Approval” means the date that the Court enters an order granting final approval to the Settlement and determines the amount of fees, costs, and expenses

awarded to Class Counsel and the amount of any Service Award(s) to the Class Representatives. The proposed Final Approval Order shall be in a form agreed upon by Settlement Class Counsel and First Tennessee. In the event that the Court issues separate orders addressing the foregoing matters, then Final Approval means the date of the last of such orders.

41. “Final Approval Order” means the final order that the Court enters upon Final Approval. In the event that the Court issues separate orders addressing the matters constituting Final Approval, then the Final Approval Order includes all such orders.

42. “High-to-Low Posting” means First Tennessee’s practice of posting an Account’s Debit Card Transactions from highest to lowest dollar amount each business day.

43. “Notice” means the notices of proposed class action settlement that the Parties will ask the Court to approve in connection with the motion for preliminary approval. “Notice Program” means the methods provided for in this Agreement for giving the Notice and consists of Mailed Notice, Published Notice and Long-Form Notice. The form of the Mailed, Published and Long-Form Notices have been agreed upon by Class Counsel and First Tennessee and are attached as Exhibits A-C. Additional description of the contemplated Notice Program is provided in Section VIII hereof.

44. “Notice Administrator” means Hilsoft Notifications. Class Counsel and First Tennessee may, by agreement, substitute a different Notice Administrator, subject to approval by the Court if the Court has previously approved the Settlement preliminarily or finally. In the absence of agreement, either Settlement Class Counsel or First Tennessee may move the Court to substitute a different Notice Administrator, upon a

showing that the responsibilities of Notice Administrator have not been adequately executed by the incumbent.

45. “Opt-Out Period” means the period that begins the day after the earliest date on which the Notice is first mailed or published, and that ends no later than 35 days before the Final Approval Hearing. The deadline for the Opt-Out Period will be specified in the Notice.

46. “Overdraft Fee” means any fee or fees assessed to an Account resulting from item(s) paid because the Account had insufficient funds to cover the item(s). Fees charged to transfer funds from other accounts are excluded.

47. “Parties” means Plaintiffs and First Tennessee.

48. “Past Account Holder” means the holder of an Account, individually or jointly, who held that Account at some time during the Class Period but no longer holds that Account as of the date that the Net Settlement Fund is distributed to Settlement Class Members pursuant to this Agreement.

49. “Plaintiffs” means Sylvia Hawkins, William Hawkins, Peter Teselsky, and Mark Zurales.

50. “Point of Sale” or “POS” transaction means a transaction in which an Account Holder uses his or her Debit Card to purchase or make a payment on a product or service.

51. “Preliminary Approval” means the date that the Court enters, without material change, an order preliminarily approving the Settlement in the form jointly agreed upon by the Parties.

52. “Released Claims” means all claims to be released as specified in Section XIV hereof. The “Releases” means all of the releases contained in Section XIV hereof.

53. “Released Parties” means those persons released as specified in Section XIV hereof.

54. “Releasing Parties” means Plaintiffs and all Settlement Class Members who do not timely and properly opt out of the Settlement, as determined by the Court, and each of their respective executors, representatives, heirs, predecessors, assigns, beneficiaries, successors, bankruptcy trustees, guardians, joint tenants, tenants in common, tenants by the entireties, agents, attorneys, including any person who has or had any interest, whether legal or equitable, in an Account covered by the Settlement during the Class Period.

55. “Settlement” means the settlement into which the Parties have entered to resolve the Action. The terms of the Settlement are as set forth in this Agreement.

56. “Settlement Administrator” means Epiq Systems. Class Counsel and First Tennessee may, by agreement, substitute a different Settlement Administrator, subject to approval by the Court if the Court has previously approved the Settlement preliminarily or finally. In the absence of agreement, either Settlement Class Counsel or First Tennessee may move the Court to substitute a different Settlement Administrator, upon a showing that the responsibilities of Settlement Administrator have not been adequately executed by the incumbent.

57. “Settlement Class” is defined in paragraph 62 hereof.

58. “Settlement Class Member” means any person included in the Settlement Class.

59. “Settlement Fund” means the fund established under Section X hereof.

60. “Settlement Website” means the website that the Settlement Administrator will use as a means for Settlement Class Members to obtain notice of and information about the Settlement, through and including hyperlinked access to this Agreement, the Long-Form Notice, the order preliminarily approving this Settlement, and such other documents as Settlement Class Counsel and First Tennessee agree to post or that the Court orders posted on the website. These documents shall remain on the Settlement Website at least until Final Approval. The URL of the Settlement Website shall be www.FirstTennesseeBankOverdraftlitigation.com or such other URL as Class Counsel and First Tennessee agree upon in writing. The Settlement Website shall not include any advertising, and shall not bear or include the First Tennessee logo or First Tennessee trademarks. Ownership of the Settlement Website URL shall be transferred to First Tennessee within 10 days after the date on which operation of the Settlement Website ceases.

61. “Tax Administrator” means Epiq. Class Counsel and First Tennessee may, by agreement, substitute a different Tax Administrator, subject to approval by the Court if the Court has previously approved the Settlement preliminarily or finally. In the absence of agreement, either Class Counsel or First Tennessee may move the Court to substitute a different Tax Administrator, upon a showing that the responsibilities of the Tax Administrator have not been adequately executed by the incumbent. The Tax Administrator will perform all tax-related services for the Escrow Account as provided in this Agreement.

III. Certification of the Settlement Class

62. For settlement purposes only, Plaintiffs and First Tennessee agree to ask the Court to certify the following Settlement Class under Tennessee Rule of Civil Procedure 23.02(3):

All First Tennessee consumer accountholders who, between September 6, 2005 and February 20, 2013, incurred an overdraft fee as a result of First Tennessee's practice of posting debit card transactions from highest to lowest dollar amount and/or any alleged misleading conduct by First Tennessee relating to its posting practices.

Excluded from the Class are all current First Tennessee officers and directors, and the Judge presiding over this Action.

63. This Settlement may be terminated as specified in Section XVI hereof.

IV. Settlement Consideration

64. Subject to approval by the Court, the total cash consideration to be provided by First Tennessee pursuant to the Settlement shall be \$16,750,000.00, inclusive of the amount paid to the Settlement Class; any and all attorneys' fees, costs and expenses awarded to Class Counsel; any Service Awards to the Class Representatives; and all costs and expenses incurred by the Escrow Agent, the Notice Administrator, the Settlement Administrator, and the Tax Administrator.

65. The monetary payments to be made by First Tennessee shall be strictly limited to \$16,750,000.00.

V. Settlement Approval

66. Upon execution of this Agreement by all Parties, Class Counsel shall promptly move the Court for an Order granting Preliminary Approval of this Settlement ("Preliminary Approval Order"). The proposed Preliminary Approval Order that will be attached to the motion shall be in a form agreed upon by Class Counsel and First Tennessee. The motion for Preliminary Approval shall request that the Court: (1)

approve the terms of the Settlement as within the range of fair, adequate and reasonable; (2) provisionally certify the Settlement Class pursuant to Tennessee Rules of Civil Procedure 23.02(3) and 23.05 for settlement purposes only; (3) approve the Notice Program set forth herein and approve the form and content of the Notices of the Settlement; (4) approve the procedures set forth in Section VIII hereof for Settlement Class Members to exclude themselves from the Settlement Class or to object to the Settlement; (5) stay the Action pending Final Approval of the Settlement; and (6) schedule a Final Approval Hearing for a time and date mutually convenient for the Court, Class Counsel and counsel for First Tennessee, at which the Court will conduct an inquiry into the fairness of the Settlement, determine whether it was made in good faith, and determine whether to approve the Settlement and Class Counsel's application for attorneys' fees, costs and expenses and for Service Awards to the Class Representatives ("Final Approval Hearing").

VI. Discovery and Settlement Data

67. Class Counsel and First Tennessee already have engaged in significant discovery, including 16 depositions of party and non-party witnesses and the production of more than 450,000 pages of documents as well as voluminous electronic customer transactional data. In addition, and consistent with its contractual, statutory and regulatory obligations to protect its customers' private financial information, First Tennessee will provide Class Counsel and its expert with (i) updated addresses for Current Account Holders and last known addresses for Past Account Holders, and (ii) information regarding whether an Account in the Settlement Class is open or closed, to the extent the information is reasonably available to First Tennessee. For purposes of the

Settlement of this Action, First Tennessee will provide additional electronic customer transactional data and information as may be agreed upon by the Parties to enable Class Counsel and its expert to calculate and distribute allocations of the Settlement Fund.

68. Plaintiffs and Class Counsel agree that, within sixty (60) days of the Effective Date, Plaintiffs, Class Counsel, its expert, and all recipients of documents, deposition transcripts, and/or electronic customer transactional data produced by First Tennessee shall return to First Tennessee's counsel or destroy any and all such documents, transcripts, and/or data. Class Counsel shall be responsible for ensuring that any recipients of such documents, transcripts, and/or data have either returned them to First Tennessee's counsel or that they have been destroyed. Within sixty (60) days of the Effective Date, Class Counsel shall certify to First Tennessee's counsel that any recipients who have received documents, transcripts, and/or data produced by First Tennessee have either returned them to First Tennessee or that they have been destroyed. Any Confidential or Highly Confidential Matter not covered by this Agreement shall be handled in accordance with the Agreed Confidentiality Stipulation and Protective Order entered on November 1, 2013. Class Counsel shall additionally certify to First Tennessee's counsel that the Settlement Administrator, Notice Administrator, Escrow Agent, and Tax Administrator will destroy or return to First Tennessee any and all information, data, or documentation provided by First Tennessee, within 30 days after last accessing all such information, data, or documentation.

VII. Settlement Administrator

69. The Settlement Administrator shall administer various aspects of the Settlement as described in the next paragraph hereafter and perform such other functions

as are specified for the Settlement Administrator elsewhere in this Agreement, including, but not limited to, providing Mailed Notice to Settlement Class Members; working with the Notice Administrator to effectuate the Published Notice Program; distributing the Settlement Fund as provided herein; paying First Tennessee from the Settlement Fund the amount of account credits First Tennessee provides to Current Account Holder Settlement Class Members hereof; and repaying the Settlement Fund to First Tennessee in the event of a termination of the Settlement pursuant to the terms of the Agreement.

70. The duties of the Settlement Administrator, in addition to other responsibilities that are described in the preceding paragraph and elsewhere in this Agreement, are as follows:

- a. Use the name and address information for Settlement Class members provided by First Tennessee in connection with the notice process approved by the Court and verify and update the addresses received through the National Change of Address database, for the purpose of mailing the Mailed Notice, and later mailing distribution checks to Past Account Holder Settlement Class Members, and to Current Account Holder Settlement Class Members where it is not feasible or reasonable for First Tennessee to make the payment by a credit to the Settlement Class Members' Accounts;
- b. Establish and maintain a Post Office box for requests for exclusion from the Settlement Class;
- c. Establish and maintain the Settlement Website;
- d. Establish and maintain an automated and live operator toll-free telephone line for Settlement Class Members to call with Settlement-related inquiries, and answer

the questions of Settlement Class Members who call with or otherwise communicate such inquiries;

- e. Respond to any mailed Settlement Class member inquiries;
- f. Process all requests for exclusion from the Settlement Class;
- g. Provide weekly reports and, no later than 5 days after the end of the Opt-Out Period, a final report to Class Counsel and First Tennessee that summarizes the number of requests for exclusion received that week, the total number of exclusion requests received to date, percentage of the Settlement Class that has requested exclusion through that week, and other pertinent information;
- h. At Class Counsel's request in advance of the Final Approval Hearing, prepare an affidavit to submit to the Court with the names of each Settlement Class Member who timely and properly requested exclusion from the Settlement Class.
- i. Process and transmit distributions to Past Account Holder Settlement Class Members from the Settlement Fund; instruct First Tennessee as to the direct payments to be made to Current Account Holder Settlement Class Members (to the extent feasible); and pay First Tennessee from the Settlement Fund the aggregate amount of account credits to be provided to Current Account Holder Settlement Class Members;
- j. Pay invoices, expenses and costs upon approval by Class Counsel and First Tennessee, as provided in this Agreement; and
- k. Perform the duties of Escrow Agent and Tax Administrator as described in this Agreement, and any other Settlement-administration-related function at the instruction of Class Counsel and First Tennessee, including, but not limited to, verifying that Settlement Funds have been distributed as required by Section XII hereof.

VIII. Notice to Settlement Class Members

71. Upon Preliminary Approval of the Settlement, at the direction of Class Counsel, the Notice Administrator shall implement the Notice Program provided herein, using the forms of Notice approved by the Court in the Preliminary Approval Order. The Notice shall include, among other information: a description of the material terms of the Settlement; a unique identifier assigned to each Settlement Class member that shall allow them to see on the Settlement Website an estimate of the amount of their respective Settlement Fund Payment (if feasible); a date by which Settlement Class members may exclude themselves from or “opt-out” of the Settlement Class; a date by which Settlement Class Members may object to the Settlement; the date upon which the Final Approval Hearing is scheduled to occur; and the address of the Settlement Website at which Settlement Class members may access this Agreement and other related documents and information. Class Counsel and First Tennessee shall insert the correct dates and deadlines in the Notice before the Notice Program commences, based upon those dates and deadlines set by the Court in the Preliminary Approval Order. Notices and publications provided under or as part of the Notice Program shall not bear or include the First Tennessee logo or trademarks or the return address of First Tennessee, or otherwise be styled to appear to originate from First Tennessee. Ownership of the Settlement Website URL shall be transferred to First Tennessee within 10 days after the date on which operation of the Settlement Website ceases, which shall be one year and 30 days following distribution of the Net Settlement Fund to Settlement Class Members as provided in Section XII, or such other date as Class Counsel and First Tennessee may agree upon in writing.

72. The Notice also shall include a procedure for Settlement Class members to opt-out of the Settlement Class. A Settlement Class Member may opt-out of the Settlement Class at any time during the Opt-Out Period. Any Settlement Class Member who does not timely and validly request to opt out shall be bound by the terms of this Agreement.

73. The Notice also shall include a procedure for Settlement Class Members to object to the Settlement and/or to Class Counsel's application for attorneys' fees, costs and expenses and/or Service Awards to Class Representatives. Objections to the Settlement, to the application for fees, costs, expenses, and/or to the Service Awards must be mailed to the Clerk of the Court, Class Counsel, and First Tennessee's counsel. For an objection to be considered by the Court, the objection must be submitted no later than the last day of the Opt-Out Period, as specified in the Notice. If submitted by mail, an objection shall be deemed to have been submitted when posted if received with a postmark date indicated on the envelope if mailed first-class postage prepaid and addressed in accordance with the instructions. If submitted by private courier (*e.g.*, Federal Express), an objection shall be deemed to have been submitted on the shipping date reflected on the shipping label.

74. For an objection to be considered by the Court, the objection must also set forth:

- a. the name of the Action;
- b. the objector's full name, address and telephone number;
- c. an explanation of the basis upon which the objector claims to be a Settlement Class Member;

d. all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel;

e. the number of times in which the objector has objected to a class action settlement within the five years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector's prior objections that were issued by the trial and appellate courts in each listed case;

f. the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement or fee application;

g. a copy of any orders related to or ruling upon counsel's or the counsel's law firm's prior objections that were issued by the trial and appellate courts in each listed case in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the preceding 5 years;

h. any and all agreements that relate to the objection or the process of objecting—whether written or oral—between objector or objector's counsel and any other person or entity;

i. the identity of all counsel (if any) representing the objector who will appear at the Final Approval Hearing;

j. a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection;

k. a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and

1. the objector's signature (an attorney's signature is not sufficient).

Class Counsel and/or First Tennessee may conduct limited discovery on any objector consistent with the Tennessee Rules of Civil Procedure.

75. Notice shall be provided to Settlement Class Members in three different ways: Mailed Notice (and email notice to the extent First Tennessee possesses such addresses); Published Notice; and Long-Form Notice on the Settlement Website. Not all Settlement Class members will receive all three forms of Notice, as detailed herein. Notice shall be provided in a form to be agreed upon by Class Counsel and First Tennessee.

76. First Tennessee will cooperate with Class Counsel and its expert to provide the necessary data to Class Counsel's expert to determine Settlement Class membership. The provision of the data necessary for Class Counsel's expert to compile the Settlement Class membership list shall be provided as soon as practicable. The Settlement Administrator shall run the addresses through the National Change of Address Database, and shall mail to all such Settlement Class Members postcards that contain the Mailed Notice (the "Initial Mailed Notice"). To coordinate the Mailed Notice Program with the Published Notice Program, following the Settlement Administrator's receipt of the data files described herein, the Settlement Administrator shall promptly inform the Notice Administrator by email that it has received the data files.

77. The Settlement Administrator shall perform reasonable address traces for all Initial Mailed Notice postcards that are returned as undeliverable. By way of example, a "reasonable" tracing procedure would be to run addresses of returned postcards through the Lexis/Nexis database that can be utilized for such purpose. No

later than 70 days before the Final Approval Hearing, the Settlement Administrator shall complete the re-mailing of Mailed Notice postcards to those Settlement Class Members whose new addresses were identified as of that time through address traces (“Notice Re-mailing Process”). Because the United States Postal Service sometimes returns undeliverable items beyond the typical time for returning such items, the Settlement Administrator may, at its discretion, perform the Notice Re-mailing Process up to 14 days before the Opt-Out Deadline. The Settlement Administrator’s continued efforts in connection with the Notice Re-mailing Process shall not affect or extend any Settlement Class Member’s deadlines for objecting or opting out.

78. The Mailed Notice Program (which is composed of both the Initial Mailed Notice and the Notice Re-mailing Process) shall be completed no later than 70 days before the Final Approval Hearing. Within 7 days after the date the Settlement Administrator completes the Notice Re-mailing Process, the Settlement Administrator shall provide Class Counsel and First Tennessee an affidavit that confirms that the Mailed Notice Program was completed in a timely manner. Class Counsel shall file that affidavit with the Court as an exhibit to or in conjunction with Plaintiffs’ motion for Final Approval of the Settlement.

79. The Notice Administrator shall administer the Published Notice Program, which shall include one-time insertions of one quarter page ads to be placed in the newspapers with the highest circulation in the major areas in which First Tennessee maintains branches. The Published Notice Program shall be completed no later than 70 days before the Final Approval Hearing.

80. Within 7 days after the date the Notice Administrator completes the Published Notice Program, the Notice Administrator shall provide Class Counsel and First Tennessee with one or more affidavits that confirm that Published Notice was given in accordance with the Published Notice Program. Class Counsel shall file that affidavit with the Court as an exhibit to or in conjunction with Plaintiffs' Motion for Final Approval of the Settlement.

81. All costs of the Notice Program shall be paid out of the Settlement Fund.

82. Within the provisions set forth in this Section VIII, further specific details of the Notice Program shall be subject to the agreement of Class Counsel and First Tennessee.

IX. Final Approval Order and Judgment

83. The Plaintiffs' motion for Preliminary Approval of the Settlement will include a request to the Court for a scheduled date on which the Final Approval Hearing will occur. Plaintiffs shall file their motion for Final Approval of the Settlement, and application for attorneys' fees, costs and expenses and for Service Awards for the Class Representatives, no later than 56 days before the Final Approval Hearing. At the Final Approval Hearing the Court will hear argument on Plaintiffs' motion for final approval of the Settlement, and on Class Counsel's application for attorneys' fees, costs, and expenses and for the Service Awards for the Class Representatives. In the Court's discretion, the Court also will hear argument at the Final Approval Hearing from any Settlement Class Members (or their counsel) who object to the Settlement or to Class Counsel's application for attorneys' fees, costs, expenses or the Service Awards

application, provided the objectors submitted timely objections that meet all of the requirements listed in the Agreement.

84. At or following the Final Approval Hearing, the Court will determine whether to enter the Final Approval Order granting Final Approval of the Settlement and entering final judgment thereon, and whether to approve Class Counsel's request for attorneys' fees, costs, expenses and Service Awards. The proposed Final Approval Order shall be in a form agreed upon by Class Counsel and First Tennessee. Such proposed Final Approval Order shall, among other things:

- a. Determine that the Settlement is fair, adequate and reasonable;
- b. Finally certify the Settlement Class for settlement purposes only;
- c. Determine that the Notice provided satisfies Due Process requirements;
- d. Enter judgment dismissing the Action with prejudice and with court costs to be assessed to Plaintiffs;
- e. Bar and enjoin all Releasing Parties from asserting any of the Released Claims, as set forth in Section XIV hereof, bar and enjoin all Releasing Parties from pursuing any Released Claims against First Tennessee or its affiliates at any time, including during any appeal from the Final Approval Order, and retain jurisdiction over the enforcement of the Court's injunctions;
- f. Release First Tennessee and the Released Parties from the Released Claims, as set forth in Section XIV hereof; and
- g. Reserve the Court's continuing and exclusive jurisdiction over the Parties to this Agreement, including First Tennessee, all Settlement Class Members, and all

objectors, to administer, supervise, construe and enforce this Agreement in accordance with its terms.

X. Settlement Fund

85. In exchange for the mutual promises and covenants in this Agreement, including, without limitation, the Releases as set forth in Section XIV hereof and the dismissal of the Action upon Final Approval, First Tennessee shall deposit \$750,000.00 into the Escrow Account within 14 days after Preliminary Approval and shall deposit an additional \$16,000,000.00 into the Escrow Account within 60 days after Preliminary Approval to create the Settlement Fund as set forth herein.

86. Upon the establishment of the Escrow Account, the Escrow Agent may, but shall not be required to, cause the funds in the Escrow Account to be invested, in whole or in part, in interest-bearing short-term instruments or accounts—to be agreed upon by Class Counsel and First Tennessee—that are backed by the full faith and credit of the United States Government or that are fully insured by the United States Government or an agency thereof (the “Instruments”). The Escrow Account shall be established and maintained at Branch Banking & Trust Company or such other FDIC-insured financial institution as Class Counsel and First Tennessee may agree. The Escrow Agent may thereafter re-invest the interest proceeds and the principal as they mature in similar Instruments, bearing in mind the liquidity requirements of the Escrow Account to ensure that it contains sufficient cash available to pay all invoices, taxes, fees, costs and expenses, and other required disbursements, in a timely manner. Notwithstanding the foregoing, that portion of the Settlement Fund that the Settlement Administrator reasonably estimates needs to be available on a liquid basis to pay on-going costs of

settlement administration, as provided in this Agreement, may be placed in one or more insured accounts that may be non-interest-bearing. Except as otherwise specified herein, the Instruments at all times will remain in the Escrow Account and under the control of the Escrow Agent. The Escrow Agent shall communicate with Class Counsel and counsel for First Tennessee on at least a monthly basis to discuss potential cash needs for the following month. All costs or fees incurred in connection with investment of the Settlement Fund in the Instruments shall be payable out of the Settlement Fund.

87. The Settlement Fund at all times shall be deemed a “qualified settlement fund” within the meaning of United States Treasury Reg. § 1.468B-1. All taxes (including any estimated taxes, and any interest or penalties relating to them) arising with respect to the income earned by the Settlement Fund or otherwise, including any taxes or tax detriments that may be imposed upon First Tennessee or its counsel, or Plaintiffs or Class Counsel, with respect to income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a “qualified settlement fund” for the purpose of federal or state income taxes or otherwise (collectively “Taxes”), shall be paid out of the Settlement Fund. Plaintiffs and Class Counsel, and First Tennessee and its counsel, shall have no liability or responsibility for any of the Taxes. The Settlement Fund shall indemnify and hold Plaintiffs and Class Counsel, and First Tennessee and its counsel, harmless for all Taxes (including, without limitation, Taxes payable by reason of any such indemnification).

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

a. Payment of all costs of Class Notice and the settlement administration, including the fees and expenses of the Notice Administrator, Settlement Administrator, Tax Administrator, and Escrow Agent.

b. Automatic distribution of payments to the Settlement Class pursuant to Section XII hereof, including, without limitation, the payment to First Tennessee of all amounts automatically distributed by it through credits to Current Account Holder Settlement Class Members and direct payments to Past Account Holder Settlement Class Members;

c. Payment of the Court-ordered award of Class Counsel's attorneys' fees, costs, and expenses;

d. Payment of the Court-ordered Service Awards to the Class Representatives;

e. Payment of any residual distribution as set forth herein, together with any administrative costs associated therewith;

f. Payment of all Taxes, including, without limitation, taxes owed as a result of accrued interest on the Escrow Account, in a timely manner consistent with the recommendation of the Tax Administrator, subject to approval by Class Counsel and First Tennessee;

g. Payment of additional fees, costs and expenses not specifically enumerated in subparagraphs a. through f. of this paragraph, only if approved by Class Counsel and counsel for First Tennessee.

XI. Calculation of Automatic Distributions from Settlement Fund

89. The calculation and implementation of allocations of the Settlement Fund contemplated by this Section XI shall be done by Class Counsel and its expert for the purpose of compensating Settlement Class members. The methodology provided for herein will be applied to the data as consistently, sensibly, and conscientiously as reasonably possible, recognizing and taking into consideration the nature and completeness of the data and the purpose of the computations. Consistent with its contractual, statutory, and regulatory obligations to maintain bank security and protect its customers' private financial information, First Tennessee shall make available such additional data and information as may reasonably be needed by Class Counsel and its expert to confirm and/or effectuate the calculations and allocations contemplated by this Agreement. Class Counsel shall confer with First Tennessee's counsel concerning any such additional data and information. All such data and information produced by First Tennessee for the purpose of confirming and/or effectuating the calculations and allocations contemplated by this Agreement shall be returned to First Tennessee's counsel or destroyed, as set forth above in Paragraph 68.

90. The amount of the automatic distribution from the Settlement Fund to which each Settlement Class Member is entitled for the Class Period (subject to the availability of data) is to be determined using the following methodology or such other methodology as would have an equivalent result:

a. All Accounts are to be identified in which, on one or more calendar days during the Class Period, First Tennessee assessed two or more Overdraft Fees on such day or days during which the account was subject to High-to-Low Posting. If Class

Counsel's expert cannot conclusively determine from the available data whether the account was subject to High-to-Low Posting on a particular calendar day, it will be assumed for purposes of this paragraph that the account was subject to High-to-Low Posting.

b. For each such calendar day on which First Tennessee assessed two or more Overdraft Fees, all transactions posted in such Accounts on that day will be ordered in the following posting order:

- i. All credits;
- ii. All high-priority debits, including bank initiated debits, fees, and wire transfers, in the order originally posted by the bank;
- iii. All Debit Card transactions with date and time of authorization ordered chronologically;
- iv. All Debit Card transactions without date and time of authorization ordered by transaction amount, low-to-high;
- v. All other customer initiated debits, including checks and ACH transactions, in the order originally posted by the bank.

c. After ordering the transactions as set forth in subparagraph b. of this paragraph, each Account—on a daily basis for such calendar days—will be identified in which the number of Overdraft Fees First Tennessee actually assessed exceeded the number of Overdraft Fees that would have been assessed if the Account had been ordered as set forth in subparagraph b. (“Differential Overdraft Fees”).

d. The foregoing allocation formula will yield the identification of all Account holders whose Accounts experienced at least one Differential Overdraft Fee, as well as the respective dollar amounts of the Differential Overdraft Fees.

91. The Parties agree the foregoing allocation formula is exclusively for purposes of computing, in a reasonable and efficient fashion, the amount of any automatic distribution each Settlement Class Member should receive from the Settlement Fund. The fact that this allocation formula will be used is not intended and shall not be used for any other purpose or objective whatsoever.

XII. Distribution of Net Settlement Fund

92. As soon as practicable but no later than 60 days from the Effective Date, First Tennessee and the Settlement Administrator shall distribute the Net Settlement Fund as set forth in this Section XII. Each Settlement Class Member who had a Differential Overdraft Fee and has not opted-out as provided herein shall receive a distribution in the amount of a pro rata share of the Net Settlement Fund. The Net Settlement Fund is equal to the Settlement Fund plus any interest earned from the Instruments, and less the following:

a. all costs of Notice and settlement administration, including the fees and expenses of the Notice Administrator, Escrow Agent, Tax Administrator, and Settlement Administrator;

b. the amount of the Court-awarded attorneys' fees, costs and expenses to Class Counsel;

c. the amount of the Court-awarded Service Awards to the Class Representatives;

d. a reservation of a reasonable amount of funds for prospective costs of Settlement administration (if any) that are not First Tennessee's responsibility, including tax administration as agreed upon by Class Counsel and First Tennessee; and

e. all other costs and/or expenses incurred in connection with the Settlement not specifically enumerated in subparagraphs a. through d. of this paragraph that are expressly provided for in this Agreement or have been approved by Class Counsel and First Tennessee.

93. The Settlement Administrator shall divide the total amount of the Net Settlement Fund by the total amount of all Settlement Class Members' Differential Overdraft Fees calculated pursuant to Section XI hereof. This calculation shall yield the "Pro Rata Percentage."

94. The Settlement Administrator shall multiply each Settlement Class Member's total Differential Overdraft Fees by the Pro Rata Percentage. This calculation shall yield each Settlement Class Member's "Differential Overdraft Payment Amount." The Settlement Administrator shall communicate to Class Counsel, First Tennessee and its counsel the Differential Overdraft Payment Amount to be paid to Settlement Class Members.

95. Every Settlement Class Member shall be paid from the Net Settlement Fund the total Differential Overdraft Payment Amount to which he or she is entitled, calculated as set forth herein ("Settlement Fund Payments"). In no event, however, shall First Tennessee ever be required to pay more than a total of \$16,750,000.00.

96. Settlement Fund Payments to Current Account Holders shall be made first by crediting those Account Holders' Accounts, or by mailing a standard size check if it is not feasible or reasonable to make the payment by a credit. If feasible, First Tennessee shall notify Current Account Holders of any such credit on the account statement on which the credit is reflected and provide a brief explanation that the credit has been made as a payment in connection with the Settlement. First Tennessee will bear any costs associated with implementing the account credits and notification discussed in this paragraph. In consultation with the Settlement Administrator, First Tennessee may determine the timeline for paying account credits to Current Account Holders, so long as such payments are completed by both the deadline set forth in this Agreement, and within 10 days after the Settlement Administrator mails the first check representing the Settlement Fund Payments to Past Account Holders. Settlement Fund Payments made to Current Account Holders by check will be cut and mailed by the Settlement Administrator with an appropriate legend, in a form approved by Class Counsel and First Tennessee, to indicate that it is from the Settlement, and will be sent to the addresses that the Settlement Administrator identifies as valid. Checks shall be valid for 180 days. For jointly held Accounts, checks will be payable to all Account Holders, and will be mailed to the first Account Holder listed on the Account. The Settlement Administrator will make reasonable efforts to locate the proper address for any intended recipient of Settlement Funds whose check is returned by the Postal Service as undeliverable (such as by running addresses of returned checks through the Lexis/Nexis database that can be utilized for such purpose), and will re-mail the check once to the updated address. All costs associated with the process of printing and mailing the checks and any

accompanying communication to Current Account Holders shall be paid out of the Settlement Fund.

97. First Tennessee shall be entitled to a payment from the Net Settlement Fund equal to the amount of account credits to be paid pursuant to the Agreement. Within 10 business days after receiving such payment from the Net Settlement Fund, First Tennessee shall complete paying the account credits to Current Account Holders as described herein. Within 10 business days after the completion of the payment of such account credits, First Tennessee shall provide written verification to Class Counsel and the Escrow Agent of the aggregate amount of account credits that were given and that such Settlement Fund Payments were given to the Settlement Class Members who are Current Account Holders.

98. Settlement Fund Payments to Past Account Holders will be made by standard size check with an appropriate legend, in a form approved by Class Counsel and First Tennessee, to indicate that it is from the Settlement Fund. Checks will be cut and mailed by the Settlement Administrator, and will be sent to the addresses that the Settlement Administrator identifies as valid. Checks shall be valid for 180 days. For jointly held Accounts, checks will be payable to all Account Holders, and will be mailed to the first Account Holder listed on the Account. The Settlement Administrator will make reasonable efforts to locate the proper address for any intended recipient of Settlement Funds whose check is returned by the Postal Service as undeliverable (such as by running addresses of returned checks through the Lexis/Nexis database that can be utilized for such purpose), and will re-mail the check once to the updated address, or, in the case of a jointly held Account, and in the Settlement Administrator's discretion, to an

Account Holder other than the one listed first. All costs associated with the process of printing and mailing the checks and any accompanying communication to Past Account Holders shall be borne solely by the Settlement Fund.

99. The amount of the Net Settlement Fund attributable to uncashed or returned checks sent by the Settlement Administrator shall remain in the Settlement Fund for one year from the date that the first distribution check is mailed by the Settlement Administrator. During this time the Settlement Administrator shall make a reasonable effort to locate intended recipients of Settlement Funds whose checks were returned (such as by running addresses of returned checks through the Lexis/Nexis database that can be utilized for such purpose) to effectuate delivery of such checks. The Settlement Administrator shall make only one such additional attempt to identify updated addresses and re-mail or re-issue a distribution check to those for whom an updated address was obtained.

XIII. Disposition of Residual Funds

100. Within 1 year after the date the Settlement Administrator mails the first Settlement Fund Payments, any funds remaining in the Settlement Fund shall be distributed as follows:

a. First, any residual funds remaining after distribution shall be distributed on a *pro rata* basis to participating Settlement Class Members who received Settlement Fund Payments pursuant to Section XII of the Agreement, to the extent feasible and practical in light of the costs of administering such subsequent payments unless the amounts involved are too small to make individual distributions economically viable or

other specific reasons exist that would make such further distributions impossible or unfair;

b. Second, in the event the costs of preparing, transmitting and administering such subsequent payments pursuant to subparagraph a. above are not feasible and practical to make individual distributions economically viable or other specific reasons exist that would make such further distributions impossible or unfair, Class Counsel and First Tennessee shall file recommendations with the Court pursuant to Tennessee Rule of Civil Procedure 23.08. The Court shall then have the discretion to approve, deny, amend or modify, in whole or in part, the proposed recommendations. The Parties agree that any residual funds shall not be used for any litigation purpose or to disparage any Party. The Parties further agree that the Court's approval, denial, amendment or modification, in whole or in part, of the recommendations for distribution of the residual funds pursuant to this paragraph shall not constitute grounds for termination of the Settlement pursuant to Section XVII of the Agreement; and

c. All costs associated with the disposition of residual funds – whether through additional distributions to Settlement Class Members and/or through an alternative plan approved by the Court – shall be borne solely by the Settlement Fund.

XIV. Release

101. As of the Effective Date, Plaintiffs and each Settlement Class Member, each on behalf of himself or herself and on behalf of his or her respective heirs, assigns, beneficiaries and successors, shall automatically be deemed to have fully and irrevocably released and forever discharged First Tennessee and each of its present and former parents, subsidiaries, divisions, affiliates, predecessors, successors and assigns, and the

present and former directors, officers, employees, agents, insurers, shareholders, attorneys, advisors, consultants, representatives, partners, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, predecessors, successors and assigns of each of them, of and from any and all liabilities, rights, claims, actions, causes of action, demands, damages, costs, attorneys' fees, losses and remedies, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, that result from, arise out of, are based upon, or relate to the conduct, omissions, duties or matters during the Class Period that were or could have been alleged in the Action, including, without limitation, any claims, actions, causes of action, demands, damages, losses, or remedies relating to, based upon, resulting from, or arising out of (a) the assessment of one or multiple Overdraft Fees on a First Tennessee Account or the amount of one or more Overdraft Fees assessed on an Account, (b) debit sequencing or posting order, or (c) any misleading conduct related to the assessment or amount of Overdraft Fees, debit sequencing, or posting order. The foregoing release includes, by way of example but not limitation, any and all of the following to the extent they involve, result in, or seek recovery or relief for Overdraft Fees or debit sequencing or posting order: (1) the authorization, approval or handling of any Debit Card Transaction, (2) any failure to notify or to obtain advance approval when a Debit Card Transaction would or might cause a First Tennessee Account to become overdrawn or further overdrawn or an Overdraft Fee to be assessed, (3) any failure to allow the holder of any First Tennessee Account to opt-out of overdrafts, or to publicize or disclose the ability of the holder of any First Tennessee Account to opt-out of overdrafts, (4) any failure to adequately or clearly disclose or any misrepresentations related to posting

order, debit sequencing, overdrafts, Overdraft Fees, or the manner in which Debit Card Transactions are or would be approved, processed, or posted to First Tennessee Accounts; (5) any conduct or statements encouraging the use of First Tennessee Debit Cards; (6) the assessment of any continuing overdraft fee; and (7) any advertisements relating to any of the foregoing.

102. Except for Settlement Class Members who have validly and timely elected to exclude themselves from or “opt-out” of the Settlement Class, each member of the Settlement Class is barred and permanently enjoined from bringing on behalf of themselves, or through any person purporting to act on their behalf or purporting to assert a claim under or through them, any of the Released Claims against First Tennessee in any forum, action, or proceeding of any kind.

103. As of the Effective Date, Plaintiffs and each Settlement Class Member shall further automatically be deemed to have waived and released any and all provisions, rights, and benefits conferred by § 1542 of the California Civil Code or similar laws of any other state or jurisdiction. Section 1542 of the California Civil Code reads: “§1542. Certain Claims Not Affected By General Release. A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

104. Plaintiffs 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 herein, 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, contingent or non-contingent claims with respect to all of the matters described in or subsumed by herein. Further, each of those individuals agrees and acknowledges that he/she shall be bound by this Agreement, including by the release herein and that all of their claims in the Action 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 and/or never receives a distribution of funds or credits from the Settlement.

105. Nothing in this Agreement shall operate or be construed to release any claims or rights that First Tennessee has to recover any past, present or future amounts that may be owed by Plaintiffs or by any Settlement Class Member on his/her accounts, loans or any other debts with First Tennessee, pursuant to the terms and conditions of such accounts, loans, or any other debts. Likewise, nothing in this Agreement shall operate or be construed to release any defenses or rights of set-off that any Plaintiffs or any Settlement Class Members has in the event First Tennessee and/or its assigns seeks to recover any past, present or future amounts that may be owed by Plaintiffs or by any Settlement Class Member on his/her accounts, loans or any other debts with First Tennessee, pursuant to the terms and conditions of such accounts, loans, or any other debts.

XV. Payment of Attorneys' Fees, Costs, and Service Award

106. First Tennessee agrees not to oppose Class Counsel's request for attorneys' fees of up to thirty-five percent (35%) of the Settlement Fund, and not to oppose Class Counsel's request for reimbursement of reasonable costs and expenses. Any award of attorneys' fees, costs, and expenses to Class Counsel shall be payable solely out of the Settlement Fund. The Parties agree that the Court's failure to approve, in whole or in part, any award for attorneys' fees shall not prevent the Settlement Agreement from becoming Effective, nor shall it be grounds for termination.

107. Within 3 days of the Court's entry of the Final Approval Order, the Escrow Agent shall pay from the Settlement Fund to Class Counsel all Court-approved attorneys' fees, costs, and expenses of Class Counsel, including interest accrued thereon. Provided, however, that the Escrow Agent shall not pay any such fees, costs or expenses from the Settlement Fund to Class Counsel until such time as Class Counsel have jointly agreed upon a plan of allocation of fees, costs and expenses among all Class Counsel, and have jointly provided payment instructions to the Escrow Agent. In the event that the award of attorneys' fees, costs, and expenses of Class Counsel is reduced on appeal, the Escrow Agent shall only pay to Class Counsel from the Settlement Fund the reduced amount of such award, including interest accrued thereon. Class Counsel shall timely furnish to the Escrow Agent any required tax information or forms before the payment is made.

108. The payment of attorneys' fees, costs and expenses of Class Counsel shall be made through a deposit by the Escrow Agent into an account designed by Class Counsel. After the fees, costs and expenses have been deposited into this account, Class

Counsel shall be solely responsible for distributing each Class Counsel firm's allocated share of such fees, costs and expenses to that firm. First Tennessee shall have no responsibility for any allocation, and no liability whatsoever to any person or entity claiming any share of the funds to be distributed for payment of attorneys' fees, costs, or expenses or any other payments from the Settlement Fund not specifically described herein.

109. Class Counsel will ask the Court to approve Service Awards to the Plaintiffs as follows: Sylvia Hawkins - \$3,750.00; William Hawkins - \$3,750.00; Peter Teselsky - \$7,500.00; and Mark Zurales - \$7,500.00 ("Service Awards"). The Service Awards are to be paid from the Settlement Fund. The Service Awards shall be paid to Class Representative in addition to Class Representatives' Settlement Class Member Payments. First Tennessee agrees not to oppose Class Counsel's request for the Service Awards.

110. The Parties negotiated and reached agreement regarding attorneys' fees and costs, and the Service Awards, only after reaching agreement on all other material terms of this Settlement.

XVI. Termination of Settlement

111. This Settlement may be terminated by either Class Counsel or First Tennessee by serving on counsel for the opposing Party and filing with the Court a written notice of termination within 15 days (or such longer time as may be agreed in writing between Class Counsel and First Tennessee) after any of the following occurrences:

- a. Class Counsel and First Tennessee agree to termination;

b. the Court fails to preliminarily approve the Settlement within 180 days after filing of the motion for preliminary approval, or fails to finally approve the Settlement within 360 days after Preliminary Approval by the Court;

c. the Court rejects, materially modifies, materially amends or changes, or declines to preliminarily or finally approve the Settlement;

d. an appellate court vacates or reverses the Final Approval Order, and the Settlement is not reinstated and finally approved without material change by the Court on remand within 270 days after such reversal;

e. any court incorporates into, or deletes or strikes from, or modifies, amends, or changes, the Preliminary Approval Order, Final Approval Order, or the Settlement in a way that Class Counsel or First Tennessee seeking to terminate the Settlement reasonably considers material;

f. the Effective Date does not occur;

g. the Office of the Comptroller of the Currency or any other federal or state governmental entity with regulatory or supervisory authority related to First Tennessee's entering into this Settlement indicates objection or disapproval of the Settlement; or

h. any other ground for termination provided for elsewhere in this Agreement.

112. First Tennessee also shall have the right to terminate the Settlement by serving on Class Counsel and filing with the Court a notice of termination within 14 days after its receipt from the Settlement Administrator of the final report, if the number of Settlement Class Members who timely request exclusion from the Settlement Class equals or exceeds the number or percentage specified in the separate letter executed

concurrently with this Settlement by Class Counsel and First Tennessee. The number or percentage shall be confidential except to the Court, which shall upon request be provided with a copy of the letter for *in camera* review.

XVII. Effect of a Termination

113. The grounds upon which this Agreement may be terminated are set forth herein above. In the event of a termination as provided therein, this Agreement shall be considered null and void; all of Plaintiffs' Class Counsel's and First Tennessee's obligations under the Settlement shall cease to be of any force and effect; the amounts in the Settlement Fund shall be returned to First Tennessee; and the Parties shall return to the status *quo ante* in the Action as if the Parties had not entered into this Agreement. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement rights, claims and defenses will be retained and preserved.

114. In the event of a termination as provided in Section XVI of this Agreement, and after payment of any invoices or other fees or expenses mentioned in this Agreement that have been incurred and are due to be paid from the Escrow Account, to the extent any such fees or expenses have been incurred, the Escrow Agent shall return the balance of the Settlement Fund to First Tennessee within 7 business days after termination. For any funds paid directly by First Tennessee in connection with the Notice in Section VIII hereof, or paid directly from the Escrow Account pursuant to this Agreement, First Tennessee shall have no right to seek reimbursement from Plaintiffs, Class Counsel, the Notice Administrator, or the Settlement Administrator in the event of termination of this Agreement.

115. The Settlement shall become effective on the Effective Date unless earlier terminated in accordance with the provisions hereof.

116. In the event the Settlement is terminated in accordance with the provisions of Section XVI herein, any discussions, offers, or negotiations associated with this Settlement shall not be discoverable or offered into evidence or used in the Action or any other action or proceeding for any purpose. In such event, all Parties to the Action shall stand in the same position as if this Agreement had not been negotiated, made or filed with the Court.

XVIII. No Admission of Liability

117. First Tennessee continues to dispute its liability for the claims alleged in the Action, and maintains that its debit posting practices and representations concerning those practices complied, at all times, with applicable laws and regulations and the terms of the account agreements with its customers. First Tennessee does not by this Agreement or otherwise admit any liability or wrongdoing of any kind. First Tennessee has agreed to enter into this Agreement to avoid the further expense, inconvenience, and distraction of burdensome and protracted litigation, and to be completely free of any further claims that were asserted or could possibly have been asserted in the Action.

118. Class Counsel believe that the claims asserted in the Action have merit, and they have examined and considered the benefits to be obtained under the proposed Settlement set forth in this Agreement, the risks associated with the continued prosecution of this complex, costly and time-consuming litigation, and the likelihood of success on the merits of the Action. Class Counsel fully investigated the facts and law relevant to the merits of the claims, conducted extensive discovery, and conducted

independent investigation of the challenged practices. Class Counsel concluded that the proposed Settlement set forth in this Agreement is fair, adequate, reasonable, and in the best interests of the Settlement Class Members.

119. The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgment or admission by any party of any fault, liability or wrongdoing of any kind whatsoever.

120. Neither the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (a) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by the Plaintiffs or Settlement Class Members, or of any wrongdoing or liability of the Released Parties; or (b) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission of any of the Released Parties, in the Action or in any proceeding in any court, administrative agency or other tribunal.

121. In addition to any other defenses First Tennessee may have at law, in equity, or otherwise, to the extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit or other proceeding that may be instituted, prosecuted or attempted in breach of this Agreement or the Releases contained herein.

XIX. Miscellaneous Provisions

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

122. Binding Effect. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Releasing Parties and the Released Parties.

123. Cooperation of Parties. The Parties to this Agreement agree to cooperate in good faith to prepare and execute all documents, to seek Court approval, uphold Court approval, and do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

124. Obligation To Meet And Confer. Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other and certify to the Court that they have consulted.

125. Integration. This Agreement constitutes a single, integrated written contract expressing the entire agreement of the Parties relative to the subject matter hereof. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party hereto, except as provided for herein.

126. No Conflict Intended. Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

127. Governing Law. Except as otherwise provided herein, the Agreement shall be construed in accordance with, and be governed by, the laws of the State of Tennessee, without regard to the principles thereof regarding choice of law.

128. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all Parties do not sign the same counterparts. Original signatures are not required. Any signature submitted by facsimile or through email of an Adobe PDF shall be deemed an original.

129. Jurisdiction. The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation and enforcement of the Agreement and shall retain jurisdiction for the purpose of enforcing all terms of the Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice program, the Settlement Administrator, the Notice Administrator, the Escrow Agent, and the Tax Administrator. As part of their respective agreements to render services in connection with this Settlement, the Settlement Administrator, the Notice Administrator, the Escrow Agent, and the Tax Administrator shall consent to the jurisdiction of the Court for this purpose. The Court shall retain jurisdiction over the enforcement of the Court's injunction barring and enjoining all Releasing Parties from asserting any of the Released Claims and from pursuing any Released Claims against First Tennessee or its affiliates at any time, including during any appeal from the Final Approval Order.

130. Notices. All notices to Class Counsel provided for herein, shall be sent by email with a hard copy sent by overnight mail to:

Jeffrey M. Ostrow
KOPELOWITZ OSTROW FERGUSON
WEISELBERG GILBERT
1 West Las Olas Blvd., Suite 500
Fort Lauderdale, Florida 33301
Email: ostrow@kolawyers.com
Class Counsel

R. Mark Glover, Esq.
BAKER, DONELSON, BEARMAN, CALDWELL
& BERKOWITZ, PC
165 Madison Ave., Suite 2000
Memphis, Tennessee 38103
Email: mglover@bakerdonelson.com
Counsel for First Tennessee Bank National Association

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

131. Modification and Amendment. This Agreement may not be amended or modified, except by a written instrument signed by Class Counsel and counsel for First Tennessee and, if the Settlement has been approved preliminarily by the Court, approved by the Court.

132. No Waiver. The waiver by any Party of any breach of this Agreement by another Party shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Agreement.

133. Authority. Class Counsel (for the Plaintiffs and the Settlement Class Members), and counsel for First Tennessee (for First Tennessee), represent and warrant that the persons signing this Agreement on their behalf have full power and authority to bind every person, partnership, corporation or entity included within the definitions of

Plaintiffs and First Tennessee to all terms of this Agreement. Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.

134. Agreement Mutually Prepared. Neither First Tennessee nor Plaintiffs, nor any of them, shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

135. Independent Investigation and Decision to Settle. The Parties understand and acknowledge that they: (a) have performed an independent investigation of the allegations of fact and law made in connection with this Action; and (b) that even if they may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Action as reflected in this Agreement, that will not affect or in any respect limit the binding nature of this Agreement. First Tennessee has provided and is providing information that Plaintiffs reasonably request to identify Settlement Class Members and the alleged damages they incurred. It is the Parties' intention to resolve their disputes in connection with this Action pursuant to the terms of this Agreement now and thus, in furtherance of their intentions, the Agreement shall remain in full force and effect notwithstanding the discovery of any additional facts or law, or changes in law, and this Agreement shall not be subject to rescission or modification by reason of any changes or differences in facts or law, subsequently occurring or otherwise.

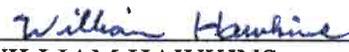
136. Receipt of Advice of Counsel. Each Party acknowledges, agrees, and specifically warrants that he, she or it has fully read this Agreement and the Release contained in Section XIV hereof, received independent legal advice with respect to the advisability of entering into this Agreement and the Release and the legal effects of this Agreement and the Release, and fully understands the effect of this Agreement and the Release.

Dated: 08-17-2016



SYLVIA HAWKINS
Plaintiff

Dated: 08-17-2016



WILLIAM HAWKINS
Plaintiff

Dated: _____

PETER TESELSKY
Plaintiff

Dated: _____

MARK ZURALES
Plaintiff

Dated: 8/17/16



Jeffrey M. Ostrow, Esq.
KOPELOWITZ OSTROW FERGUSON
WEISELBERG GILBERT
1 West Las Olas Blvd., Suite 500
Fort Lauderdale, FL 33301
Class Counsel

136. Receipt of Advice of Counsel. Each Party acknowledges, agrees, and specifically warrants that he, she or it has fully read this Agreement and the Release contained in Section XIV hereof, received independent legal advice with respect to the advisability of entering into this Agreement and the Release and the legal effects of this Agreement and the Release, and fully understands the effect of this Agreement and the Release.

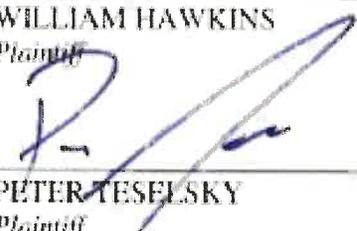
Dated: _____

SYLVIA HAWKINS
Plaintiff

Dated: _____

WILLIAM HAWKINS
Plaintiff

Dated: 8/17/16



PETER TELESKY
Plaintiff

Dated: _____

MARK ZURALES
Plaintiff

Dated: _____

Jeffrey M. Ostrow, Esq.
KOPELOWITZ OSTROW FERGUSON
WEISELBERG GILBERT
1 West Las Olas Blvd., Suite 500
Fort Lauderdale, FL 33301
Class Counsel

136. Receipt of Advice of Counsel. Each Party acknowledges, agrees, and specifically warrants that he, she or it has fully read this Agreement and the Release contained in Section XIV hereof, received independent legal advice with respect to the advisability of entering into this Agreement and the Release and the legal effects of this Agreement and the Release, and fully understands the effect of this Agreement and the Release.

Dated: _____

SYLVIA HAWKINS
Plaintiff

Dated: _____

WILLIAM HAWKINS
Plaintiff

Dated: _____

PETER TESELSKY
Plaintiff

Dated: 8/17/16



MARK ZURALES
Plaintiff

Dated: _____

Jeffrey M. Ostrow, Esq.
KOPELOWITZ OSTROW FERGUSON
WEISELBERG GILBERT
1 West Las Olas Blvd., Suite 500
Fort Lauderdale, FL 33301
Class Counsel

Dated: August 18, 2016

**FIRST TENNESSEE BANK NATIONAL
ASSOCIATION**


By: David W. Miller
ITS EVP, Consumer Banking
165 Madison Ave.
Memphis TN 38103

Dated: August 19, 2016

Defendant


R. Mark Glover, Esq.
BAKER, DONELSON, BEARMAN, CALDWELL
& BERKOWITZ, PC
165 Madison Avenue, Suite 2000
Memphis, Tennessee 38103
*Counsel for First Tennessee Bank National
Association*

EXHIBIT A

If You Paid Overdraft Fees to First Tennessee Bank, You May Be Eligible for a Payment from a Class Action Settlement.

A \$16.75 million Settlement has been reached in a class action lawsuit about the order in which First Tennessee Bank National Association (“First Tennessee”) posted Debit Card Transactions to customer Accounts, the representation and disclosures made concerning the posting order, and the alleged effect the posting order had on the number of Overdraft Fees charged to Account holders. First Tennessee maintains that there was nothing wrong with either the posting process it used or the disclosures it made, and that it complied, at all times, with applicable laws and regulations and the terms of the account agreements with its customers.

Who’s Included? First Tennessee’s records show you are a member of the Settlement Class. The Settlement Class includes First Tennessee customers who had one or more consumer (non-business) Accounts and incurred an Overdraft Fee(s) during the Class Period as a result of First Tennessee’s practice of posting Debit Card and ATM transactions from highest to lowest dollar amount. The Class Period is from September 6, 2005 to February 20, 2013.

What Are the Settlement Terms? First Tennessee has agreed to establish a Settlement Fund of \$16.75 million from which Settlement Class Members will receive payments or Account credits. Once the Court approves the Settlement, you will automatically receive a payment by check or Account credit for your pro rata portion of eligible Overdraft Fees paid during the period covered by the Settlement. You can see an estimate of your pro rata payment or Account Credit by visiting the website and inputting this unique identification number _____.

Your Rights May Be Affected. If you do not want to be legally bound by the Settlement, you must exclude yourself from the Settlement Class by _____, 2016. If you do not timely exclude yourself, you will release your Overdraft Fee related claims against First Tennessee and will not be able to sue First Tennessee for any claim relating to the lawsuit. If you stay in the Settlement Class, you may object to it by _____, 2016. The Detailed Notice available at the website below explains how to exclude yourself from or object to the Settlement. The Court will hold a hearing on _____, 2016, to consider whether to approve the Settlement and a request for attorneys’ fees of up to 35% of the Settlement Fund, plus expenses and Class Representative Service Awards. You may appear at the hearing, but you are not required to attend. You must object in writing pursuant to the instructions in the Settlement Agreement. You may also hire your own attorney, at your own expense, to appear or speak for you at the hearing.

First Tennessee Bank Overdraft Settlement
PO Box XXXX
Portland, OR 97XXX-XXXX

Important Notice About a Class Action Settlement

EXHIBIT B

If You Paid Overdraft Fees to First Tennessee Bank, You May Be Eligible for a Payment from a Class Action Settlement.

A \$16.75 million Settlement has been reached in a class action lawsuit about the order in which First Tennessee Bank National Association (“First Tennessee”) posted Debit Card Transactions to customer Accounts, the representations and disclosures made concerning the posting order, and the alleged effect the posting order had on the number of Overdraft Fees charged to Account holders. First Tennessee maintains that there was nothing wrong with either the posting process it used or the disclosures it made, and that it complied, at all times, with applicable laws and regulations and the terms of the account agreements with its customers.

Who’s Included? The Settlement Class includes First Tennessee customers who had one or more consumer (non-business) Accounts and incurred an Overdraft Fee(s) during the Class Period as a result of First Tennessee’s practice of posting Debit Card and ATM transactions from highest to lowest dollar amount. The Class Periods is from September 6, 2005 to February 20, 2013.

What Are the Settlement Terms? First Tennessee has agreed to establish a Settlement Fund of \$16.75 million from which Settlement Class Members will receive payments or Account credits. Payments will be based on the number of Settlement Class Members and the amount of Additional Overdraft Fees each Settlement Class Member paid as a result of First Tennessee’s posting order. Settlement Class members were mailed a postcard notice that included a unique identification number that could be used at the Settlement website to see an estimate of their pro rata payment or Account credit.

How do I get a Payment? If you are included in the Settlement Class and entitled to a payment or Account credit, once the Court approves the Settlement, you will automatically receive a payment by check or Account credit for your pro rata portion of eligible Overdraft Fees paid during the period covered by the Settlement.

Your Rights May Be Affected. If you do not want to be legally bound by the Settlement, you must exclude yourself from the Settlement Class by _____, 2016. If you do not timely exclude yourself, you will release your Overdraft Fee related claims against First Tennessee and will not be able to sue First Tennessee for any claim relating to the lawsuit. If you stay in the Settlement Class, you may object to it by _____, 2016. The Detailed Notice available at the website below explains how to exclude yourself from or object to the Settlement. The Court will hold a hearing on _____, 2016, to consider whether to approve the Settlement and a request for attorneys’ fees of up to 35% of the Settlement Fund, plus expenses and Class Representative Service Awards. You may appear at the hearing, but you are not required to attend. You must object in writing pursuant to the instructions in the Settlement Agreement. You may also hire your own attorney, at your own expense, to appear or speak for you at the hearing.

1-800-XXX-XXXX

www.FirstTennesseeOverdraftLitigation.com

EXHIBIT C

If You Paid Overdraft Fees to First Tennessee Bank, You May Be Eligible for a Payment from a Class Action Settlement.

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

- A \$16.75 million Settlement has been reached in a class action about the order in which First Tennessee Bank National Association (“First Tennessee”) posted Debit Card and ATM transactions to customer Accounts, the representations and disclosures made concerning the posting order, and the alleged effect the posting order had on the number of Overdraft Fees charged to Account holders. First Tennessee maintains that there was nothing wrong with either the posting process it used or the disclosures it made, and that it complied, at all times, with applicable laws and regulations and the terms of the account agreements with its customers.
- Certain current and former holders of First Tennessee consumer Accounts are eligible for a payment or Account credit from the Settlement Fund.
- The Settlement Class includes First Tennessee customers who had one or more consumer (non-business) Accounts and incurred an Overdraft Fee(s) during the Class Period as a result of First Tennessee’s practice of posting Debit Card and ATM transactions from highest to lowest dollar amount. The relevant Class Period is September 6, 2005 to February 20, 2013.
- Your legal rights are affected whether you act or don’t act. Read this notice carefully.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
Receive a Payment or Account Credit	If you are entitled under the Settlement to a payment or Account credit, you do not have to do anything to receive it. If the Court approves the Settlement and it becomes final and effective, and you remain in the Settlement Class, you will automatically receive a payment by check or Account credit.
Exclude Yourself from the Settlement	Receive no benefit from the Settlement. This is the only option that allows you to retain your right to bring any other lawsuit against First Tennessee about the claims in this case.
Object	Write to the Court if you do not like the terms of the Settlement.
Go to a Hearing	Ask to speak in Court about the fairness of the Settlement.
Do Nothing	You will receive any payment or Account credit to which you are entitled, and will give up your right to bring your own lawsuit against First Tennessee about the claims in this case.

- These rights and options — **and the deadlines to exercise them** — are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments and Account credits will be provided if the Court approves the Settlement and after any appeals are resolved. Please be patient.

Questions? Call **1-800-XXX-XXXX** or visit www.FirstTennesseeOverdraftLitigation.com

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BASIC INFORMATION

1. Why is there a notice?

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

The case is known as *Sylvia Hawkins v. First Tennessee Bank National Association*, Shelby County Circuit Court Docket No.: CT-004085-11, Division VII (the “Action”). The people who sued are called the “Plaintiffs.” The Defendant is First Tennessee Bank National Association.

2. What is this lawsuit about?

The lawsuit claims that First Tennessee posted Debit Card Transactions in the order of highest to lowest dollar amount, which Plaintiffs argue results in an increased number of Overdraft Fees assessed to customers. The complaint is posted on the Settlement Website and contains all of the allegations asserted against First Tennessee. First Tennessee maintains that there was nothing wrong with either the posting process it used or the disclosures it made, and that it complied, at all times, with applicable laws and regulations and the terms of the account agreements with its customers.

3. What do “Account,” “Overdraft Fee,” “Debit Card” and “Debit Card Transaction” mean?

“**Account**” means any consumer checking, demand deposit or savings account maintained by First Tennessee in the United States linked to and/or accessible by a Debit Card during the Class Period and on which an Overdraft Fee could be applied.

“**Overdraft Fee**” means any fee or fees assessed to an Account resulting from item(s) paid because the Account had insufficient funds to cover the item(s). Fees charged to transfer funds from other accounts are excluded.

“**Debit Card**” means a card or similar device issued or provided by First Tennessee, including a debit card, check card, or automated teller machine (“ATM”) card that can or could be used to debit funds from an Account by Point of Sale and/or ATM transactions.

“**Debit Card Transaction**” means any debit transaction effectuated with a Debit Card, including Point of Sale transactions (whether by PIN or signature/PIN-less) and ATM transactions. For avoidance of doubt, Debit Card Transaction does not include a debit transaction effectuated by paper or electronic check, by preauthorized transaction, by wire transfer or Automated Clearing House (“ACH”) transaction, or a transfer to another account such as a credit card account or line of credit.

4. Why is this a class action?

In a class action, one or more people called class representatives (in this case, Plaintiffs Sylvia Hawkins, William Hawkins, Peter Teselsky and Mark Zurales) sue on behalf of people who have similar claims. The people included in the class action are called the Settlement Class or Settlement Class members. One court resolves the issues for all Settlement Class members, except for those who timely exclude themselves from the Settlement Class.

5. Why is there a Settlement?

The Court has not decided in favor of either the Plaintiffs or First Tennessee. Instead, both sides agreed to the Settlement. By agreeing to the Settlement, the Parties avoid the costs and uncertainty of a trial, and Settlement Class Members receive the benefits described in this notice. The Class Representatives and Class Counsel believe the Settlement is best for everyone who is affected.

WHO IS IN THE SETTLEMENT?

To see if you will be affected by the Settlement or if you can get a payment or Account credit from it, you first have to determine if you are a Settlement Class member.

6. Who is included in the Settlement?

You are included in the Settlement Class if you were a First Tennessee customer who had one or more consumer (non-business) Accounts and incurred an Overdraft Fee(s) during the Class Period as a result of First Tennessee's practice of sequencing Debit Card and ATM transactions from highest to lowest dollar amount. The Class Period is September 6, 2005 to February 20, 2013.

In order to have incurred an Overdraft Fee as a result of First Tennessee's practice of posting Debit Card Transactions from highest to lowest dollar amount, you must have had two or more Overdraft Fees assessed on one or more days during the Class Period. If this happened to you, you may be in the Settlement Class. If it did not happen to you, you are not a member of the Settlement Class. You may contact the Settlement Administrator if you have any questions as to whether you are in the Settlement Class.

THE SETTLEMENT'S BENEFITS

7. What does the Settlement provide?

First Tennessee has agreed to establish a Settlement Fund of \$16.75 million from which Settlement Class Members will receive payments or Account credits. The Settlement Fund will also pay all fees and expenses of Class Notice and Settlement Administration, attorneys' fees, costs and expenses awarded to Class Counsel, and any Service Awards to the Class Representatives. The exact amount of Settlement Class Members' payments or Account credits cannot be determined at this time. The exact amount cannot be determined until the notice process is complete and the Court makes a final decision on the amount of attorneys' fees, costs and expenses awarded to Class Counsel and any Service Award to the Class Representative. However, if you received notice of the Settlement via a postcard in the mail, you were given a unique identifying number that you can use on the Settlement Website to see an *estimate* of the amount of your payment or Account credit.

8. How do I receive a payment or Account credit?

If you are in the Settlement Class and entitled to receive a cash benefit, you do not need to do anything to receive a payment or Account credit. If the Court approves the Settlement and it becomes final and effective, you will automatically receive a payment by check or Account credit for your *pro rata* portion of eligible Overdraft Fees you paid during the time period covered by the Settlement.

Questions? Call **1-800-XXX-XXXX** or visit www.FirstTennesseeOverdraftLitigation.com

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

Unless you exclude yourself from the Settlement Class, you cannot sue or be part of any other lawsuit against First Tennessee about the legal issues in this Action. It also means that all of the decisions by the Court will bind you. The “Release” included in the Settlement Agreement describes the precise legal claims that you give up if you remain in the Settlement. The Settlement Agreement is available at www.FirstTennesseeOverdraftLitigation.com.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want benefits from the Settlement, and you want to keep the right to sue First Tennessee on your own about the legal issues in this Action, then you must take steps to get out of the Settlement. This is called excluding yourself — or it is sometimes referred to as “opting-out” of the Settlement Class.

10. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must send a letter that includes the following:

- Your printed or typed name, address and telephone number;
- A short statement that you want to be excluded from the First Tennessee Overdraft Settlement; and
- Your signature.

You must mail your exclusion request, postmarked no later than **____, 2016**, to:

First Tennessee Overdraft Settlement
P.O. Box 3719
Portland, OR 97208-3719

11. If I do not exclude myself, can I sue First Tennessee for the same thing later?

No. Unless you exclude yourself, you give up the right to sue First Tennessee for the claims that the Settlement resolves. You must exclude yourself from this Settlement Class in order to try to pursue your own lawsuit.

12. If I exclude myself from the Settlement, can I still receive a payment?

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

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in this case?

The Court has appointed a number of lawyers to represent you and others in the Settlement Class as “Class Counsel,” including:

Jeffrey M. Ostrow Jonathan M. Streisfeld David L. Ferguson Kopelowitz Ostrow P.A. One West Las Olas Blvd, Suite 5000 Ft. Lauderdale, FL 33301	Hassan Zavareei Jeffrey Kaliel Tycko & Zavareei LLP 1828 L Street, NW, Suite 1000 Washington, DC 20036
--	--

Class Counsel will represent you and others in the Settlement Class. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

14. How will the lawyers be paid?

Class Counsel intends to request up to 35% of the money in the Settlement Fund for attorneys’ fees, plus reimbursement of their expenses incurred in connection with prosecuting this Action. The fees and expenses awarded by the Court will be paid out of the Settlement Fund. The Court will determine the amount of fees and expenses to award. Class Counsel will also request that up to \$7,500.00 be paid to each Class Representative from the Settlement Fund for their service to the entire Settlement Class.

OBJECTING TO THE SETTLEMENT

15. How do I tell the Court that I don’t like the Settlement?

If you are a Settlement Class Member, you can object to any part of the Settlement, the Settlement as a whole, Class Counsel’s requests for fees and expenses and/or Class Counsel’s request for a Service Award for the class representative. To object, you must submit a letter that includes the following:

- The name of this Action, which is First Tennessee Overdraft Litigation;
- Your printed or typed full name, address and telephone number;
- An explanation of why you claim to be a Settlement Class Member;
- The reasons for your objection, accompanied by any legal support for the objection known to you or your counsel;
- The number of times you have objected to a class action settlement within the last 5 years, the caption of each case in which you have made such objection and a copy of any orders or opinions related to or ruling upon the prior objections that were issued by the trial and appellate courts in each listed case;
- The identity of all counsel who represent you, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement or fee application;
- A copy of any orders related to or ruling upon counsel’s or the counsel’s law firm’s prior objections that were issued by the trial and appellate courts in each listed case in which your counsel and/or counsel’s law firm have objected to a class action settlement within the preceding 5 years;
- Any and all agreements that relate to the objection or the process of objecting—whether written or oral—between you or your counsel and any other person or entity;
- The identity of all counsel (if any) representing you who will appear at the Final Approval Hearing;

Questions? Call 1-800-XXX-XXXX or visit www.FirstTennesseeOverdraftLitigation.com

- A list of all persons who will be called to testify at the Final Approval Hearing in support of the objection;
- A statement confirming whether you intend to personally appear and/or testify at the Final Approval Hearing; and
- Your signature (an attorney’s signature is not sufficient).

You must submit your objection to all the people listed below, postmarked no later than **_____, 2016**.

<p>Clerk of the Court Shelby County Circuit Court 140 Adams Avenue Room 324 Memphis, Tennessee 38103</p>	<p>First Tennessee Overdraft Settlement P.O. Box 3719 Portland, OR 97208-3719</p>
<p>Jeffrey M. Ostrow Kopelowitz Ostrow P.A. 1 West Las Olas Boulevard, Suite 500 Fort Lauderdale, Florida 33301</p>	<p>R. Mark Glover Kristine L. Roberts Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C. 165 Madison Avenue, Suite 2000 Memphis, Tennessee 38103</p>

Note that, if you object, you may be subject to discovery requests, such as answering questions in writing, producing documents, or providing testimony, consistent with the Tennessee Rules of Civil Procedure.

16. What’s the difference between objecting and excluding?

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

THE COURT’S FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing to decide whether to approve the Settlement, and the request for attorneys’ fees, expenses and Service Awards for the Class Representatives. You may attend and you may ask to speak, but you don’t have to do so.

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

The Court will hold a Final Approval Hearing at _____, on _____, 2016, at the Shelby County Courthouse, located at 140 Adams Avenue, Room _____, Memphis, Tennessee 38103. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check www.FirstTennesseeOverdraftLitigation.com for updates. At this hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. The Court will also consider any request by Class Counsel for attorneys’ fees and expenses and for Service Awards for the Class Representatives. If there are objections, the Court will consider them at this time. After the hearing, the Court will decide whether to approve the Settlement. We do not know when the Court

Questions? Call 1-800-XXX-XXXX or visit www.FirstTennesseeOverdraftLitigation.com

will make its decision. It is a good idea to check www.FirstTennesseeOverdraftLitigation.com for updates.

18. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. But, you may come at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you submit your written objection on time, to the proper address and it complies with the requirements set forth previously, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

19. May I speak at the hearing?

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

- Your name, address and telephone number;
- A statement that this is your “Notice of Intention to Appear” at the Final Approval Hearing for the First Tennessee Settlement in *Sylvia Hawkins v. First Tennessee Bank, N.A.*, Shelby County Circuit Court Docket No.: CT-004085-11, Division VII;
- The reasons you want to be heard;
- Copies of any papers, exhibits, or other evidence or information that is to be presented to the Court at the Final Approval Hearing; and
- Your signature.

You must submit your Notice of Intention to Appear so that it is postmarked no later than **_____ , 2016**, to all of the addresses in Question 15.

IF YOU DO NOTHING

20. What happens if I do nothing at all?

If you do nothing, you will still receive the benefits to which you are entitled under the Settlement Agreement. Unless you exclude yourself, you will not be able to start a lawsuit or be part of any other lawsuit against First Tennessee relating to the issues in this Action.

GETTING MORE INFORMATION

21. How do I get more information?

This Detailed Notice summarizes the proposed Settlement. More details can be found in the Settlement Agreement. You can obtain a copy of the Settlement Agreement at www.FirstTennesseeOverdraftLitigation.com. You may also write with questions to First Tennessee Overdraft Settlement, **P.O. Box 3719, Portland, OR 97208-3719**, or call the toll-free number, **1-800-XXX-XXXX**. Do not contact First Tennessee or the Court for information.

Questions? Call **1-800-XXX-XXXX or visit www.FirstTennesseeOverdraftLitigation.com**