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San Francisco County Superior Court

AUG 24 2018

CLERK OF THE COURT
BY: [Signature]
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

DEANNA GASTELUM,
Plaintiff,

vs.

FRONTIER CALIFORNIA, INC. et al.
Defendants.

Case No. CGC – 11-511467

**ORDER GRANTING APPROVAL OF
PROPOSED SETTLEMENT**

On February 21, 2018, this Court entered an Order Granting Preliminary Approval of Proposed Settlement (the Preliminary Approval Order), preliminarily approving the proposed settlement of the Action pursuant to the terms of the Second Amended Stipulation of Settlement (the Proposed Settlement, a copy of which was attached as Exhibit 1 to the February 14, 2018 Supplemental Declaration of L. Timothy Fisher) and directing that notice be given to the members of the Settlement Class.

Pursuant to the Parties' plan for providing notice to the Settlement Class (the Notice Plan), notice was disseminated by postcard, email and web posting; and Final Approval Hearings were held on July 20, 2018 and August 10, 2018. Prior to the Final Approval Hearings, proof of substantial compliance with the Notice Plan was filed with the Court. Settlement Class Members were therefore notified of their right to appear at the hearing in support of or in opposition to the proposed Settlement.

Having heard the oral presentations made at the Final Approval Hearings, and having reviewed all of the submissions presented with respect to the Proposed Settlement, and having

1 determined that the settlement is fair, adequate, and reasonable, and having reviewed the
2 materials in connection therewith, The court orders:

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4 1. The capitalized terms used in this Final Approval Order shall have the same
5 meaning as defined in the Second Proposed Settlement except as may otherwise be ordered.

6 2. The Court has jurisdiction over the subject matter of this Action and over all
7 claims raised therein and all Parties thereto, including the Settlement Class.

8 3. For settlement purposes only, the following Settlement Class is finally certified:
9 “All persons who were assessed a Late Payment Charge or an Erroneous Late Payment Charge
10 that was paid from December 1, 2008, through February 21, 2018.”

11 4. The Court finds, solely for purposes of this Settlement, that the requirements of
12 CCP § 382 are satisfied, including requirements for the existence of an ascertainable and
13 numerous class, a community of interest, and manageability of a settlement class, that common
14 issues of law and fact predominate, and that a settlement class is superior to alternative means of
15 resolving the claims and disputes at issue in this Action. Plaintiffs’ claims are typical of the class
16 and Plaintiffs have fairly and adequately protected the interests of the Settlement Class. Class
17 Counsel is adequate to serve as counsel for Plaintiffs and the Settlement Class.

18 5. Plaintiffs Deanna Gastelum and Heather Bryden are confirmed as Class
19 Representatives.

20 6. Bramson, Plutzik, Mahler, & Birkhaeuser, LLP; Bursor & Fisher, P.A.; and
21 Reich, Radcliffe & Hooper LLP are confirmed as Class Counsel.

22 7. The Settlement Class Members bound by this Final Approval Order include all
23 persons falling within the definition of the Settlement Class who did not submit a timely and
24 valid Request for Exclusion. Those persons who submitted a timely and valid request for
25 exclusion are identified on Exhibit A to the Judgment, shall receive no funds from this order, and
26 are not bound by the Judgment.

27 8. The notice approved by this Court was distributed to the Settlement Class in
substantial compliance with this Court’s Preliminary Approval Order. The notice constitutes the

1 best notice practicable under the circumstances and constitutes due and sufficient notice to the
2 Settlement Class of the pendency of this Action, certification of the Settlement Class for
3 settlement purposes only, the terms of the Proposed Settlement, and the Final Approval Hearing,
4 and satisfies the requirements of California law and federal due process of law.

5 9. The Settlement, as set forth in the Proposed Settlement, is in all respects fair,
6 reasonable, adequate and in the best interests of the Settlement Class, and it is approved. The
7 Parties shall effectuate the Proposed Settlement according to its terms and this Order.

8 10. Upon the Effective Date, Plaintiff and the Settlement Class, which excludes all of
9 those who opted out, release all Released Class Claims against the Released Defendant Parties.
10 The Released Class Claims are defined in the Proposed Settlement as follows: “any and all
11 actions, causes of action, claims, demands, liabilities, obligations, fees, costs, sanctions,
12 demands, suits, matters, obligations, damages, losses, costs, assigned claims, proceedings and/or
13 rights of any nature and description whatsoever, whether under federal or state statute, common
14 law or otherwise, whether known or unknown, whether asserted or unasserted, latent or patent,
15 concerning consumer protection or fraud, liquidated damages, statutory violations, fraudulent
16 business acts and practices, deceptive or unfair trade practices, false advertising, unlawful or
17 unfair business acts or practices, and any and all other claims, actions, causes of action, demands,
18 obligations, or remedies whatsoever relating in whole or in part to (i) Defendant’s Late Payment
19 Charge; (ii) the Erroneous Late Payment Charge; (iii) any Late Payment Charge assessed by
20 Defendant during the LPC Cap Period (as defined herein) that is properly assessed and no greater
21 than the LPC Cap (as defined herein); or (iv) any policy, practice, procedure, conduct, or
22 omission that in any way relates to Defendant’s Late Payment Charge or the Erroneous Late
23 Payment Charge during the Settlement Class Period, or Defendants’ assessment of a Late
24 Payment Charge during the LPC Cap Period that is properly assessed and no greater than the
25 LPC Cap, including in each case, without limitation, (a) any class, group, collective or individual
26 claim for any breach or violation of any federal or state statute, case law, common law or other
27 law; (b) any claim for breach of any duty imposed by law, by contract or otherwise; and (c) any

1 claim for damages, injunctive relief, declaratory relief, class damages or relief, penalties,
2 punitive damages, exemplary damages, restitution, rescission, or any claim for damages based
3 upon any multiplication or enhancement of compensatory damages associated with the above.”
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5 11. The Court hereby approves the Settlement Administrator’s expenses in the
6 amount of \$749,602.63, to be paid from the Settlement Fund and consistent with the terms of the
7 Second Amended Stipulation of Settlement.

8 12. Pursuant to C.C.P. § 384, the Court determines the amount of money payable to
9 the Class is \$9,470,892.03.¹

10 13. Pursuant to Article III.A.8 of the Second Amended Stipulation of Settlement, after
11 entry of this order, and within forty-five (45) days of the Settlement Administrator providing
12 Defendant with a report containing information sufficient to determine the amount payable to
13 each Class Member, Defendant will deposit into the Settlement Fund the amount necessary to
14 pay Former Customers who submitted timely and valid claims.²

15 14. Pursuant to Article III.A.9 of the Second Amended Stipulation of Settlement,
16 Defendant shall credit the bills of Current Customers with their share of the net proceeds of the
17 Settlement Fund on or before December 22, 2018.

18 15. Settlement Class Members who fall within the definition of Current Customers,
19 but who, as of the date Defendant distributes funds to Current Customers in the form of bill
20 credits, no longer have an active account with Defendant, shall not receive a bill credit. Instead,
21 Defendant shall convey to the Settlement Administrator an amount of money equal to the
22 aggregate amount of bill credits such persons would otherwise have been entitled to receive on
23 or before February 20, 2018, and the Settlement Administrator shall mail a check to each such
24 person in the amount of his or her share of the net settlement proceeds to the last address at

25 _____
26 ¹ The \$10,600,000.00 provided in the Second Amended Stipulation of Settlement less the
27 Settlement Administrator’s expenses of \$749,602.63, Class Counsels’ litigation costs and
expenses of \$371,505.34, and Class Representatives’ combined incentive award of \$8,000.00.

² The Settlement Administrator shall treat all claims submitted on or before July 9, 2018, as
timely.

1 which Defendant billed such person while he or she had an active account. The Settlement
2 Administrator may incur incremental additional costs for preparing and mailing the checks at
3 issue and for expenses connected with their issuance. Those expenses were not included in the
4 expense estimate the Settlement Administrator submitted to the Court on August 3, 2018.

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6 16. On June 20, 2019, Plaintiffs shall submit a final report stating the total amounts
7 paid from the Settlement Fund and the total amount of money remaining in the Settlement Fund.
8 The final report shall be supported by an admissible declaration. At that time, Plaintiffs shall
9 also submit an application to compensate the Settlement Administrator for any additional
10 expenses from the balance of the Settlement Fund. Finally, Plaintiffs shall also on that date
11 submit an application consistent with Code of Civil Procedure Section 384 for the distribution to
12 CASA of Los Angeles of any Settlement Fund residue that may remain after such payment.


13 17. One individual, Christie Hand, submitted a written objection to the Proposed
14 Settlement. In substance, Ms. Hand objected to the proposed cy pres distribution, which under
15 the version of C.C.P. § 384 at the time of preliminary approval called for a portion of the cy pres
16 funds to be remitted to the State of California. Because the statute was subsequently amended,
17 cy pres funds will no longer be remitted to the state. As a result, Ms. Hand's objection has been
18 addressed. Ms. Hand did not appear at the final approval hearing. Nor did any other individual
19 appear at the final approval hearing to object to the settlement.

20 18. Notice of final judgment shall be provided to the Settlement Class by posting this
21 Order, the Order Granting Attorneys' Fees, Reimbursement of Costs and Expenses, and
22 Incentive Awards, and the final judgment on the administrator's website for a period of not less
23 than 60 days from the date judgment is entered.
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19. Pursuant to the Proposed Settlement, C.C.P. § 664.6, and C.R.C. 3.769, the Court retains jurisdiction over Plaintiffs, the Settlement Class Members, and Defendant with respect to enforcement of the terms of the settlement and any dispute with respect thereto.

Dated: August 24, 2018



Curtis E.A. Karnow
Judge Of The Superior Court

CERTIFICATE OF ELECTRONIC SERVICE
(CCP 1010.6(6) & CRC 2.260(g))

I, DANIAL LEMIRE, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On **AUG 24 2018**, I electronically served THE ATTACHED DOCUMENT via File & ServeXpress on the recipients designated on the Transaction Receipt located on the File & ServeXpress website.

Dated: **AUG 24 2018**

T. Michael Yuen, Clerk

By: 

DANIAL LEMIRE, Deputy Clerk