

CLERK OF THE
DISTRICT COURT
TERRY HALPIN

2023 SEP 25 P 3: 37

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BY _____
DEPUTY

**MONTANA THIRTEENTH JUDICIAL DISTRICT COURT
YELLOWSTONE COUNTY, MONTANA**

JOSEPH BEN MATTINGLY, JILL S.
MATTINGLY, and STEVEN R. SMITH, on
behalf of themselves and all others similarly
situated,

Plaintiffs,

vs.

STOCKMAN BANK OF MONTANA,

Defendant.

Cause No. DV-21-01027

Judge: Hon. Rod Souza

**J FINAL APPROVAL
ORDER AND JUDGMENT**

WHEREAS, on May 18, 2023, a Preliminary Approval Order was entered by the Court preliminarily approving the proposed settlement (“Settlement”) as reflected in the Settlement Agreement and Release (the “Agreement”) entered into between Plaintiffs Joseph Ben Mattingly, Jill S. Mattingly, and Steven R. Smith, individually and on behalf of the proposed Classes (“Plaintiffs”), on the one hand, and Defendant Stockman Bank of Montana (“Defendant”), on the other hand, and directing that Notice be given to the Class Members.

WHEREAS, pursuant to the notice requirements set forth in the Agreement and in the Preliminary Approval Order, Class Members were notified of the terms of the proposed Settlement, of their right to object or opt-out, and the right of Class Members to be heard at a Final Approval Hearing to determine, *inter alia*: (1) whether the terms and conditions of the Agreement

are fair, reasonable, and adequate for the release of the claims contemplated by the Agreement;
and (2) whether the Final Approval Order and Judgment should be entered;

WHEREAS, a Final Approval Hearing was held on September 25, 2023. Settlement Class Members were notified of their right to appear at the Final Approval Hearing in support of or in opposition to the Settlement, the award of attorneys' fees and costs to Class Counsel, and the requested Service Awards to the Named Plaintiffs.

NOW, THEREFORE, the Court having heard the presentation of Class Counsel, having reviewed all of the submissions presented with respect to the proposed settlement, having considered the application for attorneys' fees and costs made by Class Counsel and the application for Service Awards to Named Plaintiffs for serving as class representatives, and good cause appearing:

THIS COURT FINDS AS FOLLOWS:

1. This Final Approval Order and Judgment incorporates the Agreement, and the terms used herein shall have the meanings and/or definitions given to them in the Agreement.
2. Upon review of the record, the Court hereby finds that the terms of the Settlement as set forth in the Agreement are, in all respects, fair, adequate, and reasonable.
3. The Court also finds that arms-length negotiations have taken place in good faith between Named Plaintiffs and Class Counsel, on the one hand, and Defendant's Counsel, on the other hand, with the assistance of neutral Hon. Edward Infante (Ret.), which resulted in the Agreement.
4. The Agreement provides substantial value to the Class in the form of a monetary payment by check to Class Members who are former customers of Defendant or an account credit

to Class Members who are current customers of Defendant. The Agreement also provides for the forgiveness of Uncollected Overdraft Fees.

5. Notices were provided to Class Members in compliance with the Agreement, the Preliminary Approval Order, and due process. The Notices (i) fully and accurately informed Class Members about the lawsuit and Settlement; (ii) provided sufficient information so that Class Members could decide whether to accept the benefits offered, opt-out and pursue their own remedies, or object to the Settlement; (iii) provided procedures for Class Members to submit written objections to the Settlement, including Class Counsel's request for attorneys' fees, costs, Service Awards for Named Plaintiffs, and fees and costs to the Claims Administrator, (iv) provided notice of the right to appear at and the date and time of the Final Approval Hearing.

6. The Court finds that zero (0) Settlement Class Members have timely opt-ed out of the Settlement.

7. The Court finds that zero (0) Settlement Class Members have timely objected to the Settlement.

8. As stated in this Final Approval Order and Judgment, this Court finds and determines that the proposed Settlement Classes, as defined below, meet all of the legal requirements for class certification, for settlement purposes only, in that (a) the number of Class Members is so numerous that joinder is impracticable; (b) there are questions of law and fact common to the claims of the Class Members; (c) the claims of the Named Plaintiffs are typical of the claims of the Class Members; (d) the Named Plaintiffs are adequate representatives for the Class Members, and have retained experienced and adequate Class Counsel; (e) the questions of law and fact common to the Class Members of the Classes predominate over any questions

affecting any individual members of the Classes; and (f) a class action is superior to the other available methods for the fair and efficient adjudication of the controversy.

9. An award of \$204,724.19 in attorneys' fees to Class Counsel (33.33% of the Value of the Settlement) is fair and reasonable in light of the nature of the case, Class Counsel's experience and efforts in prosecuting the action, and the benefits obtained for the Classes. An award of \$13,457.14 in litigation costs is also fair and reasonable.

10. An award of \$49,321 in fees and costs to the Claims Administrator for implementing the Notice program and administering the Settlement is fair and reasonable.

11. Service Awards for Named Plaintiffs in the amount of \$5,000.00 each is fair and reasonable.

IT IS HEREBY ORDERED:

12. **Settlement Classes.** The Settlement Classes are defined as:

The APPSN Fee Class: those customers of Defendant who were charged APPSN Fees between November 29, 2016 and October 1, 2020.

The Retry NSF Fee Class: those customers of Defendant who were charged Retry NSF Fees between August 20, 2016 and July 4, 2020.

Excluded from the Settlement Classes are Stockman Bank, its parents, subsidiaries, affiliates, officers and directors, and all judges assigned to this litigation and their immediate family members.

13. **Binding Effect of Order.** This Order is the final judgment in this matter as it applies to all claims or causes of action settled under the Agreement and binds all Class Members.

14. **Release.** As of the Effective Date of the Agreement, the Named Plaintiffs and each of the Class Members are deemed to have released and forever discharged Defendant and each of the Defendant Releasees from any and all losses, fees, charges, complaints, claims, debts, liabilities, demands, obligations, costs, expenses, actions, and causes of action of every nature,

character, and description, whether known or unknown, asserted or unasserted, suspected or unsuspected, fixed or contingent, which Named Plaintiffs and the Class Members have, own or hold against any of the Defendant Releasees that arise out of and/or relate to the facts and claims alleged in the Amended Complaint.

15. **Individual Payments to Class Members.** The Claims Administrator and Defendant shall make payments to Class Members as provided under the terms of the Agreement.

16. **Unclaimed Funds.** Any residual amounts and uncashed checks held by the Claims Administrator after the deadline to cash checks shall be distributed after Court approval as follows: (a) fifty percent (50%) to Montana Legal Services pursuant to Montana Rule of Civil Procedure 23(i); and (b) fifty percent (50%) to NeighborWorks Montana as *cy pres* recipients.

17. **Attorneys' Fees and Costs.** Class Counsel is awarded \$204,724.19 in fees (33.33% of the Value of the Settlement). In addition, Class Counsel is awarded \$13,457.14 in costs.

18. **Service Awards.** Plaintiffs Joseph Ben Mattingly, Jill S. Mattingly, and Steven R. Smith are awarded \$5,000.00 each as service awards in addition to their Individual Payments received from the Settlement Fund.

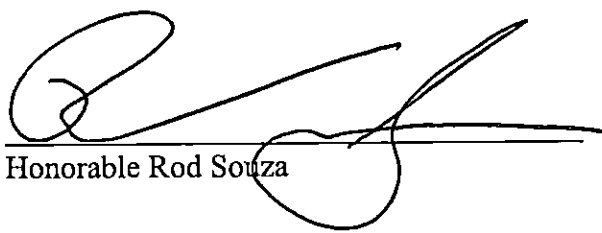
19. **Claims Administrator's Fees and Costs.** The Court awards up to \$49,321 to the Claims Administrator from the Settlement Fund.

20. **Court's Jurisdiction.** The Court shall retain jurisdiction over the action and the Parties until final performance of the Agreement.

NOW, THEREFORE, there being no reason for delay, JUDGMENT IS HEREBY ENTERED IN ACCORDANCE WITH THIS ORDER.

IT IS SO ORDERED.

Dated: 9/25/2023



Honorable Rod Souza