

IN THE COURT OF COMMON PLEAS OF BUTLER COUNTY, PENNSYLVANIA

DIANA HEUSER, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

NEXTIER BANK, N.A.,

Defendant.

Civil Division

Case No. AD-2023-10076

Hon. Dr. S. Michael Yeager

PROthonARY'S OFFICE
BUTLER COUNTY
ENTERED & FILED
2023 SEP -3 AM 9:59

ORDER

The Court has reviewed Plaintiff's Unopposed Motion for Final Approval of Class Action Settlement and for Award of Attorneys' Fees and Expenses and for Service Award. For good cause shown, **IT IS ORDERED:**

1. This Final Order incorporates and makes a part hereof, the Settlement Agreement and the Preliminary Approval Order. Unless otherwise provided herein, the terms defined in the Settlement Agreement and Preliminary Approval Order shall have the same meanings for purposes of this Final Order and the accompanying Final Judgment.

2. The Court has jurisdiction over this above-captioned case, and all Parties in the above-captioned Action, including but not limited to, all Class Members, for all matters relating to this Action and the Settlement Agreement, including, without limitation, the administration, interpretation, effectuation and/or enforcement of the Settlement Agreement, this Final Order, or the Final Judgment.

I. The Settlement Class

3. In the Preliminary Approval Order, the Court preliminarily certified the following Settlement Class:

Any Person who is a deposit account customer of Defendant NexTier Bank, N.A., who resides in the Commonwealth of Pennsylvania and who was charged any Retry NSF Fee between January 1, 2017 and December 31, 2022, inclusive, and who does not timely and validly opt out or request exclusion from the Settlement Class. The Settlement Class shall include both consumer and business customers. The Settlement Class shall not include any Person who held a deposit account with Mars Bank on February 16, 2024.

4. The Settlement Class is hereby certified pursuant to Pennsylvania Rules of Civil Procedure 1702, 1708, 1709, and 1710.

5. The Court preliminarily determined that Plaintiff Diana Heuser met the typicality and adequacy requirements of Pennsylvania Rules of Civil Procedure 1704 and 1709, thus qualifying her to serve as class representatives of the Settlement Class. The Court hereby finally approves that appointment.

6. The Court also preliminarily determined that the following counsel for the Settlement Class met the competency requirement of Pennsylvania Rule of Civil Procedure 1709, thus qualifying them to serve as class counsel, and hereby finally approves the appointment of the following counsel as Class Counsel:

Kenneth J. Grunfeld, PA Attorney ID: 84121
KOPELOWITZ OSTROW FERGUSON WEISELBERG GILBERT
65 Overhill Road
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(202) 350-4783
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sgold@kalielgold.com

For purposes of these settlement approval proceedings, the Court finds that these attorneys are competent and capable of exercising their responsibilities as Class Counsel and have fairly and adequately represented the interests of the Class for settlement purposes.

II. Class Notice

7. The record shows, and the Court finds, that Notice has been given to the Settlement Class in the manner approved by the Court in its Preliminary Approval Order. The Court finds that such Notice (i) constituted the best notice practicable to the Class under the circumstances; (ii) was reasonably calculated, under the circumstances, to apprise the Class of the pendency and nature of this Action, the definition of the Class, the terms of the Settlement Agreement, the rights of the Settlement Class to exclude themselves from the settlement or to object to any part of the settlement, the rights of the Class to appear at the Fairness Hearing (either on their own or through counsel hired at their own expense), and the binding effect of the Settlement Agreement on all persons who do not exclude themselves from the Class, (iii) provided due, adequate, and sufficient notice to the Settlement Class; and (iv) fully satisfied all applicable requirements of law, including, but not limited to, Pennsylvania Rule of Civil Procedure 1712 and the due process requirements of the United States Constitution.

8. Due and adequate notice of the Fairness Hearing having been given to the Class and a full opportunity having been offered to Class Members to participate in the Fairness Hearing. In that there are no opt-outs, it is hereby determined that all Class Members are bound by this Final Order and the Final Judgment.

III. Final Approval of the Settlement Agreement

9. Pursuant to Pennsylvania law, the Court finds that the Settlement is fair, reasonable and adequate, and in the best interest of the Settlement Class, as well as within a range that responsible and experienced attorney could accept considering all the relevant risks and factors and the relative merit of Plaintiffs' claims and Somerset's defenses.

10. The Court finds that the Settlement is fair, reasonable and adequate in light of the following factors:

(a) the Settlement consideration consists of a \$165,000 Settlement Fund to be distributed to Class Members, including Notice to the Class and administration of the Settlement, including the fees and expenses of the Settlement Administrator and the Notice Administrator;

(b) the Settlement was reached in the absence of collusion. It was the product of informed, good-faith, arms' length negotiations between the Parties and their capable and experienced counsel;

(c) the case was complex, expensive and time consuming and would have continued to be so through trial if the case had not settled;

(d) the Class would have faced numerous and substantial risks in establishing liability and/or damages if they decided to continue litigation rather than settle; and

(e) the Settlement amount is well within the range of reasonableness in light of the best possible recovery and the risks the parties would have faced if the case had continued.

IV. Dismissal of Claims, Release, and Injunction

11. This Action is hereby dismissed with prejudice on the merits and without costs to any party, except as otherwise provided herein or in the Settlement Agreement.

12. The Court approves the parties' plan to distribute the Settlement Fund as set forth in the Settlement Agreement.

13. Named Plaintiff and each Class Member who has not opted out of the Class pursuant to the procedures set forth in the Agreement will release, discharge, and shall be deemed automatically to have fully and irrevocably released and forever discharged Defendant NexTier Bank, N.A., and all of its past, present and future predecessors, successors, parent companies, subsidiaries, divisions, employees, affiliates, assigns, officers, directors, shareholders, representatives, attorneys, insurers and agents (collectively, the "Released Parties") of and from any and all losses, fees, charges, complaints, claims, debts, liabilities, demands, rights, obligations, costs, expenses, attorney's fees, actions, and causes of action of every nature, character, and description, whether known or unknown, asserted or unasserted, existing or potential, liquidated or unliquidated, suspected or unsuspected, fixed or contingent, legal, statutory or equitable, based on contract, tort or any other theory, which Named Plaintiff and the Class Members now have, own or hold against any of the Released Parties that arise out of and/or relate to the assessment, charging, payment, collection, disclosure, or non-disclosure of any Retry NSF Fee during the Class Period alleged in the Complaint or in the Lawsuit or that could have been alleged in the Complaint or in the Lawsuit (the "Released Claims").

V. Payment of Attorney Fees and Costs

14. The Court approves Class Counsel's request for Attorneys' Fees in the amount of \$55,000.00, which represents one-third of the common fund, but does not award an attorneys' fee based on the substantial value of the prospective relief provided by the Settlement. The Court finds

that this amount is reasonable and appropriate under applicable law and the circumstances of this case.

15. The Court further approves Class Counsel's request for reimbursement from the Settlement fund of their out-of-pocket expenses, which amounts to \$3,141.17. The court finds that these expenses were reasonably incurred and necessary to the prosecution and settlement of the case.

16. The Court further approves the Class Counsel's request for reimbursement from the Settlement fund of the Settlement Administrator's costs, which are estimated to be \$42,500.00. The court finds that these expenses were reasonably incurred and necessary to the administration of the settlement of the case.

VI. Class Representative Service Award

17. The Court hereby approves Class Counsel's request of a service award of \$2,500.00 for the Class Representative, Diana Heuser, to be paid from the Settlement Fund.

18. This Service Award is warranted to compensate the Plaintiff for her contributions to the litigation and her commitment and work on behalf of the Class.

VII. Other Provisions

19. The Court has jurisdiction to enter this Final Order and the accompanying Final Judgment. Without in any way affecting the finality of this Final Order or the Final Judgment, this Court expressly retains jurisdiction over the Defendants and each Class Member (including objectors) regarding the implementation, enforcement, and performance of the Settlement Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding or dispute arising out of or relating to the Settlement Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the

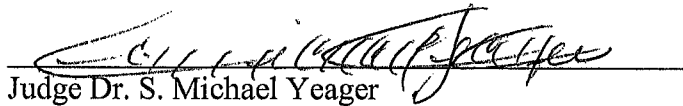
administration, consummation and enforcement of the Settlement Agreement and shall retain jurisdiction for the purpose of enforcing all terms of the Settlement Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice program and the Settlement Administrator.

20. The Parties are hereby directed to implement and consummate the Settlement, as set forth in the terms and provisions of the Settlement Agreement.

21. Without further order of the Court, the Parties may agree to reasonably necessary extensions of time to carry out any of the provisions of the Settlement Agreement. Likewise, the Parties may, without further order of the Court or notice to the Settlement Class, agree to and adopt such amendments to the Settlement Agreement as are consistent with this Final Order and the Final Judgment and that do not limit the rights of Settlement Class Members under the Settlement Agreement.

22. In the event that the Effective Date does not occur, certification of the Settlement Class shall be automatically vacated and the Final Order and Final Judgment, and all other orders entered and releases delivered in connection herewith, shall be vacated and shall become null and void.

DONE AND ORDERED, this 3RD day of SEPTEMBER, 2025.


Judge Dr. S. Michael Yeager