UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 1:09-MD-02036-JLK

IN RE: CHECKING ACCOUNT OVERDRAFT LITIGATION

MDL No. 2036

THIS DOCUMENT RELATES TO: FIFTH TRANCHE ACTION

Anderson v. Compass Bank
S.D. Fla. Case No. 1:11-cv-20436-JLK
N.D. Fla. Case No. 10-CV-00208

PLAINTIFF'S AND CLASS COUNSEL'S RESPONSE TO OBJECTIONS TO MOTION FOR FINAL APPROVAL OF SETTLEMENT AND CLASS APPLICATION FOR SERVICE AWARDS AND ATTORNEYS' FEES

Class Counsel negotiated the Settlement Agreement and Release ("Agreement") and Amendment to Settlement Agreement and Release ("Amendment") with Defendant Compass Bank ("Compass" or the "Bank") (the Agreement and Amendment are collectively referred to as the "Settlement").[1] The Settlement – which consists of the Bank's payment of $11,500,000 to create a Settlement Fund, plus payment of all fees and costs associated with the Notice Program and administration of the Settlement – is an outstanding achievement that will provide immediate benefits to the Settlement Class without further risks, delays and costs. The overwhelming majority of Settlement Class Members do not have to do anything to receive the benefits provided by the Settlement; they will receive their settlement consideration through automatic

[1] All capitalized defined terms have the same meanings ascribed in the Agreement and Amendment attached as Exhibits A and B to Plaintiffs' and Class Counsel's Motion for Final Approval of Settlement, and Application for Service Awards, Attorneys' Fees and Expenses (DE # 3469-1, 3469-2).

account credits or by checks. A small minority of Settlement Class Members, for whom Compass does not have reasonably accessible electronic data to permit Settlement Class Counsel's expert to identify them or to automatically calculate their damages pursuant to the allocation formula set forth in the Agreement, have the opportunity to file Claims seeking a distribution from the Settlement under the same allocation formula being used for their fellow Settlement Class Members. Approximately 820,000 Settlement Class Members received direct mail Notice of the Settlement. The Notice approved by the Court used plain language to inform Settlement Class Members about, *inter alia*: (1) the terms of the Settlement; (2) the choices available to them – exclude themselves, object, or participate in the Settlement – including applicable deadlines and how to exercise those options; and (3) the Final Approval Hearing.

I. OVERVIEW OF THE OBJECTIONS

Out of more than 820,000 Settlement Class Members, only four (4) objections to the Settlement were timely submitted by or on behalf of individuals purporting to be Settlement Class Members. (DE # 3500, 3502, 3503, 3504). Two (2) of the objections were filed by lawyers who have made a career out of objecting to class action settlements. (DE # 3500, 3502). Such objectors, known as "serial" or "professional" objectors, have raised the ire of federal courts, including this Court, for playing no positive role in class action litigation and contributing no benefit to the class. The other two (2) objections were filed by *pro se* individuals (DE # 3503, 3504).

Four objections out of over 820,000 Settlement Class Members is particularly telling.[2] It evidences overwhelming support for Plaintiff's and Class Counsel's Motion for Final Approval

[2] The average number of objections to settlements of consumer class actions is 233. In a settlement of this magnitude, the Court should expect to receive around 54 objections to the Settlement (extrapolating from the average of 4.7 objectors per $1 million in consumer recovery). *See* Theodore Eisenberg & Geoffrey Miller, *The Role of Opt-Outs and Objectors in Class Action Litigation: Theoretical and Empirical Issues*, 57 Vand. L. Rev. 1529 (2004).

of the Settlement, and Application for Service Awards, Attorneys' Fees and Expenses.[3] This extraordinarily "low percentage of objections points to the reasonableness of a proposed settlement and supports its approval." *Lipuma v. American Express Co.*, 406 F. Supp. 2d 1298, 1324 (S.D. Fla. 2005).

All of the objections lack merit. Most are riddled with misunderstandings of the Settlement and basic class action jurisprudence. Several are substantially identical to objections previously filed by the same professional objectors to other MDL 2036 settlements. Not a single objector submitted an expert affidavit or provided any evidence undermining the conclusions reached by Class Counsel and their nationally recognized experts that (i) this Settlement achieves an outstanding result for the Settlement Class, and (ii) Class Counsel's application for fees is reasonable. *See Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1021 (9th Cir. 1998) (affirming final approval of nationwide class action settlement where "[t]he objectors presented no evidence" to support their arguments).

For the reasons discussed below, Plaintiff and Class Counsel respectfully request that the Court (1) overrule the objections; (2) grant Final Approval to the Settlement; (3) approve the request for Service Awards to the Plaintiff; (4) approve Class Counsel's application for attorneys' fees and expenses; and (5) enter Final Judgment dismissing the Action with prejudice.

II. THE PROFESSIONAL OBJECTIONS SHOULD BE STRICKEN OR SUMMARILY DENIED

Attorney Steve Miller and his co-counsel filed an objection on behalf of Michael T. Weston (the "Weston Objection"). (DE # 3500). Mr. Miller is a serial objector who makes a living filing objections to class action settlements. *See, e.g., In re New Motor Vehicles Canadian Exp. Antitrust Litig.*, MDL No. 1532, DE # 1175 at n.22 (D. Me. Apr. 13, 2011) (rejecting Mr.

[3] In addition, the extremely low number of requests for exclusion (35 as of June 6, 2013) demonstrates overwhelming support for the Settlement.

Miller's "specious" arguments); *In re Am. Int'l Grp., Inc. Sec. Litig*. No. 04-cv-08141-DAB, DE # 663, 664 (S.D.N.Y. Oct. 1, 2012) (Mr. Miller withdrew his appeal of an order rejecting his objections to a settlement, without having provided any benefit to class). Mr. Miller is also known for filing objections in different cases on behalf of the same "clients." *See, e.g*., *Blessing v. Sirius XM Radio Inc*., No. 09-cv-10035, DE # 167 (S.D.N.Y. Sept. 14, 2011); *In re Lawnmower Engine Horsepower Marketing & Sales Practices Litig*., MDL No. 1999, DE # 272 (E.D. Wis. June 22, 2010); *Nakash v. nVidia Corp*., No. 08-cv-04312-JW, DE # 325 (N.D. Cal. Jan. 14, 2011); *In re Mattel, Inc. Toy Lead Paint Prods. Liab. Litig*, MDL No. 1897, DE # 194 (C.D. Cal. Feb. 19, 2010); *CLRB Hanson Inds., LLC v. Google, Inc*., No. C 05-03649 JW PVT, DE # 326 (N.D. Cal. July 10, 2009).

Mr. Miller and his co-counsel previously filed virtually identical objections to six other MDL 2036 settlements. (DE # 2133, 3031, 3032, 3227, 3247, 3425). In addition to its lack of substantive merit, the Weston Objection does not even comply with the basic requirements set forth in the Preliminary Approval Order. (DE # 3341). Not surprisingly, the Weston Objection fails to provide the information required by paragraphs 87(f)-(k) of the Agreement, including information regarding objections filed by Mr. Miller and his co-counsel in other class action cases. *See* Weston Objection, p. 1. (DE # 3500). The Weston Objection is defective and should be stricken based on the failure to comply with the Preliminary Approval Order.

An objection was filed by attorney Brian M. Silverio, on behalf of Michael L. McKerley (the "McKerley Objection"). (DE # 3502). Mr. Silverio is another serial objector who filed similar objections to the settlements with Bank of America, JPMorgan Chase Bank, and PNC Bank in MDL 2036. (DE # 1922, 3030, 3428). Like Mr. Miller and his cohorts, Mr. Silverio is attempting to exact a fee in exchange for the withdrawal of his objection.

As this Court and several others have determined, serial objectors such as Messrs. Miller and Silverio, who hold up large class action settlements for a payout, perform no constructive role in class action litigation. "[M]ost if not all . . . are motivated by things other than a concern for the welfare of the Settlement Class." *Tornes v. Bank of America, N.A.*, 830 F. Supp. 2d 1330, 1361 n.30 (S.D. Fla. 2011) (King, J.). Such lawyers make their living "simply by filing frivolous appeals and thereby slowing down the execution of settlements." *Barnes v. FleetBoston Fin. Corp.*, 2006 U.S. Dist. LEXIS 71072, at *3-4 (D. Mass. Aug. 22, 2006). Their "sole purpose is to obtain a fee by objecting to whatever aspects of the Settlement they can latch on to" and levying "what is effectively a tax on class action settlements, a tax that has no benefit to anyone other than to the objectors." *Tornes*, 830 F. Supp. 2d at 1361 n.30 (quoting *Barnes*, 2006 U.S. Dist. LEXIS 71072, at *3-4). For this reason, "federal courts are increasingly weary of professional objectors." *O'Keefe v. Mercedes-Benz USA, LLC*, 214 F.R.D. 266, 295 n.26 (E.D. Pa. 2003).

Given who is behind these two objections, they should be accorded little, if any, weight by the Court.

III. THE CLAYTON OBJECTION SHOULD BE DISMISSED BECAUSE THE OBJECTOR ADMITS SHE IS NOT A CLASS MEMBER.

In addition to the aforementioned professional objectors, an objection was filed by *pro se* objector Catherine Ann Clayton. *See* DE # 3504 ("Clayton Objection"). When providing an explanation of the basis upon which she claims to be a Settlement Class Member, Ms. Clayton states:

> I opened a consumer checking account for Compass Bank that was opened on August 2, 1993 and closed on August 9, 1994; . . . I opened a consumer checking account for Compass Bank that was opened on November 23, 1998 and closed on January 4, 2000; . . . I opened a consumer checking account for Compass Bank that was opened on December 31, 1999 and closed on February 15, 2002; . . .

> These account [*sic*] could be accessed with a Compass Bank debit card. I had overdraft fees charged to my account.

See Clayton Objection, p. 1. Unfortunately for Ms. Clayton, this explanation conclusively establishes that she is not a Settlement Class Member because the Settlement Class is defined as:

> All holders of a Compass Account who, from January 1, 2004, through and including August 15, 2010, incurred one or more Overdraft Fees as a result of Compass's practice of Debit Re-sequencing. Excluded from the Class are all current Compass employees, officers and directors, and the judge presiding over this Action. (emphasis added).

See Agreement ¶ 55. Therefore, in order to be a Settlement Class Member, one must have held a Compass Account between January 1, 2004 and August 15, 2010 and, during that period, incurred one or more Overdraft Fees as a result of the Bank's practice of Debit Re-sequencing. By her own admission, the latest date that Ms. Clayton was a holder of a Compass Account was February 15, 2002. *See* Clayton Objection, p. 1. As such, Ms. Clayton is not a Settlement Class Member and has no legal basis to object to the Settlement.

Accordingly, the Court should strike or overrule the Clayton Objection.

IV. THE OBJECTIONS SHOULD BE OVERRULED ON THE MERITS[4]

A. The Objection to the Residual *Cy Pres* Program is Moot.

The Weston Objection claims that the residual *cy pres* program set forth in paragraph 114 of the Agreement is not adequately defined because it does not identify the ultimate recipients of residual funds that remain after distributions have been made to Settlement Class Members. *See* Weston Objection at pp. 1-2 (DE #3500). Notably, the Weston Objection does *not* object to the use of a residual *cy pres* program but, rather, only to the fact that the ultimate recipients of such residual funds are not identified at this stage of the proceedings.

[4] Plaintiff and Class Counsel need not address the "merits" of the Clayton Objection based on this objector's *prima facie* lack of standing. In the event Ms. Clayton establishes her membership in the Settlement Class, Plaintiff and Class Counsel will file a supplemental response addressing in greater detail her objections to the Settlement.

This objection is moot based on the Court's recent Orders entered in connection with other MDL 2036 settlements addressing the issue of distribution of any residual settlement funds. Moreover, as indicated in the Motion for Final Approval, the Parties executed the Amendment to address the Court's concerns regarding the distribution of any residual settlement funds. The Amendment replaced the residual *cy pres* provision set forth in paragraph 114 of the Agreement. *See* DE # 3469-2. Under the Amendment, to the extent any residual funds exist, they will be distributed to participating Settlement Class Members who received Settlement Fund Payments pursuant to Section XIII of the Agreement. *Id.* at 2. In the event a second distribution to Settlement Class Members is financially unfeasible, any residual funds will be distributed pursuant to a residual *cy pres* program that is subject to the Court's consideration, modification and approval. *Id.* The Weston Objection misses the mark regarding its critique of the residual fund's program.

B. Injunctive Relief Is Unnecessary.

The Weston Objection erroneously claims that the Settlement is inadequate due to lack of injunctive relief. *See* Weston Objection, pp. 6-7. Had counsel for Weston actually read the Agreement, they would have discovered that injunctive relief is unnecessary here because Compass has already implemented a new posting system that approximates real time posting, in place of the system the Bank used to re-sequence transactions. *See* Agreement, ¶ 20 (DE # 3330-1). The implementation of this new posting system has been completed. *See* Motion for Final Approval, p. 4, n.3 (DE # 3469). Further, Compass is now required by federal law – specifically, Regulation E, which took effect August 15, 2010 – to obtain a customer's affirmative consent ("opt-in") to allow overdrafts before assessing overdraft fees on non-recurring debit transactions. *See Tornes*, 830 F. Supp. 2d at 1352 (citing 12 C.F.R. § 205.17). (relying on Regulation E to reject a virtually identical settlement objection).

In demanding injunctive relief, Objectors would have this Court supervise Compass's conduct in perpetuity. Not only absurd, the demand is particularly uncalled for here, in light of the facts and circumstances of this Action and the changed law regarding the conduct upon which the Action was premised. Thus, this objection should be overruled.

C. The Release Is Narrowly Tailored and Proper.

The Weston Objection also attempts to take issue with the scope of the release. *See* Weston Objection, pp. 2-3. In doing so, the Objection once again shows a fundamental failure to understand the Settlement, the legal claims, and the facts and circumstances of this Action. Objectors would require Compass to release any and all rights to recover any past-due amounts, arising from any charge or debit, assessed on Settlement Class Members' bank accounts or loans. *Id.* The argument is fatally overbroad, unrealistic, and without merit because it does not focus on overdraft fees.

First, by asserting that the lack of such a release is improper given that some Settlement Class Members may not receive payments due to their negative account balances, Objectors fail to apprehend that the allocation plan reasonably takes into account the actual amount of harm each Settlement Class Member suffered, as well as Settlement Class Members' likely entitlement to damages *should this Action proceed to trial.* Compass would likely have argued at trial that, pursuant to its customer agreements, it is contractually entitled to "set-off" any damages owed to Settlment Class Members whose accounts may have been written off as uncollectible due to a negative balance. This Court has recognized that such a set-off defense may be available to reduce the damages of the banks defending claims in this MDL. *See Larsen v. Union Bank, N.A.*, 275 F.R.D. 666, 677 (S.D. Fla. 2011). In fact, in the only action wherein claims of this nature were tried, the court authorized accounting for "uncollectables" in precisely the manner contemplated by the Settlement here, recognizing that this is a proper component of ascertaining

individual Settlement Class Member injury and damages:

> In situations where a Wells Fargo customer's account was closed due to a negative balance, and the negative balance was "written off" by Wells Fargo, Olsen was instructed by plaintiffs' counsel to assume that the negative balance amount was "uncollectible." In other words, the customer never paid it, and therefore, was never "harmed" by those overdraft charges. If the uncollectible amount equaled or exceeded the customer's harm, that customer was excluded as a harmed customer. Otherwise, the harm for that customer was simply reduced by the uncollectible amount.

Gutierrez v. Wells Fargo & Co., 2010 U.S. Dist. LEXIS 29117, at *19 (N.D. Cal. Mar. 26, 2010). A Settlement structure that parallels what a trial would entail is not unreasonable.

Second, the objection to the release afforded to Compass is unrealistic because, among other things, the objection ignores that Compass has already sold a portion of its "uncollectible" debt to third-party debt collectors.[5] Compass has no control over debts sold to such third parties, and would never have agreed to a Settlement requiring it to re-negotiate its agreements with third-party debt collectors to prevent them from making any claims against Settlement Class Members. Further, it would be difficult, if not impossible, to determine with precision which uncollectible debts (a) were sold to third parties and (b) arose from overdraft fees assessed as a result of Compass's debit re-sequencing practices. The data analyzed by Class Counsel's expert reasonably does not differentiate between uncollectible debts sold to third parties and uncollectible debts still owned by Compass. For many uncollectible accounts, moreover, Compass's historical account data precludes any backward-looking attempt to determine precisely how much of a given uncollectible sum stems from "additional" overdraft fees,[6] as opposed to account charges in no way related to Compass's debit re-sequencing practices. Even if such information could be gleaned from the bank data, such a process would require

[5] Indeed, the *pro se* Thomas Objection attaches such a third party debt collector notice regarding their negative balance from back in 2006. *See, e.g.*, DE # 3503-1, p. 1-2.

[6] *See* Agreement ¶ 90 (defining "Additional Overdrafts").

cumbersome individualized determinations that the Court should deem unnecessary.

In sum, the Settlement release for which the Parties bargained is appropriate. Among other things, it reasonably ensures that Compass will not be precluded from seeking to recover debts unrelated to the subject of this litigation, and that Compass will not be held accountable for collection actions instigated by third parties over which it has no control. This objection should be overruled for the reasons provided.

D. A Fee of Thirty Percent of the $11.5 Million Common Fund Is Reasonable.

Without support, some objectors argue that the requested thirty percent (30%) fee award of the $11.5 million common fund created through this Settlement is out of line with percentages awarded in other cases. *See, e.g.*, Weston Objection, pp. 7-9 (DE # 3500); Clayton Objection, pp. 3-11 (DE # 3504). The objectors are incorrect.

Professor Fitzpatrick provided detailed factual and legal bases supporting his opinion that a fee award of thirty percent (30%) of the $11.5 million common fund is "within the range of reason because nearly all the factors listed by the Eleventh Circuit in *Camden I* suggest that this percentage should exceed the 25% benchmark." *See* Fitzpatrick Decl. ¶ 21 (DE # 3469-4). The opinion of Professor Fitzpatrick is *unrebutted*.

According to Professor Fitzpatrick, when fee awards are examined scientifically it becomes apparent that a thirty percent (30%) fee award on the $11.5 million common fund in this case is clearly reasonable. *See* Fitzpatrick Decl. ¶ 25. Professor Fitzpatrick concluded that a thirty percent (30%) fee award in this case is consistent with the results in: (i) other checking account overdraft fee cases (within MDL 2036 and elsewhere); (ii) fee awards in other Federal District Courts in Florida; and (iii) the results of several studies conducted by scholars. *Id*. at ¶¶ 21-22.

In *Allapattah Servs., Inc. v. Exxon Corp.*, 454 F. Supp. 2d 1185 (S.D. Fla. 2006) (awarding fees of 31 1/3 % of $1.06 billion), U.S. District Judge Alan Gold held that decreasing a fee percentage solely in light of a large settlement:

> is *antithetical* to the percentage of the recovery method adopted by the Eleventh Circuit in *Camden*, the whole purpose of which is to align the interests of Class Counsel and the Class by rewarding counsel in proportion to the result obtained. By not rewarding Class Counsel for the additional work necessary to achieve a better outcome for the class, the sliding scale approach creates the perverse incentive for Class Counsel to settle too early for too little.

Id. at 1213 (emphasis added) (citation omitted); *see also Williams v. General Elec. Capital Auto Lease*, 1995 WL 765266, at *10 (N.D. Ill. Dec. 16, 1995) ("Without significant counsel fees to encourage the pursuit of these claims, the public policy to induce compliance with the law would be disserved.").

E. Under *Camden I*, the Court Should Not Undertake a Lodestar Analysis.

Some objectors contend that it would be unreasonable for the Court to award Class Counsel a fee without first considering and checking their lodestar. *See* McKerley Objection, pp. 2-4 (DE # 3502). This position is at odds with the law of this Circuit and this Court's established practice in prior MDL 2036 settlements.

In *Camden I Condo. Ass'n v. Dunkle*, 946 F.2d 768 (11th Cir. 1991), the Eleventh Circuit held that district courts should award fees in class actions using the percentage-of-the-fund method, rather than the lodestar method. Although some district courts in the Eleventh Circuit "crosscheck" these fee percentages with class counsel's lodestar, many others do not (including this Court in the previously approved MDL 2036 settlements). *See, e.g., David v. Am. Suzuki Motor Corp.*, 2010 WL 1628362 (S.D. Fla., Apr. 15, 2010); *Noell v. Suncruz Casinos*, 2009 WL 541329 (M.D. Fla., Mar. 4, 2009); *Stahl v. MasTec, Inc.*, 2008 WL 2267469 (M.D. Fla., May 20,

2008); *Allapattah Servs., Inc. v. Exxon Corp.*, 454 F. Supp. 2d 1185 (S.D. Fla. 2006); *In re: Managed Care Litig., Class Plaintiffs v. Aetna Inc., and Aetna – US,* 2003 WL 22850070 (S.D. Fla., Oct. 24, 2003); *Fabricant v. Sears Roebuck & Co.,* 2002 WL 34477904 (S.D. Fla., Sept. 18, 2002).

The Eleventh Circuit has never held that district courts abuse their discretion by choosing not to employ a "lodestar crosscheck." As Professor Fitzpatrick and other scholars have explained, the lodestar crosscheck can effectively cap the amount of compensation class counsel can receive from a settlement and thereby blunt their incentives to achieve the largest possible award for the class. *See* Fitzpatrick Decl. ¶ 18 (DE # 3469-4); Myriam Gilles & Gary Friedman, *Exploding the Class Action Agency Costs Myth: The Social Utility of Entrepreneurial Lawyers,* 155 U. Pa. L. Rev. 103, 140-45 (2006). As such, employing the "lodestar crosscheck" can reintroduce the very same undesirable consequences of the lodestar method that the percentage-of-the-fund method was designed to correct in the first place. *See Camden I,* 946 F.2d at 771-74 (citing the difficulty of administering the lodestar method and its failure to align class counsel's interests with the class's interests).

F. The Claims Process is Reasonable.

Finally, the *pro se* objectors Nicquesha L. Thomas and Homer Lee Thomas, III essentially argue in their objection (the "Thomas Objection") (DE # 3503) that the Alternative Claims Process under Section XII of the Agreement is unfair and/or burdensome. The main argument against the Agreement from the Thomases seems to stem from the fact that Compass is not capable of providing them with copies of their bank statements from 2005. *See* Thomas Objection, p. 1.

As discussed in the Motion for Final Approval, the overwhelming majority of Settlement Class Members have been identified through an analysis of Compass's electronic data, enabling

Settlement Class Counsel's expert to calculate the amount of the distribution to which each such person is eligible under the Settlement. *See* Motion at p. 11. However, for discrete limited portions of the Class Period, Compass lacks certain reasonably accessible electronic data that would enable Settlement Class Counsel's expert to identify all Account holders affected by Compass's Debit Resequencing practices and/or automatically calculate their damages through electronic means. *Id*.

The Alternative Claims Process provided under Section XII of the Agreement is designed to afford those limited number of Settlement Class Members for whom Compass does not have reasonably accessible electronic data the opportunity to submit Claims seeking a *pro rata* distribution from the Settlement Fund, by providing the same type of information that Settlement Class Counsel's expert used in determining the amount of Automatic Distributions from the Settlement Fund. *Id*. at p. 13. The Alternative Claims Process is the best solution under the circumstances.

The Thomas Objection also requests service awards for objectors Nicquesha L. Thomas and Homer Lee Thomas, III. *See* DE # 3503, p. 1. Courts have found that incentive awards "are justified when the class representatives expend considerable time and effort on the case, especially by advising counsel, or when the representatives risk retaliation as a result of their participation." *See Ingram v. The Coca-Cola Co.*, 200 F.R.D. 685, 694 (N.D. Ga. 2001). Here, the Thomas Objectors did *nothing* to protect the interests of Settlement Class Members, and the Settlement Class did *not* benefit from any actions, or more appropriately, the ***inaction*** that the Thomases took in filing their objection. Moreover, the Thomas Objectors did *not* expend any time and effort pursuing the Action – they were not Plaintiffs in the Action – and the minimal time they did expend pursuing their objection was of no use or benefit to the Settlement Class. Accordingly, the Thomas Objectors are not entitled to Service Awards.

V. CONCLUSION

For the foregoing reasons and the reasons set forth in the Motion for Final Approval, Plaintiff and Class Counsel respectfully request that the Court overrule the objections, approve the Settlement with Compass Bank, award Class Counsel the requested fees and expenses, approve the Service Award for the class representative, and enter Final Judgment dismissing the Action with prejudice.

Dated: June 27, 2013.

Respectfully submitted,

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Plaintiffs' Executive Committee

UNITED STATES DISTRICT COURT
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MIAMI DIVISION

CASE NO. 09-MD-02036-JLK

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CERTIFICATE OF SERVICE

I hereby certify that on June 27, 2013, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or *pro se* parties, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

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