IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AMINATA MANSARAY, on behalf of herself and all others similarly situated, *Plaintiff*, v. TD BANK, N.A., *Defendant*.	Case No. 2:22-cv-5039-AB

PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF CLASS ACTION SETTLEMENT

Plaintiff Aminata Mansaray, pursuant to FED. R. CIV. P. 23(e), respectfully moves this Honorable Court for final approval of the parties' settlement.[1]

In support whereof, she submits the attached memorandum of law and its exhibits and requests that this Court grant the instant motion and enter the proposed Order attached.

Dated: April 14, 2025

Respectfully submitted,

AMINATA MANSARAY, and on behalf of herself and the Settlement Class,

/s/James A. Francis

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[1] Capitalized terms are defined in Section II of the parties' Settlement Agreement and Release ("Agreement"), which is attached to Plaintiff's memorandum of law as Exhibit 1.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he caused the foregoing document and the referenced exhibits to be filed with the court's CM/ECF system, which will send notice thereof to all counsel of record.

Dated: April 14, 2025

/s/James A. Francis
James A. Francis

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MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

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Plaintiff Aminata Mansaray, on behalf of herself and the Settlement Class,[1] submits the following memorandum of law in support of her Motion for Final Approval of Class Action Settlement (the "'Motion") she has reached with Defendant TD Bank, N.A. ("TD").[2] As discussed below, the settlement satisfies the requirements of FED. R. CIV. P. 23(a), 23(b)(3), and 23(e) and provides significant monetary relief to members of the Settlement Class. Plaintiff respectfully requests that this Court grant the Motion and enter the proposed Order submitted contemporaneously herewith.

I. INTRODUCTION

The Court should finally approve the parties' settlement because, as set forth within, the Settlement Class received appropriate notice of the settlement, the settlement is fair, reasonable, and adequate. Most notably, each member of the Settlement Class who has not opted out may expect to receive an automatic payment of more than $1,200,[3] which is more than the maximum amount of statutory damages for willful violations of the Fair Credit Reporting Act ("FCRA"), the statute under which Plaintiff has brought the instant lawsuit.

---

[1] Capitalized terms are defined in Section II of the parties' Settlement Agreement and Release ("Agreement"), ECF 84-2 (Exhibit 1 to Plaintiff's Memorandum of Law in Support of Plaintiff's Motion for an Order Preliminarily Approving Class Settlement and Directing Notice to Settlement Class Members).

[2] Plaintiff understands that Defendant TD Bank, N.A. will not oppose this Motion.

[3] If the Court grants Plaintiff's request for a service award and Class Counsel's request for an award of attorneys' fees and expenses in full, *see* ECF 91, the Net Settlement Fund will be approximately $252,000 (after accounting for estimated notice and administration expenses). Divided among the 205 members of the Settlement Class who have not opted out, each *pro rata* share of the Net Settlement Fund will be $1,231.71.

This case concerns Plaintiff's attempts to correct the credit reporting of her joint mortgage loan with TD. Plaintiff alleges that she paid her mortgage timely as directed by TD, but the bank reported to the credit reporting agencies that Plaintiff made payments more than 30 days late for several months in 2020 and 2021. *See* ECF 37, Am. Compl., at ¶¶ 12-17. Plaintiff further alleges that she disputed the reporting, but that TD failed to correct the payment history, in what Plaintiff alleges was a violation of section 1681s-2(b) of the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. §§ 1681-1681x. This lawsuit followed, and after discovery and vigorous arm's length negotiations, the parties reached an accord in late August 2024. *See* ECF 78, Notice of Settlement and Consent Motion to Stay Deadlines. On October 31, 2024, the Court preliminarily approved the parties' settlement and directed notice to members of the Settlement Class. ECF 86. On March 14, 2025, Plaintiff filed her Motion for a Service Award to Plaintiff and for an Award of Attorneys' Fees and Reimbursement of Expenses to Class Counsel, ECF 91.

II. NOTICE TO THE SETTLEMENT CLASS

Pursuant to the Court's Order of October 31, 2024, ECF 86, Plaintiff and Class Counsel worked with the Settlement Administrator to send Notice to the Settlement Class. *See* Ex. 1, Barkan Decl. After accounting for duplication in data received from TD, the Settlement Administrator identified 206 unique Settlement Class Members. *Id*. at ¶ 2. The Settlement Administrator sent E-Mail Notice to Settlement Class Members for whom it had a valid email address and sent Mail Notice to the remainder of the class and to those for whom the E-Mail Notice was undeliverable. *Id*. at ¶ 3.

This process began on January 9, 2025, when the Settlement Administrator sent postal notice to 144 Class members and email notice to 62 Class members. *Id*. at ¶¶ 5-6. Mail Notices were promptly sent to the mailing address for two Settlement Class Members whose E-Mail Notices were returned as undeliverable. *Id*. at ¶ 7. The Settlement Administrator also performed additional address updating and remailed 4 postal notices to Settlement Class Members whose Mail Notices were returned undeliverable. *Id*. at ¶ 9. In sum, the Settlement Administrator presumes that all 206 unique Settlement Class Members have received either postal notice or email notice. *Id*. at ¶¶ 5-9; *see also* Ex. 2, Barkan Decl., at ¶ 2.

Additionally, consistent with the Settlement Agreement, *see* ECF 84-2 at § VII, the Settlement Administrator also prepared the Settlement Website upon which it posted important case documents. Ex. 1 at ¶ 10. It established and continues to maintain a toll-free telephone line where callers may speak with a live agent and obtain information about the settlement; a post office box where Settlement Class Members may submit objections, opt-outs, and other correspondence; and an email address to which Settlement Class Members may submit questions. *Id*. at ¶¶ 11-13.

As of April 7, 2025, the Settlement Administrator had received one request for exclusion from the Settlement Class and no objections to the settlement. Ex. 2 at ¶¶ 5-6.

III. FINAL APPROVAL OF THE SETTLEMENT IS WARRANTED

At the final approval stage, the Court must determine whether the Settlement Class received appropriate notice, whether the Settlement Class may be certified for

settlement purposes, and whether the settlement is fair, reasonable, and adequate. FED. R. CIV. P. 23(e)(2); *see also In re Prudential Ins. Co. of Am. Sales Practice Litig.*, 148 F.3d 283 (3d Cir. 1998). Trial courts are generally afforded broad discretion in determining whether to approve a proposed class action settlement. *Eichenholtz v. Brennan*, 52 F.3d 478, 482 (3d Cir. 1995). As discussed within, these requirements are satisfied, and the Court should grant final approval to the settlement.

A. The Settlement Class Received Sufficient Notice

According to FED. R. CIV. P. 23(c)(2)(B), class members must be given the best notice practicable under the circumstances, including individual notice to all potential class members that can be identified through reasonable effort.

As set forth above, Plaintiff provided appropriate notice to all 206 Settlement Class Members. The Mail and E-Mail Notices, *see* Ex. 1 at Exs. A-B, satisfy the requirements of FED. R. CIV. P. 23(c)(2)(B) and also direct Settlement Class members to the Settlement Website, www.FCRAmortgagesettlement.com, where additional information and litigation documents are available, as well as contact information for the Settlement Administrator and Class Counsel.

The Court should find that sufficient notice of the settlement has been provided to Class members. *Serrano v. Sterling Testing Sys., Inc.*, 711 F. Supp. 2d 402, 413 (E.D. Pa. 2010) (notice "widely disseminated through individual notices and online publication . . . meets the requirements of Rule 23(c)(2)(B)").

B. This Court Should Certify the Settlement Class for the Limited Purpose of Settlement

In considering a proposed settlement, the Court must determine whether the proposed settlement class may be conditionally certified for settlement purposes. *See Amchem Products, Inc. v. Windsor*, 521 U.S. 591, 620 (1997) (trial court may disregard management issues in certifying a settlement class, but the proposed class must still satisfy the other requirements of Rule 23); *Sullivan v. DB Investments, Inc.*, 667 F.3d 273, 296 (3d Cir. 2011) ("[B]efore approving a class settlement agreement, a district court first must determine that the requirements for class certification under Rule 23(a) and (b) are met." (internal quotation marks omitted)); *In re Cmty. Bank of N. Va.*, 418 F.3d 277, 300 (3d Cir. 2005) ("[R]egardless of whether a district court certifies a class for trial or for settlement, it must first find that the class satisfies all the requirements of Rule 23."). While a settlement class must satisfy each of the requirements of Rule 23(a) and Rule 23(b)(2) or (3), "the fact of settlement is relevant to a determination of whether the proposed Class meets the requirement imposed by the Rule." *In re Prudential*, 148 F.3d at 308-09.

As discussed below, this Court should find that the Settlement Class satisfies the requirements of Rule 23(a) and 23(b).

1. *The Requirements of Rule 23(a) Are Satisfied*

Rule 23(a) contains four threshold requirements, which every putative class must satisfy, that "(1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the

class; and (4) the representative parties will fairly and adequately protect the interests of the class." FED. R. CIV. P. 23(a). These requirements are met here.

a. *Numerosity*

Here, after accounting for the single request for exclusion, there are 205 Settlement Class Members. *See* Ex. 1 at ¶ 2; Ex. 2 at ¶ 5. As such, Rule 23(a)(1) is satisfied. *Stewart v. Abraham*, 275 F.3d 220, 226-27 (3d Cir. 2001) (generally a class with more than 40 will satisfy the numerosity requirement).

b. *Commonality*

Rule 23(a)(2) requires that there be "questions of law or fact common to the class." To satisfy the commonality requirement, Plaintiff must demonstrate that her claims "depend upon a common contention," the resolution of which "will resolve an issue that is central to the validity of each one of the claims in one stroke." *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). "Commonality does not require an identity of claims or facts among class members; instead, '[t]he commonality requirement will be satisfied if the named plaintiffs share at least one question of fact or law with the grievances of the prospective class.'" *Johnston v. HBO Film Mgmt., Inc.*, 265 F.3d 178, 184 (3d Cir. 2001) (citation omitted).

Here, the common questions include (a) whether TD furnished late payment marks about Settlement Class Members to one or more CRAs; (b) whether Settlement Class Members disputed those late payment marks to the CRAs; (c) whether TD failed to correct the disputed late payment marks; (d) whether TD failed to mark the disputed late payment marks as "disputed;" (e) whether TD's conduct was negligent,

willful, or reckless; and (f) whether members of the Classes are entitled to statutory damages, actual and/or punitive damages, and in what amounts.

These common issues mirror those in FCRA cases in which several other courts have found commonality satisfied. *Miller v. Trans Union, LLC*, No. 3:12-cv-1715, 2017 WL 412641, at *8-11 (M.D. Pa. Jan. 18, 2017) (report and recommendation certifying FCRA statutory damages case for class treatment); *Soutter v. Equifax Info. Servs., LLC*, 307 F.R.D 183, 201-02 (E.D. Va. 2015) (finding commonality satisfied on the following subjects: "the inaccuracy of the consumer reports, the reasonableness of the procedures alleged to cause these inaccuracies, whether Equifax's conduct was willful, and the determination of statutory damages.").

As such, the commonality element of Rule 23(a) is satisfied here.

c. *Typicality*

Rule 23(a)(3) requires that the claims of the named plaintiff be typical of the claims of the class. A plaintiff's claim is typical if it arises from the same event or practice or course of conduct that gives rise to the claims of other class members and his or her claims are based on the same legal theory. *In re Nat'l Football League Players Concussion Injury Litig.*, 821 F.3d 410, 428 (3d Cir. 2016). Typicality presents a "low threshold," and may be satisfied even if there are some factual distinctions between the claims of the class representative and those of other class members. *Id.*

Here, Plaintiff's claim is typical. TD furnished late payment data about her mortgage payment history to one or more CRAs, like it did for all Settlement Class members. Plaintiff disputed that information, and TD failed to correct it until it

uncovered the scope of the vendor error period and corrected the credit reporting of all Settlement Class members. Plaintiff seeks uniform statutory damages under FCRA section 1681n for herself and other Settlement Class members.

As such, the low requirement of typicality is satisfied here.

d. *Adequate Representation*

Rule 23(a)(4) requires plaintiffs to show that "the representative parties will fairly and adequately protect the interests of the class." "Whether adequacy has been satisfied 'depends on two factors: (a) the plaintiff's attorney must be qualified, experienced, and generally able to conduct the proposed litigation, and (b) the plaintiff must not have interests antagonistic to those of the class.'" *McDonough v. Toys R Us, Inc.*, 638 F. Supp. 2d 461, 477 (E.D. Pa. 2009) (quoting *New Directions Treatment Servs. v. City of Reading*, 490 F.3d 293, 313 (3d Cir. 2007). "The second factor 'seeks to uncover conflicts of interest between named parties and the class they seek to represent.'" *Id*. (quoting *In re Warfarin Sodium Antitrust Litig.*, 391 F.3d 516, 532 (3d Cir. 2004)).

A representative plaintiff must be able to provide fair and adequate protection for the interests of the class. To meet the adequacy requirement, a finding must be made that (1) Plaintiff's interests do not "conflict with those of the class" and (2) the proposed class counsel are "capable of representing the class." *Newton v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 259 F.3d 154, 185 (3d Cir. 2001). The Third Circuit has "recognized that the linchpin of the adequacy requirement is the alignment of interests and incentives between the representative plaintiffs and the

rest of the class." *Dewey v. Volkswagen Aktiengesellschaft*, 681 F.3d 170, 183 (3d Cir. 2012). This requirement serves "to ensure that the putative named plaintiff has the incentive to represent the claims of the class vigorously." *Id.* at 184.

Plaintiff and Class Counsel have adequately represented the Settlement Class. Plaintiff has retained counsel experienced in class action litigation to prosecute her claims and those of the class. As a judge in this district recently observed, "[Plaintiff's] attorneys are highly qualified, experienced, and capable. Plaintiff's law firm, Francis Mailman Soumilas ("FMS"), has served as class counsel in over 70 class actions. And FMS has been recognized for specialized expertise in litigating FCRA cases such as this one." *Brooks v. Trans Union LLC*, No. CV 22-48-KSM, 2024 WL 3625142, at *14 (E.D. Pa. Aug. 1, 2024) (docket citation omitted); *see also* ECF 91-3 at Ex. A, FMS Biography. Moreover, Plaintiff has no interests that are antagonistic to the interests of the Settlement Class and is unaware of any actual or apparent conflicts of interest between her and any Settlement Class Member.

Accordingly, Plaintiff and Class Counsel are adequate to represent the Settlement Class. *See* ECF 86 at ¶ 2 (finding that Plaintiff and Class Counsel have adequately represented the Settlement Class).

2. *The Requirements of Rule 23(b)(3) Are Satisfied*

In addition to meeting the prerequisites of Rule 23(a), a class action must satisfy at least one of the three conditions of subdivision (b) of Rule 23. Plaintiff proceeds here under Rule 23(b)(3).

a. *Predominance*

Rule 23(b)(3) requires, in pertinent part, that "the court finds that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members[.]" FED. R. CIV. P. 23(b)(3). "The predominance requirement focuses on whether essential elements of the class's claims can be proven at trial with common, as opposed to individualized, evidence." *Taha v. Cty. of Bucks*, 862 F.3d 292, 308-09 (3d Cir. 2017) (citation omitted). Common issues predominate over individual issues where plaintiffs have alleged a common course of conduct on the part of a defendant. *In re Prudential*, 148 F.3d at 314-15. Particularly, predominance is established where common facts about the willfulness of a defendant's conduct provide for a statutory damage remedy. *Taha*, 862 F.3d at 309. Courts have regularly found that common issues are more likely to predominate in an FCRA class action seeking only statutory damages. *Stillmock v. Weis Mkts., Inc.*, 385 Fed. App'x. 267, 273 (4th Cir. 2010) (reversing denial of certification of class seeking FCRA statutory damages, holding that "overarching issue by far is the liability of the defendant's willfulness"); *Gillespie v. Equifax Info. Servs., LLC*, No. 05-cv-138, 2008 WL 4614327, at *7 (N.D. Ill. Oct. 15, 2008) (certifying FCRA class action for statutory damages, finding that the predominant common issue was whether the defendant's standardized practice constituted a knowing or reckless disregard for statutory obligations); *Miller*, 2017 WL 412641, at *8-11 (report and recommendation certifying FCRA statutory damages case for class treatment); *Chakejian v. Equifax Info. Servs., LLC*, 256 F.R.D. 492, 498, 500-01 (E.D. Pa. 2009)

(certifying FCRA statutory damages class action); *Summerfield v. Equifax Info, Servs. LLC*, 264 F.R.D. 133, 139, 142 (D.N.J. Sept. 30, 2009) (same).

Here the success or failure of Plaintiff's claim and that of the Settlement Class depends upon the same core evidence and legal issues: TD's receipt of disputes from CRAs concerning late payment marks it furnished to CRAs about Settlement Class Members; its alleged failure to correct the disputed late payment remarks; its alleged failure to instruct the CRA from which it received the ACDV to mark disputed account as "disputed;" whether TD's conduct was willful, or merely negligent; and other common fact and legal issues readily demonstrate that this suit for statutory damages of $100-$1,000 per class member could be tried with common evidence. *Taha*, 862 F.3d at 309.

As such, the predominance requirement is satisfied.

b. *Superiority*

In addition to finding the predominance of common questions, Rule 23(b)(3) also requires that the Court determine that "a class action is superior to other available methods for the fair and efficient adjudication of the controversy." It has been widely recognized that a class action is superior to other available methods—particularly, individual lawsuits—for the fair and efficient adjudication of a suit that affects a large number of persons injured by violations of consumer protection laws or common law. *In re Prudential*, 148 F.3d at 316; *Serrano*, 711 F. Supp. 2d at 413. Consumer class actions such as the case at bar easily satisfy the superiority requirement of Rule 23. *See id.* at 413; *Lake v. First Nationwide Bank*, 156 F.R.D.

615, 626 (E.D. Pa. 1994) (public interest in seeing that rights of consumers are vindicated favors disposition of claims in a class action).

Likewise, the superiority requirement is satisfied here. TD has allegedly violated the rights of a number of geographically dispersed individuals. The costs associated with each such person pursuing individual litigation to seek recovery against a well-financed adversary is generally not feasible. Thus, the alternatives to a class action are likely either no recourse for these consumers, or even in the unlikely event that they all become aware of their rights and could locate counsel, a multiplicity of scattered suits resulting in the inefficient administration of litigation. Where the alternative to a class action is likely to be no action at all for most of the class members, there is a strong presumption in favor of a finding of superiority. *Cavin v. Home Loan Ct., Inc.*, 236 F.R.D. 387, 396 (N.D. Ill. 2006). The common and predominating factual and legal issues noted above mean this matter is capable of efficient, class-wide adjudication on the merits.

Accordingly, a class action is superior to other available methods for the fair and efficient adjudication of this matter.

Thus, because the Settlement Class meets the requirements of Rule 23(a) and 23(b)(3), the Court may move forward to consider whether the settlement is fair, reasonable, and adequate. *See* FED. R. CIV. P. 23(3)(2).

C. The Settlement Is Fair, Reasonable, and Adequate, Satisfying the Requirements of Rule 23(e)(2)

Rule 23(e)(2) sets forth four factors for determining whether a settlement is fair, reasonable, and adequate:

> (A) the class representative and class counsel have adequately represented the class;
>
> (B) the proposal was negotiated at arm's length;
>
> (C) the relief provided for the class is adequate, taking into account (i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including the processing of class-member claims; (iii) the terms of any proposed award of attorney's fees, including timing of payment; (iv) any agreement required to be identified under Rule 23(e)(3); and
>
> (D) the proposal treats class members equitably relative to each other.

FED. R. CIV. P. 23(e)(2). A consideration of these factors favors final approval of the settlement, as discussed next.

1. *Plaintiff Mansaray and Class Counsel Have Adequately Represented the Settlement Class*

As discussed above, *see* § III.B.1.d, Plaintiff and Class Counsel have adequately represented the class.

2. *The Settlement Agreement is the Culmination of Lengthy, Adversarial Negotiations*

Settlement negotiations that involve arm's length, informed bargaining with the aid of experienced counsel support a preliminary finding of fairness. *Sullivan v. DB Investments, Inc.*, 667 F.3d 273, 321 (3d Cir. 2011) (reciting factors leading to preliminary approval).

Here, the settlement was negotiated at arm's length by Class Counsel and counsel for TD who have extensive experience in consumer protection class action litigation and a full understanding of the pros and cons of proceeding with the action in lieu of settlement at this juncture. Over the course of several months, the parties

met to consider the merits of the case, to explore whether the case could be settled, and ultimately to negotiate such a settlement. This included disputes regarding the merits of each side's claims and defenses, the exchange of information relevant to potential claims by the Settlement Class, and exchanging more than a dozen demands and counter offers. The litigation has thus proceeded to a stage at which counsel have demonstrated a thorough understanding of the complexity of the issues and the strengths and weaknesses of their respective claims, defenses, and strategies. Accordingly, the Settlement Agreement was negotiated in good faith and is free of collusion.

3. *The Settlement Provides Significant Relief for Settlement Class Members*

As noted above, at this stage the court must make an initial evaluation of the fairness, reasonableness, and adequacy of the settlement terms. The question of whether a proposed settlement is fair, reasonable, and adequate necessarily requires a judgment and evaluation by the attorneys for the parties based upon a comparison of "the terms of the compromise with the likely rewards of litigation." *Weinberger v. Kendrick*, 698 F.2d 61, 73 (2d Cir. 1982); *Collier v. Montgomery County*, 192 F.R.D. 176, 184 (E.D. Pa. 2000) (citing factors established in *Girsh v. Jepson*, 521 F.2d 153 (3d Cir. 1975)).

The Settlement provides significant benefits to the Settlement Class in the form of monetary relief estimated to be more than $1,200[4] per Settlement Class

[4] *See supra* note 3 (calculating *pro rata* share of Net Settlement Fund).

member in exchange for an appropriate release. *See* ECF 84-2 at §§ IV.47 (settlement consideration), XV.101 (releases). The range for statutory damage awards under the FCRA in the case of a *willful* violation is $100 to $1,000, and therefore almost all FCRA statutory damages class settlements are in the hundreds of dollars per class member.

Accordingly, the settlement is a very good result for the Settlement Class and should be finally approved.

4. *The Settlement Agreement Is a Preferable Alternative to the Risks Each Party Would Face in Continued Litigation*

Plaintiff and Class Counsel recognize the considerable expense and length of time required to continue to litigate this case, including the time and expense associated with litigating this case through summary judgment and trial against Defendant and through possible appeals, which could consume several more years. *See In re Motorsports Merchandise Antitrust Litigation*, 112 F. Supp. 2d 1329, 1333-34 (N.D. Ga. 2000) (determining settlement was within reasonable range where outcome of case was uncertain and could be tied up in the appellate process for years). Class Counsel have also taken into account the time already invested in this case. In addition to needing to prove that the case warrants certification under Rule 23, Plaintiff would also face the task of proving liability on the merits of her claims, including the risks associated with resisting a motion for summary judgment, and the even greater risks, uncertainty, delay, and expense of trial. Even if Plaintiff succeeded in passing the class certification and liability hurdles, the parties would continue to battle over whether she and other Class Members sustained damages,

and if so, the proper measure of those damages. The battles would be fought not only before and at trial, but also on appeal.

Upon considered reflection of these factors, Plaintiff and Class Counsel believe that the settlement confers a substantial immediate benefit upon the Class without the risks set forth above. *In re Motorsports*, 112 F. Supp. 2d at 1334 ("The settlements are a positive alternative to the prospect of receiving no recovery and are in the best interest of the settlement class. The complexities of this case, together with the unpredictability of a lengthy trial and appellate process weigh heavily in favor of approving the settlements.").

5. *The Proposed Award of Attorney's Fees Is Fair and Reasonable*

As set forth in Plaintiff's Motion for a Service Award to Plaintiff and for an Award of Attorneys' Fees and Reimbursement of Expenses to Class Counsel, ECF 91, Class Counsel has requested that the Court award them attorneys' fees and litigation expenses in the amount of one-third (1/3) of the gross Settlement Fund, or $135,000. *See* ECF 84-2, Agreement, § XVI.108. This amount was negotiated only after the substantive terms of the settlement were agreed upon. For the reasons set forth in that motion, this request is fair and reasonable and within the range of attorneys' fees awards routinely approved in the Third Circuit.

6. *The Method of Providing Relief Will Be Effective*

All 205 Settlement Class members who have not opted out will receive an automatic cash payment without the need to submit a claim. To ensure that cash distributions reach all eligible Settlement Class Members, each may contact the

Settlement Administrator to update their contact information, including mailing address.

7. *The Settlement Treats All Settlement Class Members Fairly*

The proposed Settlement treats all Settlement Class Members equally, awarding each an equal *pro rata* share in the Net Settlement Fund.

As such, the settlement satisfied Rule 23(e)(2) and, as discussed next, the settlement also satisfies the traditional fairness factors that courts in the Third Circuit address when considering whether to finally approve a class action settlement.

D. The Settlement Satisfies Traditional Third Circuit Fairness Considerations

The above-discussed Rule 23(e)(2) factors align with considerations that courts in the Third Circuit have traditionally weighed in determining whether a proposed class action settlement should be finally approved, namely:

> (1) the complexity, expense and likely duration of the litigation; (2) the reaction of the class to the settlement; (3) the stage of the proceedings and the amount of discovery completed; (4) the risks of establishing liability; (5) the risks of establishing damages; (6) the risks of maintaining the class action through trial; (7) the ability of the defendants to withstand a greater judgment; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; [and] (9) the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation[.]

Girsh, 521 F.2d at 157. Since *Girsh*, the Third Circuit has suggested that additional considerations may be appropriate, including:

> the maturity of the underlying substantive issues, as measured by experience in adjudicating individual actions, the development of scientific knowledge, the extent of discovery on the merits, and other factors that bear on the ability to assess the probable outcome of a trial

> on the merits of liability and individual damages; the existence and probable outcome of claims by other classes and subclasses; the comparison between the results achieved by the settlement for individual class or subclass members and the results achieved—or likely to be achieved—for other claimants; whether class or subclass members are accorded the right to opt out of the settlement; whether any provisions for attorneys' fees are reasonable; and whether the procedure for processing individual claims under the settlement is fair and reasonable.

In re Prudential, 148 F.3d at 323.

Because a settlement represents the result of a process by which opposing parties attempt to weigh and balance the factual and legal issues that neither side chooses to risk taking to final resolution, courts give considerable weight to the views of experienced counsel as to a settlement's merits. *See Lake v. First Nationwide Bank*, 900 F. Supp. 726, 732 (E.D. Pa. 1995) ("Significant weight should be attributed to the belief of experienced counsel that settlement is in the best interest of the class.").

Here, experienced Class Counsel believe that the settlement, as structured and contemplated by the parties, represents an educated and eminently reasonable resolution of the dispute. An evaluation of the relevant factors demonstrates that the settlement fits well within the range of reasonableness and should be approved.

1. *The Complexity, Expense, and Likely Duration of the Litigation*

Absent the settlement, the parties would have to proceed to summary judgment proceedings and ultimately, perhaps to trial. While Plaintiff believes that she would prevail on all issues, there is at least some risk she would not. *See Chakejian*, 275 F.R.D. at 212 (finding that this factor favored settlement when plaintiff would have to prove FCRA willfulness at trial, notwithstanding a relatively

straightforward fact pattern) (citing *Reibstein v. Rite Aid Corp.*, 761 F. Supp. 2d 241, 251-52 (E.D. Pa. 2011)).

Even if Plaintiff were to defeat a motion for summary judgment, a lengthy and expensive trial would most likely ensue. Trial preparation on both sides would be necessary and a jury trial would eventually be before the Court. Appeals from any result reached may be reasonably expected. Avoidance of this unnecessary expenditure of time and resources clearly benefits all parties and favors final approval of the settlement. *Chakejian*, 275 F.R.D. at 212; *see also In re General Motors Pick-Up Truck Fuel Tank Products Liab. Litig.*, 55 F.3d 768, 812 (3d Cir. 1995) (concluding that lengthy discovery and ardent opposition from the defendant with "a plethora of pretrial motions" were facts favoring settlement, which offers immediate benefits and avoids delay and expense).

2. *The Reaction of the Class to the Settlement*

As set forth above, notice has been directly mailed or emailed to all 206 members of the Settlement Class advising them of the terms of the settlement and their right to exclude themselves from the Class. The deadline for Class members to exclude themselves and to object was March 31, 2025. *See* Ex. 2, Barkan Decl., at ¶ 3. As of April 7, 2025, the Settlement Administrator had received only one exclusion request and no objections. *Id.* at ¶¶ 5-6.

This reaction is convincing evidence of the proposed settlement's fairness and adequacy. *See Stoner v. CBA Info. Servs.,* 352 F. Supp. 2d 549, 552 (E.D. Pa. 2005) (noting a "more than favorable class reaction" in the face of 5 objections, 18 opt-outs, and a 11,980–person class); *Chakejian*, 275 F.R.D. at 212 ("Seven opt outs and two

objectors in a class of nearly forty thousand . . . weighs in favor of this settlement."); *Stoetzner v. U.S. Steel Corp.*, 897 F.2d 115, 118-119 (3d Cir. 1990) ("only" 29 objections in 281-member class "strongly favors settlement"); *Prudential*, 148 F.3d at 318 (affirming conclusion that class reaction was favorable where 19,000 policyholders out of 8 million opted out and 300 objected).

3. *The Stage of Proceedings and Amount of Discovery Completed*

The settlement was agreed only after the parties were at issue and after Class Counsel and counsel for TD had engaged in several months of vigorous negotiations, which included the exchange of information about the number of mortgage borrowers affected by TD's vendor error period, *see* ECF 37, Am. Compl., at ¶¶ 32-33, and the number of ACDV disputes TD received with respect to those mortgage accounts. As such, the parties had sufficient information to pursue a class-wide settlement on behalf of the Settlement Class.

4. *The Risks of Establishing Liability*

The risk of establishing liability is another important factor warranting final approval of the settlement. To prevail at trial, Plaintiff would need to succeed on her claims that the Defendant's actions violated the FCRA and that such actions were knowing or reckless. *Safeco Ins. Co. of Am. v. Burr*, 551 U.S. 47, 56–57 (2007) (willfulness standard is not met "unless the action is not only a violation [of the FCRA] under a reasonable reading of the statute's terms, but shows that the company ran a risk of violating the law substantially greater than the risk associated with a reading that was merely careless."). While Plaintiff strongly believes that TD's actions were minimally reckless and was prepared to take on these burdens and make

substantial arguments opposing Defendant's positions, she also recognizes the not insignificant risk that the Court or a jury might not make such a finding. This factor supports final approval of the settlement. *See Chakejian*, 275 F.R.D. at 213 (citing *Safeco* standard as reason to finally approve FCRA class action settlement).

5. *The Risks of Establishing Damages*

Even if Plaintiff were to overcome the liability obstacles noted above, there are also closely related risks regarding damages because the FCRA statutory damages of between $100 and $1,000 that Plaintiff sought for the Class are only available upon proof that Defendant's conduct was willful. 15 U.S.C. § 1681n(a)(1)(A); *Safeco*, 551 U.S. at 69. By virtue of the proposed Settlement, Plaintiff not only avoids such risks, but also obtains for the 205 Settlement Class members automatic cash payments of more than $1,200 each, net of all requested attorneys' fees and costs and related expenses. This excellent result supports final approval.[5]

6. *The Risks of Maintaining the Class Action through Trial*

Absent the settlement, Plaintiff would have to proceed with contested litigation on whether this matter should be maintained as a class action. Even if she were successful, as she believes she would be, Defendant would likely pursue an interlocutory appeal pursuant to FED. R. CIV. P. 23(f). If the Third Circuit did not accept interlocutory review of class certification, Defendant could still move at any time for decertification/reconsideration of any order certifying the class consistent with FED. R. CIV. P. 23(c)(1)(C) ("An order that grants or denies class certification may

[5] *See supra* note 3 (calculating *pro rata* share of Net Settlement Fund).

be altered or amended before final judgment."). The Settlement allows Plaintiff to avoid the delay and expense of such proceedings, which favors approval.

7. *The Ability of the Defendant to Withstand a Greater Judgment*

The ability of a defendant to withstand a greater judgment is a particularly relevant consideration "where a settlement in a given case is less than would ordinarily be awarded but the defendant's financial circumstances do not permit a greater settlement." *Reibstein*, 761 F. Supp. 2d at 254. Here, this factor is neutral as in many other cases. *See, e.g.*, *Chakejian*, 275 F.R.D. at 214-15 (recovery to plaintiffs and class via settlement may still be considered fair even if a defendant could have paid more).

8. *The Reasonableness of the Settlement in Light of the Best Possible Recovery and All the Attendant Risks of Litigation*

These last two *Girsch* factors, often analyzed in conjunction, confirm that the parties' settlement should be approved. Upon consideration of the contested questions of fact and law present in this litigation, the value of the proposed Settlement substantially outweighs the mere possibility of future relief. The expense of a trial and the use of judicial resources and the resources of the parties would have been substantial. Moreover, as liability is contested, it would not be unusual that any judgment entered would have been the subject of post-trial motions and appeals, further prolonging the litigation and reducing the value of any recovery. Thus, a settlement is advantageous to all concerned because an appeal could seriously and adversely affect the scope of an ultimate recovery, if not the recovery itself for some if not all Class members.

While Plaintiff is confident of her ability to prevail at trial, no final adjudication has been made as to the validity of her claims and Defendant has continued to deny all liability and allegations of wrongdoing. Thus, courts have held that in cases where monetary relief is sought, "the present value of the damages plaintiffs would likely recover if successful, appropriately discounted for the risk of not prevailing, should be compared with the amount of the proposed settlement." *In re Gen. Motors,* 55 F.3d at 806 (citation omitted). Precise value determinations, however, are not necessary. *In re Pet Food Prods. Liability Litig.,* 629 F.3d 333, 355 (3d Cir. 2010).

With respect to the monetary recovery for Class members that the settlement provides, the proposed Settlement is well within the range of reasonableness and should be approved. FCRA statutory damages range from $100 to $1,000, and here, each Class member may expect to receive, net of attorneys' fees and costs and other expenses, more than $1,200.[6] This excellent result surpasses many finally approved settlements, including those for statutory damages under the FCRA. *See*, *e.g.*, *Chakejian*, 275 F.R.D. at 215 (in FCRA class action, credit monitoring recovery represented 30% of the maximum possible statutory damages amount); *see also In re Corel Corp. Sec. Litig.*, 293 F. Supp. 2d 484, 489–90 (E.D. Pa. 2003) (15% recovery reasonable); *In re Ikon Office Sols., Inc. Sec. Litig.*, 194 F.R.D. 166, 183-84 (E.D. Pa. 2000) (approval of settlement that provided 5.2% of best possible recovery). Thus, Plaintiff has obtained a very reasonable benefit for the Settlement Class.

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6 *See supra* note 3 (calculating *pro rata* share of Net Settlement Fund).

The Settlement allows Plaintiff to avoid the risks described above and ensures an immediate monetary benefit to the Settlement Class. It should be finally approved.

IV. CONCLUSION

For the foregoing reasons, Plaintiff and Settlement Class representative Aminata Mansaray respectfully requests that this Honorable Court grant the instant Motion and enter the proposed Order included herewith.

Dated: April 14, 2025

Respectfully,

AMINATA MANSARAY, by her attorneys and on behalf of herself and the Settlement Class,

/s/James A. Francis

James A. Francis
John Soumilas
Jordan M. Sartell (admitted *pro hac vice*)
FRANCIS MAILMAN SOUMILAS, P.C.
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jsoumilas@consumerlawfirm.com
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Attorneys for Plaintiff and the Settlement Class

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AMINATA MANSARAY, on behalf of herself and all others similarly situated, *Plaintiff*, v. TD BANK, N.A., *Defendant*.	Case No. 2:22-cv-5039-AB

[PROPOSED] FINAL APPROVAL ORDER

This matter, having come before the Court on Plaintiff's Motion for Final Approval of Class Action Settlement with Defendant TD Bank, N.A. (hereafter "Defendant"), and the Court, having considered all papers filed and arguments made with respect to the settlement, having granted preliminary approval to the settlement by Order of October 31, 2024, ECF 86, and being fully advised finds that:

1. On April 28, 2025, the Court held a final approval hearing, at which time the parties were afforded the opportunity to be heard in support of or in opposition to the settlement. The Court received no objections to the settlement.

2. Notice to the Settlement Class[1] required by Rule 23(e) of the Federal Rules of Civil Procedure has been provided in accordance with the Court's Order Preliminarily Approving Class Settlement and Directing Notice to Settlement Class Members, ECF 86. Such notice was given in an adequate and sufficient manner; constitutes the best notice practicable under the circumstances, including the

[1] Capitalized terms are defined in Section II of the parties' Settlement Agreement and Release ("Agreement"). ECF 84-2.

dissemination of individual notice to all members who can be identified through reasonable effort; and satisfies Rule 23(e) and due process.

3. Defendant has timely filed notification of this settlement with the appropriate officials pursuant to the Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. § 1715.

4. The terms of the parties' settlement agreement, ECF 84-2, are incorporated fully into this Order by reference. The Court finds that the terms of the settlement are fair, reasonable, and adequate in light of the complexity, expense and duration of litigation and the risks involved in establishing liability, damages, and in maintaining the class action through trial and appeal.

5. The Court has considered the factors enumerated in Rule 23(e)(2) and finds they counsel in favor of final approval.

6. The Court finds that the relief provided under the settlement constitutes fair value given in exchange for the release of claims.

7. The parties and each class member have irrevocably submitted to the jurisdiction of this Court for any suit, action, proceeding, or dispute arising out of the settlement agreement.

8. The Court finds that it is in the best interests of the parties and the Settlement Class and consistent with principles of judicial economy that any dispute between any class member (including any dispute as to whether any person is a class member) and any released party which, in any way, relates to the applicability or scope of the settlement agreement or this Order should be presented exclusively to this Court for resolution by this Court.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

9. This action is a class action against Defendant on behalf of the following class:

> All persons with a residential mortgage loan with TD Bank, N.A., in the calendar years 2020 or 2021, (a) to whom, at any time from October 2020 through June 2021, TD Bank mailed a mortgage statement fewer than seven (7) calendar days prior to the due date of their residential mortgage loan payment; (b) who, at any time from October 2020 through July 2021, TD Bank furnished to one or more Consumer Reporting Agencies as having made a late mortgage loan payment; and (c) who submitted a dispute to a Consumer Reporting Agency regarding a mortgage loan payment on their TD residential mortgage loan having been incorrectly furnished as late, which dispute the Consumer Reporting Agency sent to TD Bank. Excluded from the Settlement Class are TD Bank and any judge to whom this Action is or has been assigned.

10. The settlement agreement submitted by the parties for the class is finally approved pursuant to Rule 23(e) of the Federal Rules of Civil Procedure as fair, reasonable, and adequate and in the best interests of the class. The settlement agreement, including the monetary and injunctive relief set forth therein, shall be deemed incorporated herein and shall be consummated in accordance with the terms and provisions thereof, except as amended or clarified by any subsequent order issued by this Court.

11. As agreed by the parties in the settlement agreement, upon the Effective Date, the Released Parties shall be released and discharged in accordance with the settlement agreement.

12. As agreed by the parties in the Settlement Agreement, upon the Effective Date, each Participating Settlement Class Member is enjoined and

permanently barred from instituting, maintaining, or prosecuting, either directly or indirectly, any lawsuit that asserts Released Claims.

13. Upon consideration of Class Counsel's application for fees and costs and other expenses, the Court awards $135,000.00 as reasonable attorneys' fees and reimbursement for reasonable out-of-pocket expenses, which shall be paid from the Settlement Fund.

14. Upon consideration of the application for an individual settlement and service award, the Plaintiff Aminata Mansaray is awarded the sum of two thousand five hundred dollars ($2,500), to be paid from the Settlement Fund, for the services they have performed for and on behalf of the Class.

15. Neither this Order nor the Agreement shall be construed or used as an admission or concession by or against the Defendant or any of the Released Parties of any fault, omission, liability, or wrongdoing, or the validity of any of the Released Claims. This Order is not a finding of the validity or invalidity of any claims in this lawsuit or a determination of any wrongdoing by the Defendant or any of the Released Parties. The final approval of the Agreement does not constitute any opinion, position, or determination of this Court, one way or the other, as to the merits of the claims and defenses of Plaintiff, the Settlement Class Members, or the Defendant.

16. Without affecting the finality of this judgment, the Court hereby reserves and retains jurisdiction over this settlement, including the administration and consummation of the settlement. In addition, without affecting the finality of this judgment, the Court retains exclusive jurisdiction over Defendant and each member of the Class for any suit, action, proceeding or dispute arising out of or relating to this

Order, the Agreement or the applicability of the Agreement. Without limiting the generality of the foregoing, any dispute concerning the Agreement, including, but not limited to, any suit, action, arbitration or other proceeding by a Participating Settlement Class Member in which the provisions of the Agreement are asserted as a defense in whole or in part to any claim or cause of action or otherwise raised as an objection, shall constitute a suit, action or proceeding arising out of or relating to this Order. Solely for purposes of such suit, action or proceeding, to the fullest extent possible under applicable law, the parties hereto and all Participating Settlement Class Members are hereby deemed to have irrevocably waived and agreed not to assert, by way of motion, as a defense or otherwise, any claim or objection that they are not subject to the jurisdiction of this Court, or that this Court is, in any way, an improper venue or an inconvenient forum.

17. This action is hereby dismissed on the merits, in its entirety, with prejudice and without costs.

18. The Court finds, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, that there is no just reason for delay, and directs the Clerk to enter final judgment.

19. Kristin Lenoir McCann, *see* Declaration of Frank Barkhan, ECF 93-3 at ¶ 5, has validly excluded herself from the Settlement Class in accordance with the provisions of the Agreement and the Court's Order Preliminarily Approving Class Settlement and Directing Notice to Settlement Class Members and is thus excluded from the terms of this Order. Further, because the settlement is being reached as a compromise to resolve this litigation, including before a final determination of the

merits of any issue in this case, Kristin Lenoir McCann may not invoke the doctrines of *res judicata*, collateral estoppel, or any state law equivalents to those doctrines in connection with any further litigation against Defendant in connection with the claims settled by the Settlement Class.

Dated: _____

BY THE COURT:

_____
HONORABLE ANITA BRODY
UNITED STATES DISTRICT JUDGE

Exhibit 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AMINATA MANSARAY, on behalf of herself and all others similarly situated,	)	
Plaintiff,	)	Case No. 2:22-cv-5039-AB
v.	)	
TD BANK, N.A.	)	
Defendant.	)	

DECLARATION OF FRANK BARKAN
IN CONNECTION WITH NOTICE DISSEMINATION

I, Frank Barkan hereby declare and state as follows:

1. I am a member of Continental DataLogix LLC ("Continental"), which the Court appointed Settlement Administrator in the October 31, 2024, Preliminary Approval Order and I was responsible for overseeing the dissemination of notices to members of the Class.

Notice Packet Mailing

2. Continental was provided with 257 rows of data containing names, mailing addresses, and email address, when available, for the Settlement Class Members. The Defendant provided multiple rows for Settlement Class Members for whom it had multiple addresses. After de-duplication, Continental identified 206 unique Settlement Class Members.

3. In accordance with the Notice Program outlined in the Settlement Agreement, Continental sent E-Mail Notice to Settlement Class Members for whom it had a valid email address and sent Mail Notice to the remainder of the class and to those for whom the E-Mail Notice was undeliverable.

4. In preparation for sending the Mail Notice, Continental processed the mailing addresses through the United States Postal Service's ("USPS") National Change of Address ("NCOA") database. The NCOA process provided updated addresses for Class Members who have submitted a change of address with the USPS in the last 48 months, and the process also standardized the addresses for mailing. Continental then prepared a mail file of Class Members that were to receive the notices via First Class Mail.

5. On January 9, 2025, Continental sent Mail Notice (Exhibit A) to 144 Settlement Class Members.

6. On January 9, 2025, Continental sent E-Mail Notice (Exhibit B) to 62 Settlement Class Members.

7. As of the close of business on January 31, 2025, two E-Mail Notices were returned as undeliverable and Mail Notices were promptly sent to the mailing address for those Settlement Class Members.

8. As of the close of business on January 31, 2025, Continental has not received any Mail Notices returned by the USPS as undeliverable with a forwarding address.

9. As of the close of business on January 31, 2025, four Mail Notices were returned by the USPS as undeliverable without a forwarding address and their addresses were sent to TLO, a Transunion search service, in an attempt to locate an updated mailing address. Updated addresses were found for these four records and Mail Notices were remailed.

Website

10. An informational website (https://www.FCRAMortgageSettlement.com) was created and made available on November 29, 2024. In addition to answers to frequently asked questions, the website contains the following:

- Amended Class Action Complaint
- Settlement Agreement
- Preliminary Approval Order
- Long-Form Notice
- Address Verification Instructions
- Contact Information

Toll Free Information Telephone Line

11. Continental established and continues to maintain a toll-free telephone line where callers may speak with a live agent and obtain information about the Settlement. As of January 31, 2025, the telephone line has received two calls.

Written and Emailed Correspondence

12. Continental established and continues to maintain a post office box where Settlement Class Members may submit objections, opt-outs, and other correspondence. As of January 31, 2025, Continental has not received any pieces of correspondence.

13. Continental established and continues to maintain the email address questions@FCRAMortgageSettlement.com. As of January 31, 2025, Continental received one email and has responded with a return email.

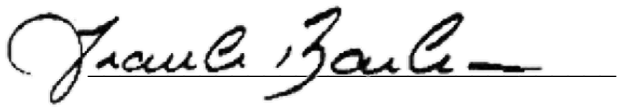
Objection Requests

14. The postmark deadline for submitting an Objection is March 31, 2025. As of January 31, 2025, Continental has not received any Objections.

Opt-Out Requests

15. The postmark deadline for submitting an Opt-Out is March 31, 2025. As of January 31, 2025, Continental has not received any Opt-Outs.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 3rd day of February 2025.



Frank Barkan

Exhibit A

Important Notice About Class Action Settlement

You are receiving this Notice because you may be entitled to benefits from a proposed class action settlement. This Notice explains what the class action is about, what the Settlement will be, and how your rights may be affected. More information about the Settlement and the Settlement Agreement are available at www.FCRAmortgagesettlement.com.

A federal court authorized this Notice. This is not a solicitation from a lawyer.

Mansaray v. TD Bank, N.A.
c/o Settlement Administrator
P.O. Box 16
West Point, PA 19486

What is the Settlement about? A Settlement has been reached in a class action lawsuit asserting Fair Credit Reporting Act ("FCRA") violations by TD Bank, N.A. ("TD Bank") arising from allegations concerning TD Bank's investigation of consumer disputes regarding credit reporting of late payments on TD Bank residential mortgage loans. The lawsuit contends that between October 2020 and June 2021, when TD Bank's print vendor mailed certain mortgage loan statements fewer than seven (7) calendar days prior to the due date of their residential mortgage loan payment, TD Bank failed to properly investigate consumer disputes regarding allegedly inaccurate furnishing to Consumer Reporting Agencies that mortgage loan customers who received these late statements subsequently made late payments on their loans. The Court has not decided which side is right. Full information regarding the Settlement can be found at www.FCRAmortgagesettlement.com.

Why am I being contacted? TD Bank's records show that the person to whom this notice is addressed is a member of the Settlement Class. The Settlement Class includes all persons with a residential mortgage loan with TD Bank in the calendar years 2020 or 2021, (a) to whom, at any time from October 2020 through June 2021, TD Bank mailed a mortgage statement fewer than seven (7) calendar days prior to the due date of their residential mortgage loan payment; (b) who, at any time from October 2020 through July 2021, TD Bank furnished to one or more Consumer Reporting Agencies as having made a late mortgage loan payment; and (c) who submitted a dispute to a Consumer Reporting Agency regarding a mortgage loan payment on their TD Bank residential mortgage loan having been incorrectly furnished as late, which dispute the Consumer Reporting Agency sent to TD Bank.

What are the Settlement terms? TD Bank agreed to provide $405,000 to the Settlement Class, which includes money for (a) payments to Settlement Class Members, (b) attorneys' fees and expenses, (c) settlement administration costs, and (d) any service award to Plaintiff.

How do I get my Settlement payout? Once the Court approves the Settlement, you will automatically receive a check. To confirm your mailing address for delivery of your check and for information about how the awards will be calculated, please visit www.FCRAmortgagesettlement.com.

Your other options. If you do not want to be bound by the Settlement, you may exclude yourself by March 31, 2025. If you do not exclude yourself, you will release your claims against TD Bank. Alternatively, you may object to the Settlement by March 31, 2025. The Long Form Notice available at the Settlement website, listed below, explains how to exclude yourself or object. The Court will hold a hearing on April 28, 2025 to consider whether to approve the Settlement. Details about the hearing are in the Long Form Notice. You may appear at the hearing, but you are not required to do so. You may hire your own attorney, at your own expense, to appear for you at the hearing.

Questions? If you have questions, please visit the Settlement website at www.FCRAmortgagesettlement.com. You may also write with questions to Mansaray v. TD Bank, N.A. Class Action, c/o Settlement Administrator, P.O. Box 16, West Point, PA 19486. **Please do not contact TD Bank or the Court for information.**

Exhibit B

LEGAL NOTICE OF CLASS ACTION SETTLEMENT

If you disputed with a Consumer Reporting Agency a credit report showing you paid late on your TD Bank home mortgage loan between October 1, 2020 and July 31, 2021, you may be entitled to benefits from a proposed class action settlement.

his is a court-authorized notice of a proposed class action settlement. This is not a solicitation from an attorney, and you are not being sued.

PLEASE READ THIS NOTICE CAREFULLY, AS IT EXPLAINS YOUR RIGHTS AND OPTIONS AND THE DEADLINES TO EXERCISE THEM.

ID #:

NAME:

ADDRESS: I

For more information, including a more detailed description of your rights and options, please click here or visit **www.FCRAmortgagesettlement.com**.

What is the Settlement about? A Settlement has been reached in a class action lawsuit asserting Fair Credit Reporting Act ("FCRA") violations by TD Bank, N.A. ("TD Bank") arising from allegations concerning TD Bank's investigation of consumer disputes regarding credit reporting of late payments on TD Bank residential mortgage loans. The lawsuit contends that between October 2020 and June 2021, when TD Bank's print vendor mailed certain mortgage loan statements fewer than seven (7) calendar days prior to the due date of their residential mortgage loan payment, TD Bank failed to properly investigate consumer disputes regarding allegedly inaccurate furnishing to Consumer Reporting Agencies that mortgage loan customers who received these late statements subsequently made late payments on their loans. The Court has not decided which side is right. Full information regarding the Settlement can be found at **www.FCRAmortgagesettlement.com**.

Why am I being contacted? TD Bank's records show that the person to whom this notice is addressed is a member of the Settlement Class. The Settlement Class includes all persons with a residential mortgage loan with TD Bank in the calendar years 2020 or 2021, (a) to whom, at any time from October 2020 through June 2021, TD Bank mailed a mortgage statement fewer than seven (7) calendar days prior to the due date of their residential mortgage loan payment; (b) who, at any time from October 2020 through July 2021, TD Bank furnished to one or more Consumer Reporting Agencies as having made a late mortgage loan payment; and (c) who submitted a dispute to a Consumer Reporting Agency regarding a mortgage loan payment on their TD Bank residential mortgage loan having been incorrectly furnished as late, which dispute the Consumer Reporting Agency sent to TD Bank.

What are the Settlement terms? TD Bank agreed to provide $405,000 to the Settlement Class, which includes money for (a) payments to Settlement Class Members, (b) attorneys' fees and expenses, (c) settlement administration costs, and (d) any service award to Plaintiff.

How do I get my Settlement payout? Once the Court approves the Settlement, you will automatically receive a check. To confirm your mailing address for delivery of your check and for information about how the awards will be calculated, please visit **www.FCRAmortgagesettlement.com**.

Your other options. If you do not want to be bound by the Settlement, you may exclude yourself by March 31, 2025. If you do not exclude yourself, you will release your claims against TD Bank. Alternatively, you may object to the Settlement by March 31, 2025. The Long Form Notice available at the Settlement website, listed below, explains how to exclude yourself or object. The Court will hold a hearing on April 28, 2025 to consider whether to approve the Settlement. Details about the hearing are in the Long Form Notice. You may appear at the hearing, but you are not required to do so. You may hire your own attorney, at your own expense, to appear for you at the hearing.

Questions? If you have questions, please visit the Settlement website at **www.FCRAmortgagesettlement.com**. You may also write with questions to Mansaray v. TD Bank, N.A. Class Action, c/o Settlement Administrator, P.O. Box 16, West Point, PA 19486. **Please do not contact TD Bank or the Court for information.**

Exhibit 2

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AMINATA MANSARAY, on behalf of herself and all others similarly situated,	)	
Plaintiff,	)	
v.	)	Case No. 2:22-cv-5039-AB
TD BANK, N.A.	)	
Defendant.	)	

DECLARATION OF FRANK BARKAN
IN CONNECTION WITH REQUESTS FOR EXCLUSION

I, Frank Barkan hereby declare, and state as follows:

1. I am a member of Continental DataLogix LLC ("Continental"), which the Court appointed Settlement Administrator in the October 31, 2024, Preliminary Approval Order and I was responsible for overseeing the dissemination of notices to members of the Class.

2. As set for the in my declaration of February 3, 2025, Continental presumes that notice was successfully provided to all 206 unique Settlement Class Members.

Opt-Out Requests

3. The postmark deadline for objecting to or requesting exclusion from the Class was March 31, 2025.

4. Any Opt-Out request must have included the following:

   i. The name of the Action;

   ii. The full name, address, e-mail address, telephone number, and last four digits of the TD mortgage loan account number;

iii. A specific statement of the intention to be excluded from the Settlement, and that the individual understands that he or she will receive no money from the Settlement;

iv. The identity of the person's or entity's counsel, if represented; and

v. The person's signature or the entity's authorized representative's signature and the date on which the request was signed.

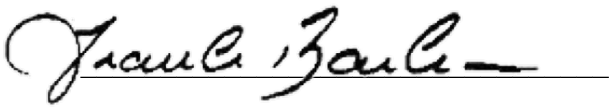
5. As of the close of business on April 7, 2025, Continental received one timely postmarked exclusion request from the class member listed below that conformed to the requirements as set forth in Section VIII of the Settlement Agreement and Release.

i. Kristin Lenoir McCann

Objection Requests

6. The postmark deadline for submitting an Objection was March 31, 2025. As of the close of business on April 7, 2025, Continental has not received any Objections.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 7th day of April 2025.



Frank Barkan