

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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IN RE VISA CHECK/MASTERMONEY
ANTITRUST LITIGATION
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ORDER
96 CV 5238 (JG)

JOHN GLEESON, United States District Judge:

By letter dated June 23, 2005, Lead Counsel for the plaintiff class, Constantine Cannon, requests leave to amend the Plan of Allocation. By order dated June 30, 2005, I granted partial leave to amend the Plan, raised questions regarding other proposed amendments, and directed Lead Counsel to comment on my intention to enlarge the order dated February 17, 2004 appointing Robin Wilcox as Special Master. Lead Counsel responded by letter dated July 8, 2005.

I hereby grant the following requests:

1. To amend Section 4.3 of the Plan to allow the Claims Administrator to estimate all MasterCard off-line debit and credit card purchase volumes using the Visa Transactional Database.
2. To amend Sections 5.6 and 6 of the Plan so that the Claims Administrator shall estimate on-line debit transactions and volumes in accordance with the methodology set forth in the Supplemental Declaration of Franklin M. Fisher in Support of the Plan of Allocation, dated August 14, 2003. (See Letter from Jeffrey I. Shinder dated June 23, 2005, Ex. C.)
3. To amend Section 4 of the Plan so that Class members identified in the Visa Transactional Database shall receive a claim form listing an estimated cash payment for the entire class period. The form will ask the Class member to confirm when the member started accepting eligible transactions, and will not require the member to submit any related documentation. Class members will be advised that they may later be required to document their claims. Lead Counsel shall conduct random audits to ensure that Class members are entitled to their claimed cash payments.
4. To amend Section 5 to delete the requirement that Class members not identified in the Visa Transactional Database must submit documentation to confirm that they are entitled to receive a cash payment from the Fund.

5. To amend Sections 9.1 and 10.1 to allow the Claims Administrator to process Class members' claims on a rolling basis.

As stated in my order of June 30, 2005, I intend to enlarge the February 17, 2004 order to include all disputes relating to the Plan of Allocation. Lead Counsel objects, arguing that "[a]dding another layer of review" would cause undue and detrimental delay. (*See* Letter from Jeffrey I. Shinder dated July 8, 2005, at 4.) (Lead Counsel does not object to an enlargement of the order that would limit the Special Master's authority to "any disputes or matters arising out of challenges to Class Members' estimated cash payments, pursuant to Section 7 of the Plan.") I see no persuasive reason not to refer all disputes relating to the Plan of Allocation to the Special Master, subject to Lead Counsel's right to apply for direct review by the Court if delay will inure to the detriment of the Class. I have prepared an amended order of referral, which is being filed simultaneously with this order. Consistent with that order, Lead Counsel is directed to submit a quarterly report of Approved Claims to the Special Master unless she directs otherwise.

Lead Counsel is directed to file an Amended Plan of Allocation for approval by the Court on or before August 16, 2005.

So Ordered.

JOHN GLEESON, U.S.D.J.

Dated: Brooklyn, New York
August 2, 2005