

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Jannette Trevino, on behalf of herself and all others similarly situated, v. Westamerica Bank

Superior Court of the State of California, County of Marin

You have been identified as a current or former customer of Westamerica Bank. This notifies you of a proposed settlement of a class action filed against the Bank based on its assessment of overdraft fees from July 1, 2006 to April 30, 2011. Your rights may be affected by this proposed settlement, if the Court approves it. Please read this notice carefully.

The Marin Superior Court ordered that this notice be sent to certain Westamerica Bank customers to notify them of a proposed settlement of a class action lawsuit. This notice is not a solicitation from a lawyer, and you are not being sued.

The settlement, if approved by the Court, will resolve a class action lawsuit – **Trevino v. Westamerica Bank** - in which a Westamerica customer ("Trevino") alleges that certain Westamerica customers were charged more overdraft fees than they would otherwise have paid because Westamerica posted their debit transactions to their accounts in "high to low" order, and not in the manner customers expected. Westamerica denies that it did anything wrong and that a class action against it could proceed to trial. Nevertheless, subject to approval by the Court, and without admitting that it did anything wrong, Westamerica has agreed with Trevino and her counsel to settle the class action lawsuit.

Under the settlement, checking account customers (not including customers with only a business account) who were assessed more than one overdraft fee for a single day's posting activity on at least one occasion between July 1, 2006 and April 30, 2011 will receive a cash award, and the bank will change its overdraft practices in certain ways for at least one year.

You do not need to file a claim form to be eligible for any benefits; the cash award will be made to you as long as you do not "exclude" yourself from the class action, and if the court approves the settlement.

Your legal rights are affected whether or not you act. ***So please read this notice carefully.***

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Basic Information

1. What is this lawsuit about?

This lawsuit complains that Westamerica does not post transactions in "time order" and instead posts them in "high to low" order, that it does not tell customers clearly enough about how their checking account transactions will be posted, and that its posting practice results in customers paying more overdraft fees to the Bank. Trevino alleges that this has affected numerous customers, and she seeks to represent them as a "class representative" in an action against the Bank seeking to have the Bank refund some of those fees to the affected customers. The Bank denies that its posting order was unlawful or in any way inappropriate or that it was not properly disclosing its practices to its customers. The Bank would also challenge the appropriateness of the case proceeding as a "Class Action" if the settlement was not approved.

2. Why is this a Class Action and what is a Class Action?

In a class action lawsuit, one or more people called "Class Representatives" (in this case, Plaintiff Jannette Trevino) attempts to sue on behalf of other people (the "Class") who allegedly have similar claims. If the Court approves of the case proceeding as a "class action," that Court decides the lawsuit for everyone in the Class. In this case, the Class Representative and Westamerica reached a settlement, subject to court approval, before the Court decided whether the case could proceed as a class action. The Court certified the case as a class action solely for purposes of deciding whether to approve the settlement. That means that if the settlement is not approved by the court, the Class Members will not get the benefits of this settlement and the Plaintiff will need to go back to court to prove her case through trial and prove that she has a right to bring the case as a Class Action.

3. Why is there a settlement?

Westamerica denies that it has done anything wrong and the Class Representative believes that she would prevail on her claims at trial. But, in the interests of efficiency and avoiding substantial litigation costs, the parties to the litigation have decided to resolve the litigation through settlement. In this way, the parties avoid the costs and risks of litigation and trial. After settling the case, the Court will not decide who is right or wrong. Instead, it will determine whether the settlement is fair, reasonable, and adequate under the circumstances. If the court approves the settlement as fair, reasonable, and adequate, it will enter a judgment extinguishing all claims of those represented in the lawsuit.

4. Why did I receive this notice?

You received this Notice because Westamerica's records show that you may be a "Class Member" – meaning that you were a Westamerica customer who did not have only a business account and who was, on at least one occasion during the class period (July 1, 2006 through April 30, 2011) assessed more than one overdraft fee for a single day's posting of debits to your account. This Notice lets you know how you can participate or exclude yourself from this settlement.

Who is in the Settlement?

5. How do I know if I am part of the settlement?

You are a Class Member if you were a Westamerica Bank customer who did not have only a business account, and who was, on at least one occasion during the class period (July 1, 2006 through April 30, 2011) assessed more than one overdraft fee for a single day's posting of debits to your account. You have been identified as such a customer in bank records if you are the person to whom this notice was addressed, and you will participate in the settlement unless you do something to "exclude" yourself from it, as explained below.

6. If I am part of the settlement, what are my options?

If you are a Class member, you have several options available to you. You may:

- (i) Participate in the settlement and obtain a settlement award if the Court approves the settlement (see Sections 7-11). This requires no action on your part;
- (ii) Object to the settlement (see Sections 12-15); or
- (iii) Request to be excluded from the settlement (see Sections 16-18).

Settlement Benefits – What You Could Receive

7. What are the possible settlement benefits from this settlement?

If the settlement is approved by the Court, Westamerica will make certain changes to its overdraft-related practices, and will pay a total of \$2,000,000 into a fund (the "Settlement Fund"). Of this amount, a maximum of 25% will be used to pay the fees of attorneys representing Trevino and the Class Members ("Class Counsel"); a maximum of \$40,000 will be used to pay Class Counsel's litigation expenses; and a maximum amount of \$5,000 will be paid to Trevino as an incentive fee for her role in prosecuting this litigation. Tax expenses and the costs of administering the settlement and distributing payments to Class Members will also be paid from the Fund. After payments are distributed from the Settlement Fund to pay these fees and costs, the balance of the Settlement Fund will be paid to Class Members based upon the comparative number of multiple overdraft fees they were assessed. "Leftover" or residue amounts, if any, will be donated to one or more charitable organizations.

Settlement awards will be calculated on the basis of a formula comparing the overdraft fees an individual Class Member was assessed against those that all of the other Class Members who were also assessed more than one overdraft fee on at least one occasion to determine the Class Member's percentage share of the total funds available to distribute to Class Members. This will mean that the Class Members who were assessed more multiple overdraft fees for multiple overdrafts on a single day will receive a larger award than the Class Members who were assessed fewer such fees. By way of a hypothetical example, if a Class Member's "multiple fee assessments" amounted to .002% of the total for all of the Class Members, then his or her settlement award would be .002% of the amount of the Settlement Fund available for distribution to Class Members. If there were \$1,300,000 available for distribution to the Class Members (after payment of administration costs, attorneys' fees and costs, and other amounts payable from the Settlement Fund, as specified in the preceding paragraph), that Class Member would receive \$26.00 (which is $1,300,000 \times .002\%$). If a second Class Member was assessed fewer multiple fees, representing only .001% of the total, and the total available to distribute was, again, \$1,300,000, that second Class Member would receive \$13.00.

In order to determine these amounts, the Settlement Administrator will use information provided by the Bank about the notifications sent to customers about overdrafts and assessment of overdraft fees. Then all of the Class Members' total amounts will be added together to arrive at the "Class's Total" for the entire Class. The Settlement Administrator will then divide each Class Member's total amount by the "Class's Total," in order to determine a "Percentage Share" of the "Class's Total" for each Class Member. Each person receiving this notice will receive a settlement award equal to his or her Percentage Share multiplied by the portion of the Settlement Fund remaining after payment of all tax

expenses, administration costs, the fee and expense award and the service fee that have been approved by the Court unless he or she excludes himself or herself from the settlement, or unless the settlement fails to become "effective" for some other reason, such as the Court's disapproval of this settlement, or a successful appeal of it.

Westamerica will also change some of its overdraft-related practices if the settlement is approved. It will be bound by the settlement to charge no more than six overdraft fees for a single day's overdrafts, it will not charge an overdraft fee if the account is overdrawn by \$5.00 or less, and it will more clearly disclose what its current posting practice is, rather than what it may be or could be. These changes will be in effect for at least one year from the time the settlement becomes effective, unless regulations, regulatory guidance, or pronouncements or advisories by other legal authorities authorize or permit different practices.

The above is a summary of the settlement benefits. For a complete description of the settlement and what it obligates the parties to do, you may read the Settlement Agreement itself at www.westamericabanksettlement.com.

8. How do I participate in the settlement and get a settlement award if the Court approves of the settlement?

To participate and get a settlement award, you need do nothing. You need not research your account and you need not submit any claim form. You will participate and receive an award unless you "exclude" yourself from the Class Action.

9. If I participate in the settlement, how much will I receive?

Until the settlement process has been completed, it will not be possible to determine the precise amount of your award, including because the costs of administering the settlement are not currently known, and the number of participants in it are not currently known. You will receive a percentage of the Settlement Fund available for distribution to Class Members based on the relative amount of the multiple fees you were assessed, as described in Section 7, above.

10. When will I get my settlement award?

Checks for the amount of Class Members' settlement awards will be distributed after the settlement is final. Please keep in mind that all checks issued will remain valid and negotiable for ninety days from the date of issuance. All checks not cashed within that time may automatically be canceled. In that case, the check holder's claim on the Settlement Fund will be deemed null and void.

11. Am I giving anything up by remaining in the Class?

Yes. Unless you timely notify the Settlement Administrator that you do not want to be part of the settlement (which is called "excluding yourself" or "opting out"), you are part of the Class, and will be giving up your right to sue Westamerica Bank and related parties about its overdraft practices and disclosures. By remaining in the Class, court orders will apply to you, and you will give Westamerica Bank and related parties a "release." A release means you cannot sue or be part of any other lawsuit against Westamerica and its related parties about the claims or issues in this lawsuit. You will be bound by the terms of the settlement, and will be barred from suing Westamerica and related parties for claims related to the settled lawsuit or claims that might have been set forth in that lawsuit relating to Westamerica's overdraft practices and the way it has disclosed those practices in the past.

Your Rights – Objecting to the Settlement and Appearing at the Hearing

12. Can I tell the court I do not like the settlement?

Yes, if you do not exclude yourself from the Class, you may tell the court that you do not like the settlement or some part of it by submitting an objection. You may object to any of the terms of the settlement.

13. How do I object to the settlement?

You (or, if you have an attorney, your attorney) must file a written statement stating that you are a Class Member, describing your objection to the settlement and any reasons supporting your position, stating the name of the case (Trevino v. Westamerica Bank) and its case number (CIV 1003690) on the front of the document; stating your name, current address, and current telephone number. You must also provide a list of other cases in which you (and your attorney, if you have retained one) have appeared either as settlement objectors or as counsel for objectors in the preceding five years. This must be signed by you (even if you are represented by counsel) and filed with the Marin

Superior Court no later than **September 5, 2011**. You must also send a copy of this statement, via First Class U.S. mail, and postmarked by **September 5, 2011**, to each of the persons listed below:

Westamerica's Counsel

Susan K. Jamison
Coblentz, Patch, Duffy & Bass LLP
One Ferry Building, Suite 200
San Francisco, CA 94111-4213

Class Counsel

Jeffrey M. Ostrow
Kopelowitz Ostrow Ferguson Weiselberg Keechl
200 S.W. First Avenue, 12th Floor
Fort Lauderdale, FL 33301

14. Can I still receive a settlement award if I do object to the settlement?

If you do object to the settlement, you may obtain a settlement award if the Court approves the settlement despite your objection. If the Court agrees with your objection, and does *not* approve the settlement, you and other members of the Class will not receive a settlement award from the settlement, as the settlement agreement will not become effective.

15. Can I appear at the settlement hearing?

As long as you do not exclude yourself, you can (but do not have to) participate and speak for yourself. This is called making an appearance. You can also have your own lawyer speak for you, but you will have to pay for the lawyer yourself.

If you want to appear, or if you want your own lawyer to participate and speak for you regarding the settlement, you and/or your lawyer must first file an objection to the settlement (as described above in Section 13). **You must also include on the front of the objection the statement "I intend to appear at the hearing" and identify all persons you propose to call to testify at the hearing.** If you do not provide this notice that you intend to appear at the hearing, you will not be permitted to speak at the hearing, and if you do not identify your proposed witnesses you will not be permitted to call them to testify at the hearing.

Your Rights – Getting Out of the Settlement

16. Can I get out of the settlement?

You can get out of the settlement and the Class. This is called "excluding yourself" or "opting out." If you exclude yourself from the settlement, you will not receive any of the benefits of the settlement. However, you will not be bound by any judgment or settlement of the case and will keep your right to sue Westamerica independently, if you want.

17. How can I exclude myself from the settlement?

To exclude yourself from the settlement, you must submit a written statement by **September 5, 2011**, to the Trevino v. Westamerica Bank Settlement (c/o GCG, Inc., Exclusions, P.O. Box 9760, Dublin, OH 43017-5660) requesting exclusion from the Class. To be effective, this written request **must** contain your name, address, and telephone number, must be submitted via First Class U.S. mail, and postmarked by **September 5, 2011**. If you fail to submit a valid and timely request for exclusion in this manner, you will be bound by the settlement and judgment entered by the Court.

18. What is the difference between excluding myself and objecting?

Excluding yourself or opting out means getting out of the class action and settlement altogether – you would not receive any benefits or be bound by the terms of the settlement, and cannot appear at the hearing and object to the settlement. Objecting means you don't exclude yourself, but are complaining about some part of the settlement that you do not like and asking the Court not to approve of it.

What if You Do Nothing?

19. What if you do nothing?

You are not required to take any action after receiving this Notice. If you do nothing, you will be a Class Member, you will be bound by the terms of the settlement (which means you cannot bring a lawsuit against Westamerica regarding the claims made in the class action), and you will receive the benefits of the settlement if it is approved by the Court and becomes effective.

Who are the Lawyers Representing You?

20. Do I need to hire my own attorney?

You do not need to hire an attorney, but you can if you want to. Trevino, you, and the entire Class are already represented by the attorneys listed below, who are known as "Class Counsel." You do not need to pay for their services; they will be paid from the Settlement Fund. If you decide to hire your own attorney, you will have to pay for his or her services yourself. Your attorney must also file papers required to let the Court know that he or she will be appearing in this case.

Kopelowitz Ostrow Ferguson
Weiselberg Keechl
200 S.W. First Avenue
12th Floor
Fort Lauderdale, FL 33301
Tel: (954) 525-4100

Chitwood Harley Harnes LLP
2300 Promenade II
1230 Peachtree Street, N.E.
Atlanta, GA 30309
Tel: (404) 873-3900

Kabateck Brown Kellner LLP
644 South Figueroa Street
Los Angeles, CA 90017
Tel: (213) 217-5000

You may contact Class Counsel if you have any questions about this Notice or the settlement, but please *do not contact the Court*.

21. What will Class Counsel and Trevino get from this settlement?

Class Counsel have not received compensation for their services in bringing the lawsuit. They will seek to be paid from the Settlement Fund. They will ask the Court for an award of attorneys' fees in an amount not to exceed one-quarter (25%) of the \$2,000,000 Settlement Fund (or \$500,000), and a maximum of \$40,000 for their litigation expenses. Plaintiff Trevino will seek an award of \$5,000 from the Settlement Fund as an incentive fee for prosecuting this lawsuit. The Court will be asked to approve these amounts.

Final Approval of Settlement

22. When will the settlement be final?

The Court has tentatively scheduled a final settlement fairness hearing to be held on **November 16, 2011** to decide whether to approve the settlement, the requested award of attorneys' fees and expenses, the award of a service fee to Plaintiff Trevino for prosecuting this litigation, and the costs of administering this settlement. The Court is located at Marin County Superior Court, 3501 Civic Center Drive, San Rafael, California. The hearing may be rescheduled to a later time without further notice to you. You may, but do not have to, attend the final approval hearing. After the court rules on the final approval and either the time to appeal has expired or any appeal filed has been resolved in favor of the settlement, the settlement will become final.

More Information

23. Where can I get more information about this case, and what has occurred in it?

This Notice contains only a summary of the lawsuit and settlement. For more detailed information, you may review the Complaint, the Settlement Agreement And Mutual Releases, and other papers on file at the Marin County Superior Court, 3501 Civic Center Drive, San Rafael, California, or you can look at them at www.westamericabanksettlement.com.

Please direct any questions regarding this Notice and the settlement to the Trevino v. Westamerica Bank Settlement Administrator at 1-888-483-0645 or to Class Counsel. **PLEASE DO NOT TELEPHONE THE COURT.**

24. What are some important dates?

Deadline to file and postmark objections (including any requests to appear before the Court)	September 5, 2011
Deadline to postmark requests for exclusion	September 5, 2011
Final Approval Hearing	November 16, 2011