

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

FRANKIE LIPSETT,

Plaintiff,

vs.

BANCO POPULAR NORTH AMERICA  
d/b/a POPULAR COMMUNITY BANK,

Defendant.

Civil Action No.: 1:22-cv-03901-MMG

**DECLARATION OF CAMERON R. AZARI, ESQ REGARDING IMPLEMENTATION  
AND ADEQUACY OF NOTICE PLAN**

I, Cameron R. Azari, Esq., hereby declare and state as follows:

1. My name is Cameron R. Azari, Esq. I have personal knowledge of the matters set forth herein, and I believe them to be true and correct.

2. I am a nationally recognized expert in the field of legal notice and have served as an expert in hundreds of federal and state cases involving class action notice plans.

3. I am a Senior Vice President of Epiq Class Action and Claims Solutions, Inc. (“Epiq”) and the Director of Hilsoft Notifications, a business unit of Epiq that specializes in designing, developing, analyzing, and implementing large-scale, un-biased, legal notice plans.

4. The facts in this declaration are based on my personal knowledge, as well as information provided to me by my colleagues in the ordinary course of my business at Epiq.

**OVERVIEW**

5. This declaration details the successful implementation of the Settlement Notice Plan (“Notice Plan”) and notices (the “Notice” or “Notices”) for *Lipsett v. Banco Popular North America*, Case No. 1:22-cv-03901-MMG, in the United States District Court for the Southern District of New York. Epiq designed the Notice Plan based on our extensive prior experience and research into the notice issues particular to this case. The Notice Plan as designed and implemented provided the best notice practicable under the circumstances to the Settlement Class. My previously executed *Declaration of Cameron R. Azari, Esq. Regarding Notice Plan* (“Notice Plan Declaration”) that was

DECLARATION OF CAMERON R. AZARI, ESQ. REGARDING IMPLEMENTATION AND  
ADEQUACY OF NOTICE PLAN

filed with the Court on July 25, 2024 (ECF No. 51-2) described the Notice Plan, detailed Hilsoft’s class action notice experience, and attached Hilsoft’s *curriculum vitae*. I also provided my educational and professional experience relating to class actions and my ability to render opinions on overall adequacy of notice plans.

**NOTICE PLANNING METHODOLOGY**

6. Federal Rules of Civil Procedure, Rule 23 directs that notice must be “the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort” and that “the notice may be by one or more of the following: United States mail, electronic means, or other appropriate means.”<sup>1</sup> The Notice Plan satisfied these requirements.

7. This Notice Plan as designed and implemented reached the greatest practicable number of identified Settlement Class Members. The Notice Plan included individual notice by email and/or mail to identified Settlement Class Members. With the address updating protocols that were used, the Notice Plan individual notice efforts reached approximately 97.5% of the identified Settlement Class Members. The reach was further enhanced by a Settlement Website. In my experience, the reach of the Notice Plan was consistent with other court-approved notice plans, was the best notice practicable under the circumstances of this case, and satisfied the requirements of due process, including its “desire to actually inform” requirement.<sup>2</sup>

**CAFA NOTICE**

8. On August 2, 2024, Epiq sent 42 CAFA Notice Packages (“CAFA Notice”), as required by the federal Class Action Fairness Act of 2005 (CAFA), 28 U.S.C. § 1715. The CAFA Notice was mailed via United States Postal Service (“USPS”) Certified Mail to 39 officials, which

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<sup>1</sup> Fed. R. Civ. P. 23(c)(2)(B).

<sup>2</sup> *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 315 (1950) (“But when notice is a person’s due, process which is a mere gesture is not due process. The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it. The reasonableness and hence the constitutional validity of any chosen method may be defended on the ground that it is in itself reasonably certain to inform those affected . . .”).

included the Attorneys General of 34 states, District of Columbia, Puerto Rico, U.S. Virgin Islands, Federal Reserve Bank of New York, and New York Department of Financial Services. Per the direction of the Office of the Nevada and Connecticut Attorneys General, the CAFA Notice was sent to the Nevada and Connecticut Attorneys General electronically via email. The CAFA Notice was also sent via United Parcel Service (“UPS”) to the Attorney General of the United States. Details regarding the CAFA Notice mailing are provided in the *Declaration of Kyle S. Bingham on Implementation of CAFA Notice*, dated August 10, 2024, which is included as **Attachment 1**.

### **NOTICE PLAN DETAIL**

9. On July 26, 2024, the Court approved the Notice Plan and appointed Epiq as the Settlement Administrator in the *Order Granting Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement* (“Preliminary Approval Order”). In the Preliminary Approval Order, the Court approved, for settlement purposes, the following “Settlement Class”:

All holders of Popular Bank consumer checking accounts who during the Class Period were assessed and not refunded an overdraft (“OD”) fee in connection with: 1) a debit card or other ATM transaction on their account that was the subject of an authorization made on or before April 15, 2020; and/or 2) a debit card or other ATM transaction that was authorized against positive funds on or after April 16, 2020. Provided, however, that OD Fees assessed on or before August 6, 2018, against members of the settlement class in *Valle v. Popular Community Bank*, Index No. 653936/2012 (N.Y. Sup. Ct.), are not included in these two categories of OD Fees.

Excluded from the Settlement Class are Defendant, its parents, subsidiaries, affiliates, officers, and directors; all Settlement Class members who make a timely election to opt out; and all judges assigned to this litigation and their immediate family members.

10. After the Court’s Preliminary Approval Order was entered, Epiq implemented the Notice Plan. This declaration details the notice activities undertaken to date and explains how and why the Notice Plan was comprehensive and well-suited to reach the Settlement Class Members. This declaration also discusses the administration activity to date.

**NOTICE PLAN**

***Individual Notice***

11. On August 1, 2024, Epiq received one data file with 13,524 records for identified Settlement Class Members, including the names, current or last known postal addresses, and email addresses, if available (“Class List”). Epiq deduplicated and rolled-up the records and loaded the unique, identified Settlement Class Member records into its database. These efforts resulted in 13,521 identified Settlement Class Member records.

12. An Email Notice was sent to all identified Settlement Class Members for whom a valid email address was available and who have agreed to receive electronic communications from Defendant. A Postcard Notice was sent via United States Postal Service (“USPS”) first class mail to all identified Settlement Class Members with an associated physical address for whom a valid email address was not available, for those identified Settlement Class Members who have *not* agreed to receive notices from Defendant via email, and for whom the Email Notice was returned as undeliverable after several attempts. The Email Notice and Postcard Notice clearly described the Settlement and the legal rights of the Settlement Class Members. In addition, the Email Notice and Postcard Notice directed the recipients to a Settlement Website where they could access additional information.

***Individual Notice – Email***

13. On September 3, 2024, Epiq sent 2,546 Email Notices to identified Settlement Class Members for whom a valid email address is available and have agreed to receive electronic communications from Defendant. Some Settlement Class Members shared a common email address. As a result, one Email Notice, addressed to multiple Settlement Class Members, was sent to the shared email address. The Email Notice was drafted in such a way that the subject line, the sender, and the body of the message overcome SPAM filters and ensure readership to the fullest extent reasonably practicable. For instance, the Email Notice used an embedded html text format. This format provided easy to read text without graphics, tables, images, attachments, and other

elements that would increase the likelihood that the message would be blocked by Internet Service Providers (ISPs) and/or SPAM filters for this type of communication. The Email Notices were sent from an IP address known to major email providers as one not used to send bulk “SPAM” or “junk” email blasts. Each Email Notice was transmitted with a digital signature to the header and content of the Email Notice, which allowed ISPs to programmatically authenticate that the Email Notices were from our authorized mail servers. Each Email Notice was also transmitted with a unique message identifier. The Email Notice included an embedded link to the Settlement Website. By clicking the link, recipients were able to access the Long Form Notice and other information about the Settlement. The Email Notice includes a short statement in Spanish that a Spanish-translated version of the Long Form Notice is available at the Settlement Website. The Email Notice is included as **Attachment 2**.

14. If the receiving email server could not deliver the message, a “bounce code” was returned along with the unique message identifier. For any Email Notice for which a bounce code was received indicating that the message was undeliverable for reasons such as an inactive or disabled account, the recipient’s mailbox was full, technical autoreplies, etc., at least two additional attempts were made to deliver the Notice by email.

***Individual Notice – Direct Mail***

15. Commencing on September 3, 2024, Epiq sent 10,975 Postcard Notices to all identified Settlement Class Members with an associated physical address for whom a valid email address is not available and to those identified Settlement Class Members who have not agreed to receive notices from Defendant via email. Subsequently, on September 26, 2024, Epiq sent 243 Postcard Notices to all identified Settlement Class Members with an associated physical address for whom the Email Notice was returned as undeliverable after several attempts. The Postcard Notice was sent via USPS first class mail. The Postcard Notice clearly and concisely summarized the Settlement and the legal rights of the Settlement Class Members. In addition, the Postcard Notice also directed the recipients to the Settlement Website where they could access the Long

Form Notice and additional information about the case. The Postcard Notice includes a short statement in Spanish that a Spanish-translated version of the Long Form Notice is available at the Settlement Website. The Postcard Notice is included as **Attachment 3**.

16. Prior to sending the Postcard Notice, mailing addresses were checked against the National Change of Address (“NCOA”) database maintained by the USPS to ensure the Settlement Class Member address information was up-to-date and accurately formatted for mailing.<sup>3</sup> In addition, the addresses were certified via the Coding Accuracy Support System (“CASS”) to ensure the quality of the zip code, and verified through Delivery Point Validation (“DPV”) to verify the accuracy of the addresses. This address updating process is standard for the industry and for the majority of promotional mailings that occur today.

17. The return address on the Postcard Notices was a post office box that Epiq maintains for this case. The USPS automatically forwarded Postcard Notices with an available forwarding address order that has not expired (“Postal Forwards”). Postcard Notices returned as undeliverable were re-mailed to any new address available through USPS information, (for example, to the address provided by the USPS on returned mail pieces for which the automatic forwarding order has expired, but is still within the time period in which the USPS returns the piece with the address indicated), and to better addresses that were found using a third-party lookup service. Upon successfully locating better addresses, Postcard Notices were promptly remailed. As of November 25, 2024, 436 Postcard Notices have been remailed.

18. Additionally, a Long Form Notice, in English or Spanish, was mailed to all persons who requested one via the toll-free telephone number or by other means. As of November 25, 2024, Epiq mailed 28 Long Form Notices in English and 30 Long Form Notices in Spanish as a

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<sup>3</sup> The NCOA database is maintained by the USPS and consists of approximately 160 million permanent change-of-address (COA) records consisting of names and addresses of individuals, families, and businesses who have filed a change-of-address with the Postal Service™. The address information is maintained on the database for 48 months and reduces undeliverable mail by providing the most current address information, including standardized and delivery-point-coded addresses, for matches made to the NCOA file for individual, family, and business moves.

result of such requests. The Long Form Notice in English is included as **Attachment 4**. The Long Form Notice in Spanish is included as **Attachment 5**.

***Notice Results***

19. As of November 25, 2024, an Email Notice and/or Postcard Notice was delivered to 13,196 of the 13,521 unique, identified Settlement Class Members. This means the individual notice efforts reached approximately 97.5% of the identified Settlement Class Members.

***Settlement Website***

20. On September 3, 2024, Epiq established a Settlement Website with an easy to remember domain name ([www.LipsettOverdraftSettlement.com](http://www.LipsettOverdraftSettlement.com)). Relevant documents are posted on the Settlement Website, including the Complaint, Postcard Notice, Long Form Notice (in English and Spanish), Settlement Agreement, Motion for Preliminary Approval Order, Preliminary Approval Order, and Motion for Final Approval. In addition, the Settlement Website includes relevant dates, answers to frequently asked questions (“FAQs”), instructions for how Settlement Class Members may opt-out (request exclusion) from or object to the Settlement, contact information for the Settlement Administrator, and how to obtain other case-related information. The Settlement Website is available in English and Spanish. The Settlement Website address was prominently displayed in all notice documents. As of November 25, 2024, there have been 2,768 unique visitor sessions to the case website and 4,059 web pages have been presented.

***Toll-Free Telephone Number***

21. On September 3, 2024, Epiq established a toll-free telephone number (1-877-701-2656) to allow Settlement Class Members to call for additional information. Callers are able to hear an introductory message and have the option to learn more about the Settlement in the form of recorded answers to FAQs, and to request that a Long Form Notice in English or Spanish be mailed to them. The toll-free telephone number was prominently displayed in all notice documents. The automated telephone system is available 24 hours per day, 7 days per week. As

of November 25, 2024, there have been 408 calls to the toll-free telephone number representing 868 minutes of use.

22. A postal mailing address was also established, providing Settlement Class Members the opportunity to request additional information or ask questions.

***Requests for Exclusion and Objections***

23. The deadline to request exclusion from the Settlement or to object to the Settlement is December 9, 2024. As of November 25, 2024, Epiq has received no requests for exclusion. As of November 25, 2024, Epiq is not aware of any objections to the Settlement.

**PLAIN LANGUAGE NOTICE DESIGN**

24. The Notices were designed to be “noticed,” reviewed, and—by presenting the information in plain language—understood by Settlement Class Members. The design of the Notices followed the principles embodied in the Federal Judicial Center’s (“FJC”) illustrative “model” notices posted at [www.fjc.gov](http://www.fjc.gov). Many courts, and the FJC itself, have approved notices that Epiq has written and designed in a similar fashion. The Notices contained substantial, albeit easy-to-read summaries of all key information about Settlement Class Members’ rights and options. Consistent with our normal practice, all notice documents underwent a final edit prior to actual mailing and publication for grammatical errors and accuracy.

25. The Long Form Notice provided substantial information to Settlement Class Members. The Long Form Notice included (i) details regarding the Settlement Class Members’ ability to opt-out or object to the Settlement Agreement, (ii) the deadline to opt-out or object, and (iii) the date, time, and location of the Final Approval Hearing, among other information.

**CONCLUSION**

26. In class action notice planning, execution, and analysis, we are guided by due process considerations under the United States Constitution, by federal and local rules and statutes, and further by case law pertaining to notice. This framework directs that the notice plan be designed to reach the greatest practicable number of potential class members and, that the notice



or notice plan provide class members with easy access to the details of how the class action may impact their rights. All of these requirements were met in this case.

27. The Notice Plan individual notice efforts via email and/or mail to identified Settlement Class Members reached approximately 97.5% of the Settlement Class Members. The reach was further enhanced by a Settlement Website. The FJC’s Judges’ Class Action Notice and Claims Process Checklist and Plain Language Guide, which is relied upon for federal cases, states that, “the lynchpin in an objective determination of the adequacy of a proposed notice effort is whether all the notice efforts together will reach a high percentage of the class. It is reasonable to reach between 70–95%.”<sup>4</sup> Here, we have developed and implemented a Notice Plan that readily achieved a reach beyond the high end of that standard.

28. The Notice Plan followed the guidance for satisfying due process obligations that a notice expert gleans from the United States Supreme Court’s seminal decisions, which emphasize the need: (a) to endeavor to actually inform the Settlement Class, and (b) to ensure that notice is reasonably calculated to do so.

- a) “[W]hen notice is a person’s due, process which is a mere gesture is not due process. The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it,” *Mullane v. Central Hanover Trust*, 339 U.S. 306, 315 (1950); and
- b) “[N]otice must be reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections,” *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156 (1974) (citing *Mullane*, 339 U.S. at 314).

29. The Notice Plan provided the best notice practicable under the circumstances, conformed to all aspects of Federal Rule of Civil Procedure 23 regarding notice, comported with the guidance for effective notice articulated in the Manual for Complex Litigation, Fourth and

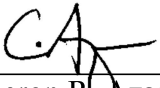
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<sup>4</sup> FED. JUDICIAL CTR, JUDGES’ CLASS ACTION NOTICE AND CLAIMS PROCESS CHECKLIST AND PLAIN LANGUAGE GUIDE 3 (2010), available at <https://www.fjc.gov/content/judges-class-action-notice-and-claims-process-checklist-and-plain-language-guide-0>.

applicable FJC materials, and satisfied the requirements of due process, including its “desire to actually inform” requirement.

30. The Notice Plan schedule affords enough time to provide full and proper notice to the Settlement Class Members before any opt-out or objection deadlines.

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 25, 2024.

  
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Cameron R. Azari, Esq.

# Attachment 1

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

FRANKIE LIPSETT,

Plaintiff,

vs.

BANCO POPULAR NORTH AMERICA d/b/a  
POPULAR COMMUNITY BANK,

Defendant.

Civil Action No. 1:22-cv-03901-MMG

**DECLARATION OF KYLE S. BINGHAM ON IMPLEMENTATION OF CAFA NOTICE**

I, KYLE S. BINGHAM, hereby declare and state as follows:

1. My name is KYLE S. BINGHAM. I am over the age of 25 and I have personal knowledge of the matters set forth herein, and I believe them to be true and correct.

2. I am the Director of Legal Noticing for Epiq Class Action & Claims Solutions, Inc. (“Epiq”), a firm that specializes in designing, developing, analyzing and implementing large-scale, unbiased, legal notification plans. I have overseen and handled Class Action Fairness Act (“CAFA”) notice mailings for more than 500 class action settlements.

3. Epiq is a firm with more than 25 years of experience in claims processing and settlement administration. Epiq’s class action case administration services include coordination of all notice requirements, design of direct-mail notices, establishment of fulfillment services, receipt and processing of opt-outs, coordination with the United States Postal Service (“USPS”), claims database management, claim adjudication, funds management and distribution services.

4. The facts in this Declaration are based on what I personally know, as well as information provided to me in the ordinary course of my business by my colleagues at Epiq.

**CAFA NOTICE IMPLEMENTATION**

5. At the direction of counsel for Defendant Popular Bank (formerly known as Banco Popular North America), 42 federal and state officials (the Attorney General of the United States and the

Attorneys General of 36 states, the District of Columbia, Puerto Rico, The U.S. Virgin Islands, the Federal Reserve Bank of New York, and the New York Department of Financial Services) were identified to receive CAFA notice.

6. Epiq maintains a list of these federal and state officials with contact information for the purpose of providing CAFA notice. Prior to mailing, the names and addresses selected from Epiq's list were verified, then run through the Coding Accuracy Support System ("CASS") maintained by the United States Postal Service ("USPS").<sup>1</sup>

7. On August 2, 2024, Epiq sent 42 CAFA Notice Packages ("Notice"). The Notice was mailed via USPS Priority Mail to 39 officials (the Attorneys General of 34 states, the District of Columbia, Puerto Rico, The U.S. Virgin Islands, the Federal Reserve Bank of New York, and the New York Department of Financial Services). As per the direction of the Office of the Nevada and Connecticut Attorneys General, the Notice was sent to the Nevada and Connecticut Attorneys General electronically via email. The Notice was also sent via United Parcel Service ("UPS") to the Attorney General of the United States. The CAFA Notice Service List (USPS Priority Mail, Email, and UPS) is included as **Attachment 1**.

8. The materials sent to the federal and state officials included a Cover Letter, which provided notice of the proposed Settlement of the above-captioned case. The Cover Letter is included as **Attachment 2**.

9. The cover letter was accompanied by a CD, which included the following:

- a. **Per 28 U.S.C. § 1715(b)(1) – Complaint and Any Amended Complaints:**
  - Class Action Complaint with Exhibit (filed May 13, 2022).
- b. **Per 28 U.S.C. § 1715(b)(3) – Notification to Class Members:**

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<sup>1</sup> CASS improves the accuracy of carrier route, 5-digit ZIP®, ZIP + 4® and delivery point codes that appear on mail pieces. The USPS makes this system available to mailing firms who want to improve the accuracy of postal codes, i.e., 5-digit ZIP®, ZIP + 4®, delivery point (DPCs), and carrier route codes that appear on mail pieces.

- Email Notice and Postcard Notice (*Exhibit 1 to the Settlement Agreement and Releases*); and
  - Long Form Notice (*Exhibit 2 to the Settlement Agreement and Releases*).
- c. **Per 28 U.S.C. § 1715(b)(4) – Class Action Settlement Agreement:** The following documents were included:
- Settlement Agreement and Releases; and
    - [Proposed] Order Granting Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action Settlement (*Exhibit 3 to the Settlement Agreement and Releases*).
- d. **Per 28 U.S.C. § 1715(b)(7) – Estimate of Class Members:** A Geographic Analysis providing the total amount of disputed fees paid by class members in each geographic region was included on the CD.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 10, 2024.

  
\_\_\_\_\_  
KYLE S. BINGHAM

# **Attachment 1**

## CAFA Notice Service List

## USPS Priority Mail

Appropriate Official	FullName	Address1	Address2	City	State	Zip
Office of the Attorney General	Treg Taylor	1031 W 4th Ave	Suite 200	Anchorage	AK	99501
Office of the Attorney General	Steve Marshall	501 Washington Ave		Montgomery	AL	36104
Office of the Attorney General	Kris Mayes	2005 N Central Ave		Phoenix	AZ	85004
Office of the Attorney General	CAFA Coordinator	Consumer Protection Section	455 Golden Gate Ave Suite 11000	San Francisco	CA	94102
Office of the Attorney General	Phil Weiser	Ralph L Carr Colorado Judicial Center	1300 Broadway Fl 10	Denver	CO	80203
Office of the Attorney General	Brian Schwalb	400 6th St NW		Washington	DC	20001
Office of the Attorney General	Kathy Jennings	Carvel State Bldg	820 N French St	Wilmington	DE	19801
Office of the Attorney General	Ashley Moody	State of Florida	The Capitol PL-01	Tallahassee	FL	32399
Office of the Attorney General	Chris Carr	40 Capitol Square SW		Atlanta	GA	30334
Iowa Attorney General	Brenna Bird	Hoover State Office Building	1305 E Walnut St	Des Moines	IA	50319
Office of the Attorney General	Raul Labrador	700 W Jefferson St Ste 210	PO Box 83720	Boise	ID	83720
Office of the Attorney General	Kwame Raoul	100 W Randolph St		Chicago	IL	60601
Office of the Indiana Attorney General	Todd Rokita	Indiana Government Center South	302 W Washington St Rm 5	Indianapolis	IN	46204
Office of the Attorney General	Russell Coleman	700 Capitol Ave Suite 118		Frankfort	KY	40601
Office of the Attorney General	Liz Murrill	PO Box 94005		Baton Rouge	LA	70804
Office of the Attorney General	Andrea Campbell	1 Ashburton Pl 20th Fl		Boston	MA	02108
Office of the Attorney General	Anthony G Brown	200 St Paul Pl		Baltimore	MD	21202
Office of the Attorney General	Aaron Frey	6 State House Station		Augusta	ME	04333
Department of Attorney General	Dana Nessel	PO BOX 30212		Lansing	MI	48909
Missouri Attorney General's Office	Andrew Bailey	207 West High Street	PO Box 899	Jefferson City	MO	65102
Attorney General's Office	Josh Stein	9001 Mail Service Ctr		Raleigh	NC	27699
Nebraska Attorney General	Mike Hilgers	2115 State Capitol	PO Box 98920	Lincoln	NE	68509
Office of the Attorney General	John Formella	NH Department of Justice	33 Capitol St	Concord	NH	03301
Office of the Attorney General	Matthew J Platkin	25 Market Street	PO Box 080	Trenton	NJ	08625
Office of the Attorney General	Dave Yost	30 E Broad St Fl 14		Columbus	OH	43215
Office of the Attorney General	Gentner Drummond	313 NE 21st St		Oklahoma City	OK	73105
Office of the Attorney General	Michelle A Henry	16th Fl Strawberry Square		Harrisburg	PA	17120
Office of the Attorney General	Peter F Neronha	150 S Main St		Providence	RI	02903
Office of the Attorney General	Alan Wilson	PO Box 11549		Columbia	SC	29211
Office of the Attorney General	Jonathan Skrmetti	PO Box 20207		Nashville	TN	37202
Office of the Attorney General	Ken Paxton	PO Box 12548		Austin	TX	78711
Office of the Attorney General	Sean D Reyes	PO Box 142320		Salt Lake City	UT	84114
Office of the Attorney General	Jason S Miyares	202 N 9th St		Richmond	VA	23219
Office of the Attorney General	Bob Ferguson	800 5th Ave Ste 2000		Seattle	WA	98104
Office of the Attorney General	Josh Kaul	PO Box 7857		Madison	WI	53707
PR Department of Justice	Domingo Emanuelli Hernández	PO Box 9020192		San Juan	PR	00902
Department of Justice	Gordon C. Rhea	3438 Kronprindsens Gade Ste 2	GERS BLDG	St Thomas	VI	00802
Federal Reserve Bank of New York	Office of the Corporate Secretary	33 Liberty Street		New York	NY	10045
New York Department of Financial Services	Office of General Counsel	One State Street		New York	NY	10004



Email

Appropriate Official	Contact Format	State
Office of the Attorney General for Connecticut	All documents sent to CT AG at their dedicated CAFA email inbox.	CT
Office of the Attorney General for Nevada	All documents sent to NV AG at their dedicated CAFA email inbox.	NV

UPS

Appropriate Official	FullName	Address1	Address2	City	State
US Department of Justice	Merrick B. Garland	950 Pennsylvania Ave NW		Washington	DC

# **Attachment 2**

**CAFA NOTICE ADMINISTRATOR**

HILSOFT NOTIFICATIONS  
10300 SW Allen Blvd  
Beaverton, OR 97005  
P 503-350-5800  
DL-CAFA@epiqglobal.com

August 2, 2024

**VIA UPS OR USPS PRIORITY MAIL**

**Class Action Fairness Act – Notice to Federal and State Officials**

Dear Federal and State Officials:

Pursuant to the Class Action Fairness Act of 2005 (“CAFA”), codified at 28 U.S.C. § 1715, please find enclosed information from Defendant Popular Bank (formerly known as Banco Popular North America) relating to the proposed settlement of a class action lawsuit. This Notice is being served within 10 days from the filing of the Settlement Agreement.

- **Case:** *Lipsett v. Banco Popular North America*, Case No. 1:22-cv-03901-MMG.
- **Court:** United States District Court for the Southern District of New York.
- **Defendant:** Popular Bank (formerly known as Banco Popular North America).
- **Documents Enclosed:** In accordance with the requirements of 28 U.S.C. § 1715, please find copies of the following documents associated with this action on the enclosed CD:
  1. **Per 28 U.S.C. § 1715(b)(1) – Complaint and Any Amended Complaints:**
    - Class Action Complaint with Exhibit (filed May 13, 2022).
  2. **Per 28 U.S.C. § 1715(b)(2) – Notice of Any Scheduled Judicial Hearing:** The Court has scheduled a Final Approval Hearing for January 7, 2025, at 9:30 a.m., in Courtroom 906 at the United States District Court for the Southern District of New York, 40 Foley Square, in New York, New York.
  3. **Per 28 U.S.C. § 1715(b)(3) – Notification to Class Members:**
    - Email Notice and Postcard Notice (*Exhibit 1 to the Settlement Agreement and Releases*); and
    - Long Form Notice (*Exhibit 2 to the Settlement Agreement and Releases*).
  4. **Per 28 U.S.C. § 1715(b)(4) – Class Action Settlement Agreement:** The following documents are included:
    - Settlement Agreement and Releases; and
      - [Proposed] Order Granting Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action Settlement (*Exhibit 3 to the Settlement Agreement and Releases*).

**CAFA NOTICE ADMINISTRATOR**

HILSOFT NOTIFICATIONS  
10300 SW Allen Blvd  
Beaverton, OR 97005  
P 503-350-5800  
DL-CAFA@epiqglobal.com

5. **Per 28 U.S.C. § 1715(b)(5) – Any Settlement or Other Agreements:** There are no other Settlements or Agreements between the parties.
6. **Per 28 U.S.C. § 1715(b)(6) – Final Judgment or Notice of Dismissal:** To date, the Court has not issued a final order, judgment or dismissal in the above-referenced action.
7. **Per 28 U.S.C. § 1715(b)(7) – Estimate of Class Members:** A Geographic Analysis providing the total amount of disputed fees paid by class members in each geographic region is included on the enclosed CD.

The proposed definition of the class in the Settlement Agreement is:

All holders of Popular Bank consumer checking accounts who during the Class Period were assessed and not refunded an overdraft (“OD”) fee in connection with: 1) a debit card or other ATM transaction on their account that was the subject of an authorization made on or before April 15, 2020; and/or 2) a debit card or other ATM transaction that was authorized against positive funds on or after April 16, 2020. Provided, however, that OD Fees assessed on or before August 6, 2018, against members of the settlement class in *Valle v. Popular Community Bank*, Index No. 653936/2012 (N.Y. Sup. Ct.), are not included in these two categories of OD Fees.

Excluded from the Settlement Class are Defendant, its parents, subsidiaries, affiliates, officers, and directors; all Settlement Class members who make a timely election to opt out; and all judges assigned to this litigation and their immediate family members.

8. **28 U.S.C. § 1715(b)(8) – Judicial Opinions Related to the Settlement:**
  - Order Granting Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action Settlement.

\* \* \*

**CAFA NOTICE ADMINISTRATOR**

HILSOFT NOTIFICATIONS  
10300 SW Allen Blvd  
Beaverton, OR 97005  
P 503-350-5800  
DL-CAFA@epiqglobal.com

If you have questions or concerns about this notice or the enclosed materials, please contact Defendant Popular Bank's counsel:

Michael Kieval  
Weiner Brodsky Kider PC  
1300 19th St. N.W.  
Fifth Floor  
Washington, DC 20036-1609  
(202) 628-2000  
kieval@thewbkfirm.com

Sincerely,

CAFA Notice Administrator

Enclosures

# Attachment 2

**From:** noreply\_LipsettOverdraftSettlement <noreply@LipsettOverdraftSettlement.com>  
**To:** [REDACTED]  
**Subject:** Class Action Notice - Lipsett v Popular Bank Settlement

[REDACTED]

United States District Court for the Southern District of New York

*Lipsett v. Banco Popular North America*  
Case No. 22-cv- 3901, S.D.N.Y.

**If you have or had a consumer checking account with Popular Bank and were charged an overdraft fee on certain debit card or ATM transactions on or after May 13, 2016, you may be eligible for a cash payment from a class action settlement.**

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

**You can learn more at: [www.LipsettOverdraftSettlement.com](http://www.LipsettOverdraftSettlement.com)**

*Si desea recibir esta notificación en español, llámenos o visite nuestra página web:*  
[www.LipsettOverdraftSettlement.com](http://www.LipsettOverdraftSettlement.com)

A \$1.5 million settlement has been reached in a class action lawsuit filed against Popular Bank (“Defendant”). Plaintiff Lipsett filed this lawsuit against the Defendant alleging a breach of contract when the Defendant assessed overdraft fees on what are sometimes called “Authorize Positive, Settle Negative Transactions” (“APSN Transactions”). This is where a bank assesses an overdraft fee on a transaction that overdraws the account when it clears, although the transaction was previously authorized against sufficient available funds. The Defendant acknowledges that it assessed overdraft fees on these types of transactions in some instances but maintains that the account agreement permitted it to do so. The Defendant denies these legal claims. The Court has not decided who is right.

**You are receiving this Notice because you may be a Settlement Class Member.** You are a “Settlement Class Member” if you come under the following “Settlement Class” definition: “All holders of Popular Bank consumer checking accounts who during



the Class Period [May 13, 2016, to July 26, 2024] were assessed and not refunded an overdraft (“OD”) fee in connection with (1) a debit card or other ATM transaction on their account that was the subject of an authorization made on or before April 15, 2020; and/or (2) a debit card or other ATM transaction that was authorized against positive funds on or after April 16, 2020. Provided, however, that OD Fees assessed on or before August 6, 2018, against members of the Settlement Class in *Valle v. Popular Community Bank*, Index No. 653936/2012 (N.Y. Sup. Ct.), are not included in these two categories of OD Fees.”

**If you are a Settlement Class Member, you do not need to do anything to receive your cash payment.** If the Settlement receives final approval from the Court, you will get your payment automatically, unless you request exclusion from the Settlement Class. Current Accountholders will receive an account credit. Past Accountholders will receive a check. For a jointly held Account of one or more Current Accountholders, payment will be deposited into an account of the primary Accountholder. For a jointly held Account of a Past Accountholder, payment will be made by sending a check that will be payable to the primary Accountholder named on the Account and mailed to the last known address for the primary Accountholder.

**What does the Settlement Provide?** As a result of the Settlement, a \$1,500,000 Settlement Fund will be established for the Settlement and will be used to pay for (1) Settlement Administration Costs; (2) the Service Award; and (3) the attorneys’ Fee and Cost Award. The amount remaining if these items are paid is the “Net Settlement Fund.” The Net Settlement Fund will then be used to make automatic Settlement Class Member Payments (an account credit or payment by check) to all Settlement Class Members who do not request exclusion from the Settlement Class.

Payments to each Settlement Class Member will be distributed on a pro rata (a legal term meaning equal) basis and calculated as follows:  $(\text{Net Settlement Fund} \div \text{Total Amount of Class Fees of Settlement Class Members}) \times (\text{Total Amount of Class Fees [meaning overdraft fees covered by the Settlement that were assessed to your Account and not refunded] you as an individual Settlement Class Member were charged and paid in connection with the transactions at issue}) = \text{Settlement Class Member Payment}$ .

**Opt Out:** If you want to keep the right to sue or continue to sue the Released Parties for the legal claims in this lawsuit, and you do not want to receive a cash payment from this Settlement, you must take steps to exclude yourself from the Settlement. Your written request for exclusion must be **postmarked by December 9, 2024**. Details for how to opt out are available on the Settlement Website. If you do not opt out, you will give up the right to sue the Released Parties about the legal claims released by the Settlement and you will be bound by the orders and judgment in this lawsuit.

**Object:** If you want to tell the Court why you do not like the Settlement, and you have not excluded yourself, you may take steps to object to the Settlement. If you choose to object, you will still be bound by the Settlement if the Court approves it, and you will still receive a cash payment if you are a Settlement Class Member. You must **file** your written objection with the Court by **December 9, 2024**. Details for how to object are available on the Settlement Website.

**Final Approval Hearing:** On **January 7, 2025**, the Court will consider approving the Settlement, attorneys’ fees request of up to 1/3 of the Settlement Fund plus reimbursement of costs, and objections. Changes to the hearing date or time will be on the Settlement Website. If you are a Settlement Class Member, you or your lawyer may

Speak at the Final Approval Hearing if you timely file an objection and a Notice of Intent to Appear.

**Do Nothing:** If you do nothing, you may be eligible to receive a cash payment. If you are eligible and do not exclude yourself from the Settlement, you will receive this benefit automatically if the Settlement is approved by the Court. By doing nothing, you will release your legal claims against the Released Parties, and you will be bound by the Settlement.

**Class Counsel:** The Court has appointed Jeffrey Kaliei of KalieiGold PLLC and Michael R. Reese of Reese LLP to be the lawyers for the Settlement Class.

**This Notice is a summary. More details are available in the Settlement Agreement and Long-Form Notice at [www.LipsettOverdraftSettlement.com](http://www.LipsettOverdraftSettlement.com) or by calling toll-free at 1-877-701-2656.**

AK454 v.03

You are subscribed to this email as [REDACTED]  
Click here to modify your [preferences](#) or [unsubscribe](#).

# Attachment 3

Popular Bank Fee Class Action  
Settlement Administrator  
P.O. Box 2798  
Portland, OR 97208-2798

**Court-Approved Legal Notice**

*Lipsett v. Banco Popular North America*  
Case No. 22-cv-3901, S.D.N.Y.

*This is not a solicitation from a lawyer*

**If you have or had a consumer checking account with Popular Bank and were charged an overdraft fee on certain debit card or ATM transactions on or after May 13, 2016, you may be eligible for a cash payment from a class action settlement.**

LipsettOverdraftSettlement.com  
1-877-701-2656

*Si desea recibir esta notificación en español, llámenos o visite nuestra página web: LipsettOverdraftSettlement.com.*

[REDACTED]

[REDACTED]

A \$1.5 million settlement has been reached in a class action lawsuit filed against Popular Bank (“Defendant”). Plaintiff Frankie Lipsett filed this lawsuit against the Defendant, alleging a breach of contract when the Defendant assessed overdraft fees on what are sometimes called “Authorize Positive, Settle Negative Transactions” (“APSN Transactions”). This is where a bank assesses an overdraft fee on a transaction that overdraws the account when it clears, although the transaction was previously authorized against sufficient available funds. The Defendant acknowledges that it assessed overdraft fees on these types of transactions in some instances but maintains that the account agreement permitted it to do so and denies any liability. The Defendant denies these legal claims. The Court has not decided who is right.

**You are receiving this notice because you may be a Settlement Class Member.** You are a “Settlement Class Member” if you come under the following definition: All holders of Popular Bank consumer checking accounts who during the Class Period [May 13, 2016, to July 26, 2024] were assessed and not refunded an overdraft (“OD”) fee in connection with (1) a debit card or other ATM transaction on their account that was the subject of an authorization made on or before April 15, 2020, and/or (2) a debit card or other ATM transaction that was authorized against positive funds on or after April 16, 2020, provided that OD Fees assessed on or before August 6, 2018, against members of the settlement class in *Valle v. Popular Community Bank*, Index No. 653936/2012 (N.Y. Sup. Ct.), are not included in these two categories of OD Fees.

**If you are a Settlement Class Member, you do not need to do anything to receive a payment.** If the Settlement receives Final Approval from the Court, you will receive payment automatically, unless you request exclusion from the Settlement Class. Current Accountholders will receive an account credit. Past Accountholders will receive a check. For a jointly held Account of one or more Current Accountholders, payment will be deposited into an account of the primary Accountholder, whether or not such account is jointly held. For a jointly held Account of a Past Accountholder, payment will be made by sending a check that will be payable to the primary Accountholder named on the Account and mailed to the last known address for the primary Accountholder.

**What does the Settlement provide?** As a result of the Settlement, a \$1,500,000 Settlement Fund will be established and used to pay (1) Settlement Administration Costs, (2) the Service Award, and (3) the attorneys’ Fee and Cost Award. The amount remaining after these items are paid, if any, is the “Net Settlement Fund.” The Net Settlement Fund will be used to make automatic Settlement Class Member Payments to Settlement Class Members who do not opt out.

**This notice is a summary. More details are available at [LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com) or by calling 1-877-701-2656 toll-free.**

Payments will be distributed on a pro rata (equal) basis and calculated as follows:  $(\text{Net Settlement Fund} / \text{Total Amount of Class Fees of Settlement Class Members}) \times (\text{Total Amount of Class Fees [meaning overdraft fees covered by the Settlement that were assessed to your Account and not refunded] you as an individual Settlement Class Member were charged and paid in connection with the transactions at issue}) = \text{Settlement Class Member Payment}$ .

**Opt Out:** If you want to keep your right to sue or continue to sue the Released Parties for the legal claims in this lawsuit and do not want to receive a cash payment from this Settlement, you must opt out. Your written request for exclusion must be postmarked by **December 9, 2024**. Details on how to exclude yourself are available on the Settlement Website. If you do not opt out, you will give up your right to sue the Released Parties about the legal claims released by the Settlement and will be bound by the orders and judgment in this lawsuit.

**Object:** If you want to tell the Court why you do not like the Settlement and have not excluded yourself, you may object to the Settlement. If you object and the Court approves the Settlement, you will still be bound by the Settlement and will still receive a cash payment. You must **file** your written objection with the Court by **December 9, 2024**. Details for how to object are available on the Settlement Website.

**Attend the Hearing:** On **January 7, 2025**, the Court will consider approving the Settlement and attorneys’ fees request of up to 1/3 of the Settlement Fund plus reimbursement of costs and objections. Changes to the hearing date or time will be posted on the Settlement Website. If you are a Settlement Class Member, you or your lawyer may speak at the Final Approval Hearing so long as you timely file an objection and a Notice of Intent to Appear.

**Do Nothing:** If you do nothing, you may be eligible to receive a cash payment. If you are eligible and do not exclude yourself from the Settlement, you will receive this benefit automatically if the Court approves the Settlement. By doing nothing, you will release your legal claims against the Released Parties and will be bound by the Settlement.

**Settlement Class Members are represented by Class Counsel.** The Court appointed Jeffrey Kaliei of KalieiGold PLLC and Michael R. Reese of Reese LLP to be the lawyers for the Settlement Class.

AK4402 v.02

# Attachment 4

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

**If you have or had a consumer checking account with Popular Bank and you were charged an overdraft fee on certain debit card or ATM transactions on or after May 13, 2016, you may be eligible for a cash payment from a class action Settlement.**

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

*Si desea recibir esta notificación en español, llámenos o visite nuestra página web:  
LipsettOverdraftSettlement.com.*

A \$1,500,000 settlement has been reached in a class action lawsuit filed against Popular Bank (“Defendant”). The Plaintiff filed this lawsuit against the Defendant alleging a breach of contract when the Defendant assessed overdraft fees on what are sometimes called “Authorize Positive, Settle Negative Transactions” (“APSN Transactions”). This is where a bank assesses an overdraft fee on a transaction that overdraws the account when it clears, although the transaction was previously authorized against sufficient available funds. The Defendant denies these legal claims. The Court has not decided who is right.

You are a “Settlement Class Member” if you come under the following Settlement Class definition:

All holders of Popular Bank consumer checking accounts who, during the Class Period, were assessed and not refunded an overdraft (“OD”) fee in connection with (1) a debit card or other ATM transaction on their account that was the subject of an authorization made on or before April 15, 2020; and/or (2) a debit card or other ATM transaction that was authorized against positive funds on or after April 16, 2020. Provided, however, that OD Fees assessed on or before August 6, 2018, against members of the Settlement Class in *Valle v. Popular Community Bank*, Index No. 653936/2012 (N.Y. Sup. Ct.), are not included in these two categories of OD Fees.

If you are a Settlement Class Member, you do not need to do anything to receive your cash payment. If the Settlement receives final approval from the Court, you will get your payment automatically. Current Accountholders will receive an account credit. Past Accountholders will receive a check.

**This Notice may affect your rights. Please read it carefully.**

YOUR LEGAL RIGHTS AND OPTIONS		DEADLINE
<b>Exclude Yourself</b>	Get no cash payment and keep any right to file your own lawsuit against the Released Parties about the legal claims in this lawsuit that are released by the Settlement.	<b>December 9, 2024</b>
<b>Object</b>	Tell the Court why you do not like the Settlement. You will still be bound by the Settlement if the Court approves it, and you will still receive a cash payment if you are a Settlement Class Member.	<b>December 9, 2024</b>
<b>Do Nothing</b>	If you do nothing, you may be eligible to receive a cash payment. If you are eligible and do not exclude yourself from the Settlement, you will receive this benefit automatically if the Settlement is approved by the Court. By doing nothing, you will also release your legal claims against the Released Parties, and you will be bound by the Settlement.	

These rights and options—and the deadlines to exercise them—are explained in this Notice.

If you have any questions about this Notice, the Settlement, or your eligibility to participate in the Settlement, please visit LipsettOverdraftSettlement.com or call toll-free at 1-877-701-2656.

**Questions? Call 1-877-701-2656 or visit LipsettOverdraftSettlement.com.**

## BASIC INFORMATION

### 1. Why is this Notice being provided?

A federal court authorized this Notice because you have the right to know about the proposed Settlement of this class action lawsuit and about all of your rights and options before the Court decides whether to grant final approval to the Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for the benefits, and how to get them.

The Honorable Judge Margaret M. Garnett of the United States District Court for the Southern District of New York is overseeing this class action. The lawsuit is known as *Lipsett v. Banco Popular North America*, Case No. 22-cv-3901 (S.D.N.Y.). The person who filed the lawsuit is called the “Plaintiff” and the company sued, Popular Bank (formerly known as Banco Popular North America), is called the “Defendant.”

### 2. What is this lawsuit about?

The Plaintiff filed this lawsuit against the Defendant alleging a breach of contract when the Defendant assessed overdraft fees on what are sometimes called “Authorize Positive, Settle Negative Transactions” (“APSN Transactions”). This is where a bank assesses an overdraft fee on a transaction that overdraws the account when it clears, although the transaction was previously authorized against sufficient available funds. The Defendant acknowledges it assessed overdraft fees on these types of transactions in some instances but maintains the account agreement permitted it to do so. Defendant denies any liability. The Court has not decided who is right.

### 3. What is a class action?

In a class action lawsuit, one or more persons called Plaintiffs sue on behalf of other persons that have similar legal claims. The people are a “Class” or “Settlement Class Members.” In this lawsuit, the person who sued is called the “Plaintiff.” The company and people they are suing, Popular Bank, is called the “Defendant.” One court resolves the issues for everyone in the Class, except for those people who choose to exclude themselves (opt out) from the Class.

### 4. Why is there a Settlement?

The Court has not decided in favor of the Plaintiff or the Defendant. Instead, both sides agreed to a Settlement to avoid the cost and risk of a trial. The Plaintiff and Class Counsel believe the Settlement is best for the Settlement Class and represents a fair, reasonable, and adequate resolution of the lawsuit.

The Defendant denies the legal claims in the lawsuit; denies all allegations of wrongdoing, fault, liability or damage to the Plaintiff and the Settlement Class; and denies they acted improperly or wrongfully in any way. The Defendant nevertheless recognizes the expense and time that would be required to defend the lawsuit through trial and has taken this into account in agreeing to the Settlement.

## WHO IS IN THE SETTLEMENT?

To see if you are eligible for a cash payment, you first have to determine if you are a Settlement Class Member.

### 5. Am I part of the Settlement?

The Settlement Class includes all Accountholders of Popular Bank consumer checking accounts who during the Class Period (May 13, 2016, to July 26, 2024) were assessed, and not refunded, an overdraft fee in connection with (1) a debit card or other ATM transaction on their account on or before April 15, 2020, (regardless of whether the authorization was against positive funds); and/or (2) a debit card or other ATM transaction that was authorized against positive funds on or after April 16, 2020. If you were a member of the Settlement Class in the *Valle v. Popular Community Bank*, Index No. 653936/2012 (N.Y. Sup. Ct.) lawsuit, then overdraft fees which you were assessed on or before August 6, 2018, are not included in these two categories of overdraft fees.

**Questions? Call 1-877-701-2656 or visit [LipsettOverdraftSettlement.com](https://LipsettOverdraftSettlement.com).**



The formal definition of the Settlement Class is as follows.

All holders of Popular Bank consumer checking accounts who, during the Class Period, were assessed and not refunded an overdraft (“OD”) fee in connection with (1) a debit card or other ATM transaction on their account that was the subject of an authorization made on or before April 15, 2020; and/or (2) a debit card or other ATM transaction that was authorized against positive funds on or after April 16, 2020. Provided, however, that OD Fees assessed on or before August 6, 2018, against members of the Settlement Class in *Valle v. Popular Community Bank*, Index No. 653936/2012 (N.Y. Sup. Ct.), are not included in these two categories of OD Fees.

You are excluded from being a Settlement Class Member if you are (a) the Defendant, its parents, subsidiaries, affiliates, officers, and directors; (b) all Settlement Class Members who make a timely election to opt out; and (c) all judges assigned to this litigation and their immediate family members.

## 6. What if I am still not sure whether I am part of the Settlement?

If you are still not sure whether you are a Settlement Class Member, you may go to the Settlement Website at [LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com) or call 1-877-701-2656.

## THE SETTLEMENT BENEFITS – WHAT YOU CAN GET

### 7. What does the Settlement provide?

As a result of the Settlement, a \$1,500,000 Settlement Fund will be established for the Settlement and will be used to pay for (1) Settlement Administration Costs; (2) the Service Award to the Class Representative; (3) the attorneys’ Fee and Cost Award. The amount remaining after these items are paid, if any, is the “Net Settlement Fund.” The Net Settlement Fund will then be used to make automatic Settlement Class Member Payments (an account credit or payment by check) to all Settlement Class Members who do not request exclusion from the Settlement Class.

### 8. How will the amount of the cash payments be determined?

Payments to each Settlement Class Member will be distributed on a pro rata (a legal term meaning equal) basis and calculated as follows:

(Net Settlement Fund divided by the Total Dollar Amount of Class Fees of Settlement Class Members) x (Total Dollar Amount of Class Fees [meaning overdraft fees covered by the Settlement that were assessed to your Account and not refunded] you as an individual Settlement Class Member were charged and paid in connection with the transactions at issue) = Settlement Class Member Payment.

## HOW TO GET BENEFITS FROM THE SETTLEMENT

### 9. Do I have to file a claim to receive a cash payment?

No. If the Settlement is approved, a cash payment will be made automatically to you as a Settlement Class Member unless you request exclusion from the Settlement Class. Current Accountholders with Popular Bank at the time cash payments are made will automatically receive a deposit to their account. Past Accountholders will automatically receive a check for their cash payment. You do not need to file a claim to receive a cash payment.

For a jointly held Account of one or more Current Accountholders, payment will deposit into an account of the primary Accountholder whether or not such account is jointly held. For a jointly held Account of a Past Accountholder, a check payable to the primary Accountholder named on the Account will be sent to the last-known address for the primary Accountholder.

### 10. When will I receive my cash payment?

The Court will hold a Final Approval Hearing on **January 7, 2025**, (which is subject to change), to decide whether to finally approve the Settlement. Even if the Court finally approves the Settlement, there may be appeals. The appeal process can take time, perhaps more than a year. You will not receive a cash payment until any appeals are resolved. Please be patient and check [LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com) for updates.

**Questions? Call 1-877-701-2656 or visit [LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com).**

**11. What am I giving up to receive a cash payment from the Settlement?**

Unless you exclude yourself (opt out) from being a Settlement Class Member by timely submitting a request for exclusion, you will remain a Settlement Class Member. This means as a Settlement Class Member you cannot sue, continue to sue, or be part of any other lawsuit against the Released Parties about the legal issues in this lawsuit. It also means the Court's orders and any judgments will apply to you and legally bind you, and you will release the legal claims detailed in the Settlement Agreement. The Release is provided in the Settlement Agreement in Section 13 in necessary legal terminology. The Settlement Agreement is available at [LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com).

**THE LAWYERS REPRESENTING YOU****12. Do I have lawyers in this case?**

Yes, the Court has appointed lawyers Jeffrey Kaliel of KalielGold PLLC and Michael R. Reese of Reese LLP to represent you and the other Settlement Class Members. The lawyers are called Class Counsel. They are experienced in handling class action lawsuits. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense, but you do not need to.

Michael R. Reese Reese LLP 100 West 93 <sup>rd</sup> Street, 16 <sup>th</sup> Floor New York, New York 10025	Jeffrey Kaliel KALIELGOLD PLLC 1100 15 <sup>th</sup> Street, NW, 4 <sup>th</sup> Floor Washington, D.C. 20005
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**13. How will the lawyers be paid?**

Class Counsel will request an Attorneys' Fee of one-third of the Settlement Fund and separately seek reimbursement of costs and expenses. In addition, Class Counsel will request the Court approve a Service Award for the Class Representative (Frankie Lipsett) up to \$10,000 for their efforts in pursuing this lawsuit. If awarded by the Court, the Attorneys' Fee and Cost Award and the Service Award will be paid from the Settlement Fund. The Court may award less than these amounts for the Attorneys' Fee and Cost Award and Service Award.

**YOUR RIGHTS – EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you want to keep the right to sue or continue to sue the Released Parties for the legal claims in this lawsuit, and you do not want to receive a cash payment from this Settlement, you must take steps to exclude yourself from the Settlement. This is called “excluding yourself”—or is sometimes referred to as “opting out” of the Class.

**14. How do I exclude myself from the Settlement Class?**

To exclude yourself from the Settlement, you must mail a written request for exclusion, which includes the following:

- your name and current mailing address;
- your bank account number(s) or sufficient information to identify your bank account(s);
- your physical signature; and
- a clear statement that you want to be excluded from the Settlement Class, such as, “I hereby request to be excluded from the Settlement Class in *Lipsett v. Banco Popular North America*.”

The exclusion request must be mailed to the Settlement Administrator at the following address, and **postmarked by December 9, 2024**:

**Popular Bank Fee Class Action**  
Opt-Out Requests  
P.O. Box 2798  
Portland, OR 97208-2798

**If an Account has more than one Accountholder, and one Accountholder opts out, then all Accountholders on that Account are considered to have opted out and will not receive a cash payment.**

**Questions? Call 1-877-701-2656 or visit [LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com).**

You cannot opt out (exclude yourself) by telephone or email.

“Mass” or “class” requests for exclusion filed by third parties on behalf of a “mass” or “class” of Settlement Class Members or multiple Settlement Class Members, where an opt out has not been signed by every Settlement Class Member, will not be allowed.

### **15. If I exclude myself, can I get anything from this Settlement?**

If you choose to exclude yourself from the Settlement, you are telling the Court you do not want to be a Settlement Class Member, and you will not be bound by the Settlement or any judgment in this lawsuit.

You can only get a cash payment if you remain a Settlement Class Member. If you remain a Settlement Class Member, you will be bound by the Settlement or any judgment in this lawsuit.

If you choose to exclude yourself from the Settlement, you are not giving up the right to sue the Released Parties for the legal claims this Settlement resolves and releases. You must exclude yourself as a Settlement Class Member to start or continue with your own lawsuit about the legal claims involved in this Settlement.

## **YOUR RIGHTS – OBJECTING TO THE SETTLEMENT**

You can tell the Court that you do not agree with the Settlement or some part of it.

### **16. How do I object to the Settlement?**

Any Settlement Class Member who does not submit a request for exclusion from the Class may object to the Settlement.

Your objection must contain the following:

- your full name, current address, telephone number, and email address (if any);
- information identifying you as a Settlement Class Member, including evidence you are a Settlement Class Member;
- a written statement of the specific legal and factual bases for the objection, accompanied by any legal support for the objection you believe is applicable;
- the identity of any lawyer representing or assisting you as an objector, if any, and a statement indicating whether they will appear at the Final Approval Hearing;
- a statement indicating whether you intend to appear and/or testify at the Final Approval Hearing;
- a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection (if any);
- your signature as the objector and the signature of your duly authorized lawyer or other duly authorized representative, along with documentation of the representation (if any);
- a list, by case name, court, and docket number, of any cases in which you directly or through a lawyer have filed an objection to any proposed class action settlement within the last three years; and
- a list, by case name, court, and docket number, of all other cases you have been a named plaintiff or served as a class representative in any class action.

If your objection is made by or through a lawyer, the written objection must also include:

- the identity and number of Settlement Class Members represented by the lawyer;
- the identity and number of such represented Settlement Class Members who have opted out of the Settlement Class; and
- the identity and number of such represented Settlement Class Members who remained in the Settlement Class and have not objected.
- If the lawyer intends to seek fees and expenses from anyone other than the objector they represent, the lawyer must also file with the Court and serve upon Class Counsel and Popular Bank’s Counsel, not later than 15 days before the Final Fairness Hearing or as the Court may otherwise direct, a document containing the following: (i) the amount of fees sought by the lawyer for representing the objector and the factual and legal justification for the fees being sought; (ii) a statement regarding whether the fees being sought were calculated on the basis of a lodestar, contingency, or other method; (iii) the number of hours already spent by the attorney and an estimate of the hours to be spent in the future; and (iv) the lawyer’s hourly rate.

**Questions? Call 1-877-701-2656 or visit [LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com).**

If you or your lawyer fail to make an objection in the manner specified in this section you will have waived any objections and will be prevented from making any objection to the Settlement (whether by appeal, or otherwise).

Your written objection must be **filed** with the Court by **December 9, 2024**, with copies to Class Counsel and Defendant's Counsel at the following addresses:

<b>COURT</b>	<b>CLASS COUNSEL</b>	<b>DEFENSE COUNSEL</b>
Clerk of the Court Hon. Margaret M. Garnett United States District Court, Southern District of New York 40 Foley Square New York, NY 10007	Jeffrey Kaliel KALIELGOLD PLLC 1100 15 <sup>th</sup> Street NW, 4 <sup>th</sup> Floor Washington, D.C. 20005  Michael R. Reese REESE LLP 100 West 93 <sup>rd</sup> Street, 16 <sup>th</sup> Floor New York, NY 10025	Mitchel H. Kider Michael Y. Kieval WEINER BRODSKY KIDER PC 1300 19 <sup>th</sup> Street NW, 5 <sup>th</sup> Floor Washington, D.C. 20036

Any objection to the Settlement must be in writing. If you file a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own lawyer. If you appear through your own lawyer, you are responsible for hiring and paying your lawyer.

### **17. What is the difference between objecting and asking to be excluded?**

Objecting is simply telling the Court you do not like something about the Settlement. You can object only if you remain a Settlement Class Member (meaning you do not exclude yourself). Excluding yourself is telling the Court you do not want to be a Settlement Class Member. If you exclude yourself, you cannot object because the Settlement no longer affects you.

## **YOUR RIGHTS – THE FINAL APPROVAL HEARING**

The Court will hold a Final Approval Hearing to decide whether to approve the Settlement. You may attend, and you may ask to speak if you file an objection and a Notice of Intent to Appear by the deadline. You do not have to attend or speak at the hearing.

### **18. When and where will the Court decide whether to approve the Settlement?**

The Court will hold the Final Approval Hearing at **9:30 am** on **January 7, 2025**, at the United States District Court, Southern District of New York, 40 Foley Square, New York, NY 10007. If you or your lawyer would like to speak at the hearing, you must file an objection and a Notice of Intent to Appear at the Final Fairness Hearing by **December 9, 2024**.

Note: The date and time of the Final Approval Hearing are subject to change without further notice to the Settlement Class. The Court may also decide to hold the hearing electronically or by telephone. You should check the Settlement Website, [LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com), to confirm the date and time of the Final Approval Hearing have not changed.

At the hearing, the Court will consider whether the Settlement is final, fair, reasonable, and adequate. If there are objections that were **filed** with the Court by the deadline, the Court will consider them. If you submit a timely objection and Notice of Intent to Appear, and you would like to speak at the hearing, the Court will also listen to you or your lawyer speak at the hearing, if you so request.

If the Court approves the Settlement, cash payments will be provided after any appeals are resolved. Please be patient. The Settlement Website, [LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com), will be updated to provide Settlement Class Members with updated information.

### **19. Am I required to attend the Final Approval Hearing?**

You may attend the Final Approval Hearing, but you are not required to do so. If you submit an objection and a Notice of Intent to Appear, you may (but are not required to) speak at the Final Approval Hearing. You may also pay your own lawyer to attend or discuss your objection but that is not necessary.

**Questions? Call 1-877-701-2656 or visit [LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com).**

## 20. May I speak at the Final Approval Hearing?

Yes, as long as you do not exclude yourself, and you submit an objection and a Notice of Intent to Appear, you or your lawyer can (but do not have to) participate and speak in this lawsuit and Settlement. This is called making an appearance. You also may have your own lawyer speak for you at the hearing, but you will have to pay for the lawyer yourself.

If you or your lawyer would like to speak at the hearing, you must deliver to Class Counsel and Defendant's Counsel and have file with the Court, a Notice of Intent to Appear by **December 9, 2024**.

The Notice of Intent to Appear must accomplish the following:

- state how much time you or your lawyer need to present your objection;
- identify by name, address, and telephone number, all witnesses you propose to have testify (if any);
- summarize in detail the testimony of all witnesses (if any);
- identify all exhibits you or your lawyer intend to offer in support of your objection; and
- attach complete copies of all exhibits.

### IF YOU DO NOTHING

## 21. What happens if I do nothing at all?

If you are a Settlement Class Member and you do nothing, you will automatically receive a cash payment if the Court finally approves the Settlement. You will give up your rights as explained in the "Excluding Yourself from the Settlement" section of this Notice, including your right to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Released Parties about the legal claims that are released by the Settlement Agreement. You will be bound by the Settlement and any judgments.

## 22. How do I get more information about the Settlement?

This Notice summarizes the Settlement. More details are provided in the Settlement Agreement. The Settlement Agreement and other related documents are available at [LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com), by calling 1-877-701-2656, or by writing to:

**Popular Bank Fee Class Action**  
Settlement Administrator  
P.O. Box 2798  
Portland, OR 97208-2798

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE REGARDING THIS NOTICE OR THE SETTLEMENT.**

**Questions? Call 1-877-701-2656 or visit [LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com).**

# Attachment 5

TRIBUNAL DE DISTRITO DE LOS ESTADOS UNIDOS PARA EL DISTRITO SUR DEL ESTADO DE NUEVA YORK

**Si tiene o tuvo una cuenta corriente de consumidor con Popular Bank y se le cobró un cargo por sobregiro en ciertas transacciones con tarjeta de débito o en cajero automático el 13 de mayo de 2016 o después de esa fecha, puede ser elegible para un pago en efectivo en virtud de un Acuerdo de conciliación de demanda colectiva.**

**Un tribunal federal autorizó este Aviso. No es una solicitud de un abogado.**

Se ha llegado a un acuerdo de conciliación de \$1,500,000 en una demanda colectiva presentada contra Popular Bank (“Demandado”). El Demandante presentó esta demanda contra el Demandado en la que alega un incumplimiento de contrato cuando el Demandado aplicó cargos por sobregiro sobre lo que a veces se denomina “Authorize Positive, Settle Negative (APSN) Transactions” (Transacciones autorizadas en positivo, liquidadas en negativo, o “Transacciones APSN”). Estas transacciones ocurren cuando un banco cobra un cargo por sobregiro sobre una transacción cuya autorización se realiza cuando hay fondos suficientes disponibles, pero que sobregira la cuenta cuando se liquida. El Demandado rechaza todas estas reclamaciones legales. El Tribunal no ha decidido quién tiene la razón.

Usted es “Miembro del grupo de demandantes” si cumple con la siguiente definición del Grupo de demandantes:

Todos los titulares de cuentas corrientes de consumidor de Popular Bank a quienes, durante el Período de la demanda colectiva, se les cobró y no se les reembolsó un cargo por sobregiro (overdraft, “OD”) en relación con (1) una transacción con tarjeta de débito o de otro tipo en cajero automático en su cuenta que fue objeto de una autorización realizada el 15 de abril de 2020 o antes de esa fecha; o (2) una transacción con tarjeta de débito o de otro tipo en cajero automático que fue autorizada cuando el saldo era positivo el 16 de abril de 2020 o después de esa fecha. Sin embargo, no se incluyen en estas dos categorías de Cargos por OD los Cargos por OD aplicados el 6 de agosto de 2018 o antes de esa fecha a los miembros del Grupo de demandantes en *Valle vs. Popular Community Bank*, índice n.º 653936/2012 (Tribunal Supremo de Nueva York).

Si usted es Miembro del grupo de demandantes, no tiene que hacer nada para recibir su pago en efectivo. Si el Acuerdo de conciliación recibe la aprobación definitiva del Tribunal, usted recibirá su pago automáticamente. Los Titulares de cuentas abiertas recibirán un crédito en la cuenta. Los Titulares de cuentas cerradas recibirán un cheque.

**Este Aviso puede afectar sus derechos. Léalo con atención.**

<b>SUS OPCIONES Y DERECHOS LEGALES</b>		<b>FECHA LÍMITE</b>
<b>EXCLUIRSE</b>	No obtener un pago en efectivo y conservar cualquier derecho de presentar su propia demanda contra las Partes exoneradas en relación con las reclamaciones legales de esta demanda que sean resueltas por el Acuerdo de conciliación.	<b>9 de diciembre del 2024</b>
<b>OBJETAR</b>	Comunicarle al Tribunal por qué usted no está de acuerdo con el Acuerdo de conciliación. Usted seguirá estando vinculado al Acuerdo de conciliación si el Tribunal lo aprueba, y recibirá un pago en efectivo si es Miembro del grupo de demandantes independientemente de su objeción.	<b>9 de diciembre del 2024</b>
<b>NO HACER NADA</b>	Si no hace nada, puede ser elegible para recibir un pago en efectivo. Si es elegible y no se excluye del Acuerdo de conciliación, recibirá este beneficio automáticamente si el Acuerdo de conciliación recibe la aprobación del Tribunal. Si no hace nada, usted también eximirá sus reclamaciones legales contra las Partes exoneradas, y quedará vinculado al Acuerdo de conciliación.	

Estos derechos y estas opciones, y **las fechas límite para ejercerlos**, se explican en este Aviso.

Si tiene alguna pregunta sobre este Aviso, el Acuerdo de conciliación o su elegibilidad para participar en el Acuerdo de conciliación, visite [LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com) o llame al número gratuito 1-877-701-2656.

**¿Tiene alguna pregunta? Llame al 1-877-701-2656 o visite [LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com).**

## INFORMACIÓN BÁSICA

### 1. ¿Por qué se proporciona este Aviso?

Un tribunal federal autorizó este Aviso porque usted tiene el derecho de estar al corriente del Acuerdo de conciliación propuesto en esta demanda colectiva y de todos sus derechos y opciones antes de que el Tribunal decida si le dará la aprobación final al Acuerdo de conciliación. En este Aviso se explican la demanda, el Acuerdo de conciliación, sus derechos legales, los beneficios disponibles, quiénes son elegibles para recibir los beneficios y cómo obtenerlos.

La honorable jueza Margaret M. Garnett del Tribunal de Distrito de los Estados Unidos para el Distrito Sur del Estado de Nueva York está a cargo de esta demanda colectiva. La demanda se conoce como *Lipsett vs. Banco Popular North America*, causa n.º 22-cv-3901 (Distrito Sur del Estado de Nueva York). La persona que presentó la demanda se denomina el “Demandante” y la compañía demandada, Popular Bank (anteriormente conocido como Banco Popular North America), se denomina el “Demandado”.

### 2. ¿De qué trata esta demanda?

El Demandante presentó esta demanda contra el Demandado en la que alega un incumplimiento de contrato cuando el Demandado aplicó cargos por sobregiro sobre lo que a veces se denomina “Authorize Positive, Settle Negative (APSN) Transactions” (Transacciones autorizadas en positivo, liquidadas en negativo, o “Transacciones APSN”). Estas transacciones ocurren cuando un banco cobra un cargo por sobregiro sobre una transacción cuya autorización se realiza cuando hay fondos suficientes disponibles, pero que sobregira la cuenta cuando se liquida. El Demandado reconoce que aplicó cargos por sobregiro en estos tipos de transacciones en algunos casos, pero mantiene que el contrato de cuentas le permitía hacerlo. El Demandado niega cualquier responsabilidad. El Tribunal no ha decidido quién tiene la razón.

### 3. ¿Qué es una demanda colectiva?

En una demanda colectiva, una o varias personas denominadas Demandantes presentan una demanda en nombre de otras personas que tienen reclamaciones legales similares. Estas personas constituyen el “Grupo de demandantes” o son los “Miembros del grupo de demandantes”. En esta demanda, la persona que presentó la demanda se denomina “Demandante”. La compañía y las personas a las que se demanda, Popular Bank, se denominan el “Demandado”. Un tribunal resuelve los asuntos para todo el Grupo de demandantes, excepto para quienes deciden excluirse (“opt out”) de dicho Grupo de demandantes.

### 4. ¿Por qué existe un Acuerdo de conciliación?

El Tribunal no ha fallado a favor del Demandante ni del Demandado. Más bien, ambas partes llegaron a un Acuerdo de conciliación para evitar los costos y riesgos de un juicio. El Demandante y los Abogados del grupo de demandantes creen que el Acuerdo de conciliación es lo mejor para el Grupo de demandantes y representa una resolución justa, razonable y adecuada de la demanda.

El Demandado niega las reclamaciones legales en la demanda; niega todas las acusaciones de irregularidades, faltas, responsabilidades o daños al Demandante y al Grupo de demandantes; y niega que haya actuado de manera inadecuada o indebida de cualquier manera. No obstante, el Demandado reconoce los gastos y el tiempo que se requerirían para defender la demanda a través de un juicio y lo ha tenido en cuenta al aceptar este Acuerdo de conciliación.

## ¿QUIÉNES ESTÁN INCLUIDOS EN EL ACUERDO DE CONCILIACIÓN?

Para saber si usted es elegible para recibir un pago en efectivo, primero debe determinar si es Miembro del grupo de demandantes.

### 5. ¿Soy parte del Acuerdo de conciliación?

El Grupo de demandantes incluye a todos los titulares de cuentas corrientes de consumidor de Popular Bank a quienes, durante el Período de la demanda colectiva (del 13 de mayo de 2016 al 26 de julio de 2024), se les cobró y no se les reembolsó un cargo por sobregiro en relación con (1) una transacción con tarjeta de débito o de otro tipo en cajero automático en su cuenta el 15 de abril de 2020 o antes de esa fecha (independientemente de si la autorización se

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LipsettOverdraftSettlement.com.**



realizara cuando el saldo era positivo); o (2) una transacción con tarjeta de débito o de otro tipo en cajero automático que fue autorizada cuando el saldo era positivo el 16 de abril de 2020 o después de esa fecha. Si usted fue Miembro del grupo de demandantes en el Acuerdo de conciliación de *Valle vs. Popular Community Bank*, índice n.º 653936/2012 (Tribunal Supremo de Nueva York), entonces los cargos por sobregiro que se le aplicaron el 6 de agosto de 2018 o antes de esa fecha no se incluyen en estas dos categorías de cargos por sobregiro.

La definición formal del Grupo de demandantes es la siguiente.

Todos los titulares de cuentas corrientes de consumidor de Popular Bank a quienes, durante el Período de la demanda colectiva, se les cobró y no se les reembolsó un cargo por sobregiro (overdraft, "OD") en relación con (1) una transacción con tarjeta de débito o de otro tipo en cajero automático en su cuenta que fue objeto de una autorización realizada el 15 de abril de 2020 o antes de esa fecha; o (2) una transacción con tarjeta de débito o de otro tipo en cajero automático que fue autorizada cuando el saldo era positivo el 16 de abril de 2020 o después de esa fecha. Sin embargo, no se incluyen en estas dos categorías de Cargos por OD los Cargos por OD aplicados el 6 de agosto de 2018 o antes de esa fecha a los miembros del Grupo de demandantes en *Valle vs. Popular Community Bank*, índice n.º 653936/2012 (Tribunal Supremo de Nueva York).

Usted queda excluido de ser un Miembro del grupo de demandantes si usted es (a) el Demandado, sus empresas matrices, subsidiarias, filiales, oficiales y directores; (b) Miembro del grupo de demandantes que eligen oportunamente excluirse; y (c) un juez asignado a este litigio y sus familiares directos.

## 6. ¿Qué hago si todavía no estoy seguro si formo parte del Acuerdo de conciliación?

Si aún no está seguro de si es Miembro del grupo de demandantes, puede visitar el sitio web del Acuerdo de conciliación en [LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com) o llamar por teléfono al 1-877-701-2656.

### BENEFICIOS DEL ACUERDO DE CONCILIACIÓN: LO QUE PUEDE OBTENER

## 7. ¿Qué establece el Acuerdo de conciliación?

Como resultado del Acuerdo de conciliación, se establecerá un Fondo de conciliación de \$1,500,000 y se utilizará para pagar (1) los Costos de administración del Acuerdo de conciliación; (2) el premio por servicio al representante del grupo; (3) la Adjudicación de honorarios y costos de abogados. El monto restante después de que se paguen estas partidas, si corresponde, es el "Fondo de conciliación neto". El Fondo de conciliación neto se utilizará entonces para realizar Pagos automáticos (crédito en la cuenta o pago mediante cheque) a todos los Miembros del grupo de demandantes que no soliciten la exclusión del Grupo de demandantes.

## 8. ¿Cómo se determinará el monto de los pagos en efectivo?

Los pagos a cada Miembro del grupo de demandantes se distribuirán en forma prorrateada (un término legal que significa "igual") y se calcularán de la siguiente manera:

(Fondo de conciliación neto dividido por el monto total en dólares de los cargos de los Miembros del grupo de demandantes) x (Monto total en dólares de los cargos [es decir, los cargos por sobregiro cubiertos por el Acuerdo de conciliación que se aplicaron a su cuenta y no se reembolsaron] que se le cobraron y pagó como Miembro del grupo de demandantes individual en relación con las transacciones en cuestión) = Pago a Miembro del grupo de demandantes.

### CÓMO OBTENER LOS BENEFICIOS DEL ACUERDO DE CONCILIACIÓN

## 9. ¿Debo presentar una reclamación para recibir un pago en efectivo?

No. Si se aprueba el Acuerdo de conciliación, se le realizará un pago en efectivo automáticamente como Miembro del grupo de demandantes, a menos que solicite la exclusión del Grupo de demandantes. Los Titulares de cuentas abiertas con Popular Bank en el momento en que se realicen los pagos en efectivo recibirán automáticamente un depósito en su cuenta. Los titulares de cuentas cerradas recibirán automáticamente un cheque por su pago en efectivo. Usted no necesita presentar una reclamación para recibir un pago en efectivo.

**¿Tiene alguna pregunta? Llame al 1-877-701-2656 o visite  
[LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com).**

En el caso de una Cuenta conjunta de uno o más Titulares de cuentas abiertas, el pago se depositará en la cuenta del Titular de cuenta principal, independientemente de que dicha cuenta se mantenga en forma conjunta o no. En el caso de una Cuenta conjunta de un Titular de cuenta cerrada, se enviará un cheque pagadero al Titular de cuenta principal nombrado en la Cuenta a la última dirección conocida del Titular de cuenta principal.

### 10. ¿Cuándo recibiré mi pago en efectivo?

El Tribunal llevará a cabo una Audiencia de aprobación definitiva el **7 de enero de 2025** (sujeto a cambios), para decidir si aprueba definitivamente el Acuerdo de conciliación. Incluso si el Tribunal aprueba el Acuerdo de conciliación de manera definitiva, podría haber apelaciones. El proceso de apelación puede tomar tiempo, tal vez más de un año. Usted no recibirá el pago en efectivo hasta que no se resuelvan todas las apelaciones. Sea paciente y consulte el sitio [LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com) para obtener actualizaciones.

### 11. ¿A qué estoy renunciando para recibir un pago en efectivo del Acuerdo de conciliación?

Salvo que se excluya (“opt out”) como Miembro del grupo de demandantes mediante la presentación oportuna de una solicitud de exclusión, usted seguirá siendo Miembro del grupo de demandantes. Esto significa que como Miembro del grupo de demandantes usted no podrá demandar, seguir adelante con una demanda ni ser parte de cualquier otra demanda en contra de las Partes exoneradas respecto a las cuestiones legales planteadas en esta demanda. También significa que las órdenes del Tribunal y cualquier sentencia se aplicarán a usted y lo vincularán legalmente, y usted renunciará a las reclamaciones legales detalladas en el Acuerdo de conciliación. La Exención se establece en el Acuerdo de conciliación en la Sección 13, con la terminología legal necesaria. El Acuerdo de conciliación está disponible en [LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com).

## LOS ABOGADOS QUE LO REPRESENTAN

### 12. ¿Tengo abogados en esta causa?

Sí, el Tribunal ha designado a los abogados Jeffrey Kalief de KaliefGold PLLC y Michael R. Reese de Reese LLP para que lo representen a usted y a los demás Miembros del grupo de demandantes. Los abogados son denominados “Abogados del grupo de demandantes” (“Class Counsel”). Tienen experiencia en el manejo de demandas colectivas. No se le cobrará por los servicios de estos abogados. Si desea ser representado por su propio abogado, puede contratar a uno por su propia cuenta y cargo, pero no necesita hacerlo.

<p>Mitchel R. Reese Reese LLP 100 West 93<sup>rd</sup> Street, 16<sup>th</sup> Floor Nueva York, Nueva York 10025</p>	<p>Jeffrey Kalief KALIELGOLD PLLC 1100 15<sup>th</sup> Street, NW, 4<sup>th</sup> Floor Washington, D.C. 20005</p>
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### 13. ¿Cómo se pagará a los abogados?

Los Abogados del grupo de demandantes solicitarán honorarios y costos de abogados de un tercio del Fondo de conciliación y buscarán por separado reembolso de costas y gastos. Además, los Abogados del grupo de demandantes solicitarán al Tribunal que apruebe una Adjudicación por servicios para el Representante del grupo de demandantes (Frankie Lipsett) de hasta \$10,000 por sus esfuerzos en la presentación de esta demanda. Si el Tribunal lo otorga, la Adjudicación de honorarios y costos de abogados y la Adjudicación por servicios se pagarán del Fondo de conciliación. El Tribunal puede otorgar menos de estos montos para la Adjudicación de honorarios y costos de abogados, y para la Adjudicación por servicios.

## SUS DERECHOS: EXCLUIRSE DEL ACUERDO DE CONCILIACIÓN

Si desea conservar el derecho de demandar o seguir adelante con una demanda contra las Partes exoneradas con respecto a las reclamaciones legales de esta demanda y no desea recibir un pago en efectivo de este Acuerdo de conciliación, debe seguir los pasos necesarios para excluirse del Acuerdo de conciliación. Esto se conoce como “excluirse” o, en ocasiones, se hace referencia a ello como “optar por la exclusión” (“opt out”) del Grupo de demandantes.

**¿Tiene alguna pregunta? Llame al 1-877-701-2656 o visite  
[LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com).**

**14. ¿Cómo me excluyo del Grupo de demandantes?**

Para excluirse del Acuerdo de conciliación, debe enviar una solicitud de exclusión por escrito que incluya lo siguiente:

- su nombre y dirección de correo postal actual;
- los números de sus cuentas bancarias o información suficiente para identificar sus cuentas bancarias;
- su firma física; y
- una declaración clara de que desea excluirse del Grupo de demandantes, por ejemplo, “Por la presente, solicito ser excluido del Grupo de demandantes en *Lipsett vs. Banco Popular North America*”.

La solicitud de exclusión debe enviarse al Administrador del Acuerdo de conciliación a la siguiente dirección con **fecha de franqueo postal a más tardar el 9 de diciembre de 2024**:

**Popular Bank Fee Class Action**  
Opt-Out Requests  
P.O. Box 2798  
Portland, OR 97208-2798

**Si una Cuenta tiene más de un Titular de cuenta y uno de los Titulares de cuenta opta por excluirse, se considera que todos los Titulares de cuenta de esa Cuenta han optado por excluirse y no recibirán un pago en efectivo.**

No puede excluirse (“opt out”) por teléfono ni por correo electrónico.

No se permitirán las solicitudes de exclusión “masivas” o “en grupo” presentadas por terceros en nombre de “un conjunto masivo” o “un grupo” de Miembros del grupo de demandantes o múltiples Miembros del grupo de demandantes cuando no haya sido firmada una exclusión por cada Miembro del grupo de demandantes.

**15. Si me excluyo, ¿puedo obtener algo de este Acuerdo de conciliación?**

Si decide excluirse del Acuerdo de conciliación, le está informando al Tribunal que no desea ser Miembro del grupo de demandantes, y no quedará vinculado al Acuerdo de conciliación ni a ninguna sentencia en esta demanda.

Solo puede recibir un pago en efectivo si sigue siendo Miembro del grupo de demandantes. Si sigue siendo Miembro del grupo de demandantes, quedará vinculado al Acuerdo de conciliación o cualquier sentencia en esta demanda.

Si decide excluirse del Acuerdo de conciliación, no renuncia al derecho de demandar a las Partes exoneradas por las reclamaciones legales que este Acuerdo de conciliación resuelva y exima. Debe excluirse como Miembro del grupo de demandantes para iniciar o seguir adelante con su propia demanda sobre las reclamaciones legales involucradas en este Acuerdo de conciliación.

**SUS DERECHOS: OBJETAR EL ACUERDO DE CONCILIACIÓN**

Puede comunicar al Tribunal su disconformidad con el Acuerdo de conciliación o con alguna parte de él.

**16. ¿Cómo puedo presentar una objeción al Acuerdo de conciliación?**

Cualquier Miembro del grupo de demandantes que no presente una solicitud de exclusión del Grupo de demandantes puede objetar el Acuerdo de conciliación.

Su objeción debe contener lo siguiente:

- su nombre completo, dirección actual, número de teléfono y dirección de correo electrónico (según corresponda);
- información que lo identifique como Miembro del grupo de demandantes, incluida evidencia de que usted es Miembro del grupo de demandantes;
- una declaración escrita de los fundamentos de hecho y de derecho de la objeción, acompañados por cualquier apoyo legal para la objeción que considere aplicable;
- la identidad de cualquier abogado que lo represente o ayude como objetante, si lo hubiera, y una declaración que indique si comparecerá en la Audiencia de aprobación definitiva;
- una declaración de si pretende comparecer o testificar en la Audiencia de aprobación definitiva;

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[LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com).**

- una lista de todas las personas que serán convocadas para testificar en la Audiencia de aprobación definitiva para respaldar la objeción (según corresponda);
- su firma como objetante y la firma de su abogado u otro representante debidamente autorizado, conjuntamente con la documentación de dicha representación (según corresponda);
- una lista por nombre de causa, tribunal y número de expediente de todas las causas en las que usted (directamente o a través de abogado) haya presentado una objeción a una propuesta de acuerdo de conciliación de la demanda colectiva en los últimos tres años; y
- una lista por nombre de causa, tribunal y número de expediente de todas las otras causas en las que usted fue designado demandante o fue representante del grupo de demandantes en cualquier demanda colectiva.

Si su objeción es realizada por un abogado o a través de un abogado, la objeción escrita también debe incluir lo siguiente:

- la identidad y la cantidad de Miembros del grupo de demandantes representados por el abogado;
- la identidad y la cantidad de dichos Miembros del grupo de demandantes representados que hayan optado por excluirse del Grupo de demandantes; y
- la identidad y la cantidad de dichos Miembro del grupo de demandantes representados que permanecieron en el Grupo de demandantes y no han objetado.
- Si el abogado tiene la intención de solicitar honorarios y gastos a cualquier persona que no sea el objetor que representa, el abogado también debe presentar ante el Tribunal y enviar a los Abogados del grupo de demandantes y a los Abogados de Popular Bank, a más tardar 15 días antes de la Audiencia de imparcialidad definitiva o según lo indique el Tribunal, un documento que contenga lo siguiente: (i) el monto de los honorarios solicitados por el abogado por representar al objetor y los fundamentos de hecho y de derecho de los honorarios solicitados; (ii) una declaración con respecto a si los honorarios que se solicitan se calcularon sobre la base del método lodestar, contingencia, u otro método; (iii) la cantidad de horas que ya dedicó el abogado y una estimación de las horas que se dedicarán en el futuro; y (iv) la tarifa por hora del abogado.

Si usted o su abogado no presentan una objeción de la manera especificada en esta sección, habrá renunciado a cualquier objeción y se le impedirá presentar cualquier objeción al Acuerdo de conciliación (ya sea por apelación o de otro modo).

Su objeción por escrito debe **presentarse** ante el Tribunal antes del **9 de diciembre de 2024**, con copias para los Abogados del grupo de demandantes y los Abogados del Demandado a las siguientes direcciones:

TRIBUNAL	ABOGADOS DEL GRUPO DE DEMANDANTES	ABOGADOS DE LA DEFENSA
Clerk of the Court Hon. Margaret M. Garnett United States District Court, Southern District of New York 40 Foley Square New York, NY 10007	Jeffrey Kaliel KALIELGOLD PLLC 1100 15 <sup>th</sup> Street NW, 4 <sup>th</sup> Floor Washington, D.C. 20005  Michael R. Reese REESE LLP 100 West 93 <sup>rd</sup> Street, 16 <sup>th</sup> Floor New York, NY 10025	Mitchel H. Kider Michael Y. Kieval WEINER BRODSKY KIDER PC 1300 19 <sup>th</sup> Street NW, 5 <sup>th</sup> Floor Washington, D.C. 20036

Toda objeción al Acuerdo de conciliación debe ser por escrito. Si presenta una objeción escrita en forma oportuna, puede comparecer, aunque no está obligado a hacerlo, ante la Audiencia de aprobación definitiva, en persona o bajo la representación de su propio abogado. Si comparece bajo la representación de su propio abogado, usted es responsable de la contratación y el pago de los honorarios de su abogado.

**17. ¿Cuál es la diferencia entre objetar y solicitar ser excluido?**

Objetar es simplemente decirle al Tribunal que usted no está de acuerdo con alguna parte del Acuerdo de conciliación. Usted solamente puede objetar si es Miembro del grupo de demandantes (es decir, no se excluye). Excluirse es decirle al Tribunal que no desea ser Miembro del grupo de demandantes. Si se excluye, no puede objetar, porque el Acuerdo de conciliación ya no le concierne.

**¿Tiene alguna pregunta? Llame al 1-877-701-2656 o visite  
[LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com).**

## SUS DERECHOS: COMPARECER EN LA AUDIENCIA DE APROBACIÓN DEFINITIVA

El Tribunal llevará a cabo una Audiencia de aprobación definitiva para decidir si aprobará el Acuerdo de conciliación. Puede asistir y puede pedir declarar si presenta una objeción y un Aviso de intención de comparecer antes de la fecha límite. No tiene que asistir a la audiencia ni declarar en ella.

### 18. ¿Cuándo y dónde decidirá el Tribunal si aprueba el Acuerdo de conciliación?

El Tribunal celebrará la Audiencia de aprobación definitiva a las **9:30 a. m.** el **7 de enero de 2025**, en el Tribunal de Distrito de los Estados Unidos, Distrito Sur del Estado de Nueva York, 40 Foley Square, Nueva York, NY 10007. Si usted o su abogado desean declarar en la audiencia, deben presentar una objeción y un Aviso de intención de comparecer en la Audiencia de imparcialidad definitiva antes del **9 de diciembre de 2024**.

Nota: La fecha y la hora de la Audiencia de aprobación definitiva están sujetas a cambios sin previo aviso al Grupo de demandantes. El Tribunal también puede decidir celebrar la audiencia por vía electrónica o por teléfono. Debe consultar el sitio web del Acuerdo de conciliación, [LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com), para confirmar que la fecha y la hora de la Audiencia de aprobación definitiva no han cambiado.

En la audiencia, el Tribunal considerará si el Acuerdo de conciliación es final, justo, razonable y adecuado. Si hay objeciones que se **presentaron** ante el Tribunal antes de la fecha límite, el Tribunal las considerará. Si presenta una objeción oportuna y un Aviso de intención de comparecer, y desea declarar en la audiencia, el Tribunal también lo escuchará a usted o a su abogado declarar en la audiencia, si así lo solicita.

Si el tribunal aprueba el Acuerdo de conciliación, se realizarán los pagos en efectivo después de que se resuelvan todas las apelaciones. Debe ser paciente. El sitio web del Acuerdo de conciliación, [LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com), se actualizará para proporcionar a los Miembros del grupo de demandantes información actualizada.

### 19. ¿Estoy obligado a asistir a la Audiencia de aprobación definitiva?

Usted puede asistir a la Audiencia de aprobación definitiva, pero no está obligado a hacerlo. Si presenta una objeción y un Aviso de intención de comparecer, puede (pero no está obligado a) declarar en la Audiencia de aprobación definitiva. También puede pagar a su propio abogado para que asista o analice su objeción, pero esto no es necesario.

### 20. ¿Puedo declarar en la Audiencia de aprobación definitiva?

Sí, siempre y cuando no se excluya y presente una objeción y un Aviso de intención de comparecer, usted o su abogado pueden (pero no están obligados a) participar y declarar en esta demanda y Acuerdo de conciliación. Esto se conoce como comparecencia. Asimismo, usted puede hacer que su abogado declare en su nombre en la audiencia, pero tendrá que pagar al abogado usted mismo.

Si usted o su abogado desean declarar en la audiencia, deben entregar a los Abogados del grupo de demandantes y al Abogado del Demandado y presentar ante el Tribunal un Aviso de intención de comparecer antes del **9 de diciembre de 2024**.

Su Aviso de intención de comparecer debe:

- indicar cuánto tiempo usted o su abogado necesitan para presentar su objeción;
- identificar por nombre, dirección y número de teléfono a todos los testigos que proponga para que testifiquen (si los hubiera);
- resumir en detalle el testimonio de todos los testigos (si los hubiera);
- identificar todos los anexos que usted o su abogado pretenden ofrecer en respaldo de su objeción; y
- adjuntar copias completas de todos los anexos.

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**SI NO HACE NADA**

**21. ¿Qué sucede si no hago nada?**

Si usted es Miembro del grupo de demandantes y no hace nada, recibirá automáticamente un pago en efectivo si el Tribunal finalmente aprueba el Acuerdo de conciliación. También renunciará a sus derechos explicados en la sección “Excluirse del Acuerdo de conciliación” de este Aviso, incluido su derecho a iniciar una demanda, seguir adelante con una demanda o ser parte de cualquier otra demanda contra las Partes exoneradas respecto de las reclamaciones legales resueltas por el Acuerdo de conciliación. Usted quedará vinculado al Acuerdo de conciliación y toda sentencia.

**22. ¿Cómo puedo obtener más información acerca del Acuerdo de conciliación?**

Este Aviso resume el Acuerdo de conciliación. El Acuerdo de conciliación contiene más detalles. El Acuerdo de conciliación y los documentos relacionados están disponibles en [LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com). También los puede solicitar por teléfono al 1-877-701-2656 o por escrito a:

*Popuar Bank Fee Class Action*  
Settlement Administrator  
P.O. Box 2798  
Portland, OR 97208-2798

**NO LLAME POR TELÉFONO AL TRIBUNAL NI A LA OFICINA DEL SECRETARIO DEL TRIBUNAL PARA INFORMARSE SOBRE ESTE AVISO O EL ACUERDO DE CONCILIACIÓN.**

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[LipsettOverdraftSettlement.com](http://LipsettOverdraftSettlement.com).**