

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK, COMMERCIAL DIVISION

JOSEFINA VALLE and WILFREDO VALLE,  
individually and on behalf of all others similarly situated,

Plaintiffs,

v.

POPULAR COMMUNITY BANK  
f/k/a BANCO POPULAR NORTH AMERICA  
a/k/a BANCO POPULAR NORTH AMERICA,

Defendant.

Index No. 653936/2012

Hon. O. Peter Sherwood, J.S.C.

**NOTICE OF CLASS ACTION SETTLEMENT**

**IF YOU WERE CHARGED AN OVERDRAFT FEE  
BY POPULAR COMMUNITY BANK (FORMERLY BANCO POPULAR)  
FROM NOVEMBER 14, 2009 THROUGH SEPTEMBER 30, 2014,  
THIS SETTLEMENT MAY AFFECT YOUR RIGHTS**

*A Court authorized this Notice.*

**If you are a Settlement Class Member, your legal rights are affected whether you act or don't act.**

- This document ("Notice") provides notice of a proposed settlement ("Settlement") of a putative class action lawsuit in New York State Supreme Court against Banco Popular North America d/b/a Popular Community Bank ("Popular"), named *Valle v. Popular Community Bank*, Index No. 653936/2012 ("Lawsuit").
- If you maintained a consumer or retail checking, savings, or money market account with Popular in New York, and you were charged any overdraft fee in that account in connection with an Automated Teller Machine ("ATM") withdrawal or Point-of-Sale ("POS") debit card purchase between November 14, 2009 and September 30, 2014 ("Class Period") as a result of one or more disputed practices alleged in the lawsuit, you may be a **"Settlement Class Member."**
- If you are a Settlement Class Member, you have the right to submit a claim form requesting a settlement payment ("**Claim Form**"). You may receive a Claim Form by mail, online on the settlement website, or by request to the Settlement Administrator. You will not receive any settlement payment, and your rights will be released, if you do not submit a timely and complete Claim Form.
- Both current and past Popular consumer or retail deposit account holders who incurred Overdraft Fees (as defined herein) during the Class Period may be Settlement Class Members.

**SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

**IF YOU ARE A SETTLEMENT CLASS MEMBER, YOU MAY:**

<p><b>SUBMIT A CLAIM FORM</b></p>	<p>Submit a claim for a monetary settlement payment. If you are a Settlement Class Member, you must complete and submit a valid Claim Form, postmarked or filed online no later than July 23, 2018, to receive a settlement payment.</p> <p>You may have received a Claim Form by mail. If you did not receive a Claim Form by mail, you can obtain a Claim Form from the Settlement website: <a href="http://www.bpnaoverdraftfeesettlement.com">www.bpnaoverdraftfeesettlement.com</a>, or by requesting a Claim Form from the Settlement Administrator, A.B. Data, Ltd.</p> <p>You may submit your Claim Form and the required documentation by uploading it at <a href="http://www.bpnaoverdraftfeesettlement.com">www.bpnaoverdraftfeesettlement.com</a>, or mailing it to the Settlement Administrator at Banco Popular Overdraft Fee Settlement, c/o A.B. Data, Ltd., P.O. Box 173048, Milwaukee, WI 53217. Each Settlement Class Member may file a single Claim Form for all of his or her Popular accounts.</p> <p>Submitting a Claim Form is the only way to get payment resulting from this Settlement. You must submit a Claim Form to the Settlement Administrator to be eligible to receive any payment from the Settlement.</p>
<p><b>EXCLUDE YOURSELF FROM THE SETTLEMENT</b></p>	<p>Exclude yourself from the Settlement by following the instructions in this Notice (below). If you properly exclude yourself, you will not receive any payment from this Settlement, but you will retain any rights that you may have to bring your own lawsuit against Popular relating to the conduct alleged in the Lawsuit.</p>
<p><b>OBJECT TO SETTLEMENT</b></p>	<p>Write to the Court about why you are opposed to the Settlement. You may object to the Settlement by following the instructions in this Notice (below). If you do not follow the instructions, or provide all of the requested information, your objection may not be considered. You may only object to the Settlement if you have not excluded yourself from the Settlement. If you object to the Settlement and the Settlement is finally approved, your claims against Popular will be released in the same manner as all other Settlement Class Members.</p>
<p><b>ATTEND THE FINAL APPROVAL HEARING</b></p>	<p>You, or a personal attorney retained by you at your expense, may request permission to attend the hearing where the Court will consider final approval of the Settlement.</p>
<p><b>DO NOTHING</b></p>	<p>If you do not submit a Claim Form, you will not receive any payment resulting from this Settlement and, if the Settlement receives final approval, your claims against Popular will be released in the same manner as all other Settlement Class Members. By doing nothing, you will give up any right you have to bring your own lawsuit against Popular based on the legal claims in this case.</p>

- These rights and options, **and the deadlines to exercise them**, are explained in this Notice.
- The Court still has to decide whether to approve the Settlement. Any payments to Settlement Class Members will be paid only if the Court grants final approval of the Settlement and only after any appeals, if any, are resolved. Please be patient.

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## BASIC INFORMATION

### 1. Why was this Notice issued?

The judge handling this Lawsuit is Justice O. Peter Sherwood of the Supreme Court of the State of New York (“Court”). In this Lawsuit, the persons who sued are the “Plaintiffs,” and the entity they sued is the “Defendant,” Popular.

The Court authorized this Notice because, as a potential Settlement Class Member, you have a right to know about a proposed Settlement of this class action lawsuit, including the right to make a claim for payment, and about all of your options, before the Court decides whether to give “final approval” to the Settlement. If the Court approves the parties’ proposed Settlement Agreement and Release (“Settlement Agreement”), and after any objections and appeals are resolved, settlement payments will be distributed to Settlement Class Members who timely submit a valid Claim Form.

### 2. What is this Lawsuit about?

The Lawsuit claims that Popular used three disputed practices (“Disputed Practices”) to unlawfully charge Overdraft Fees to Settlement Class Members during the Class Period in connection with automated teller machine (“ATM”) withdrawals and Point-of-Sale (“POS”) Debit Card purchases. Those Disputed Practices are:

#### **1. Failing to Provide a “Real Time” Warning that an Attempted ATM or POS Transaction Would Overdraw the Account.**

Plaintiffs allege that Popular knew prior to the completion of its customers’ ATM withdrawals and POS Debit Card purchases that those transactions would cause customers to overdraw their accounts, and therefore be subject to Overdraft Fees. Plaintiffs also allege that Popular could have provided that information to its customers at ATM and POS terminals before the transactions were completed, but did not. Plaintiffs assert that Popular was obligated to provide such notice and, on that basis, assert that this failure to warn was deceptive, denied Popular’s customers the knowledge that certain ATM and POS transactions would result in Overdraft Fees, and thereby caused Plaintiffs and other customers to incur Overdraft Fees that they otherwise would not have incurred for those ATM and POS transactions.

**2. “Reordering” Withdrawals and Purchases.** Before August 2013, Popular did not always post its customers’ ATM withdrawals and POS purchases in the order in which they occurred. Instead, it held all withdrawals and purchases until the end of the day (or the next business day, if the transactions occurred on a weekend or holiday), and posted them, within different categories of transactions, in order of highest-to-lowest dollar amount (“Reordering”). For example, a \$100 ATM withdrawal made at 3:00 p.m. would be posted before a \$40 ATM withdrawal made at 10:00 a.m. on the same day. As a result of Popular’s practice of “Reordering” ATM withdrawals and POS purchases, Popular charged Overdraft Fees that might not have been incurred had Popular posted ATM withdrawals and POS purchases either: (i) in the date and time order in which they actually occurred; or (ii) from lowest-to-highest dollar amount. Plaintiffs assert that Popular’s Reordering practice was deceptive and resulted in Overdraft Fees that Popular should not have charged for ATM and POS transactions.

**3. Providing Inaccurate Balance Information for ATM Transactions.** Plaintiffs allege that Popular sometimes provided inaccurate information regarding a customer’s account balance in response to ATM balance inquiries or following ATM withdrawals. Plaintiffs claim that this practice caused Popular customers to inadvertently overdraw their account and incur Overdraft Fees they would otherwise not have been charged.

The Court and a New York Appellate Court agreed that Plaintiffs had a right to challenge the Disputed Practices under New York General Business Law § 349, but no Court has determined whether Plaintiffs would prevail on their claims as to any of these Disputed Practices, either individually or for any proposed class of Popular account holders.

Popular denies that it provided inaccurate balance information, denies that it had any duty to provide real-time notice of a potential ATM or POS-related overdraft, denies that any of the alleged Disputed Practices were deceptive, misleading, or injurious to consumers, and denies that Popular violated any laws. Popular also denies that Plaintiffs’ claims, if not settled, are suitable for class action treatment. Popular further maintains that, if this

Lawsuit were not settled, Popular would defeat each of Plaintiffs' claims at or before trial.

The Second Amended Class Action Complaint filed by the Plaintiffs in this Lawsuit ("Complaint"), and Popular's Answer and Affirmative Defenses to Plaintiffs' Second Amended Class Action Complaint to that Complaint ("Answer") are posted and available on the Settlement Administrator's website: [www.bpnaoverdraftfeesettlement.com](http://www.bpnaoverdraftfeesettlement.com).

### 3. What do "Account," "Overdraft Fee," and "Debit Card" mean?

**"Account"** means any consumer or retail deposit account maintained by Popular within the State of New York, including savings, checking and money market accounts, regardless of whether such account was closed during the Class Period.

**"Overdraft Fee"** means any fee imposed and collected by Popular as a result of an Account being overdrawn, including both the one-time initial fee charged by Popular for each transaction that exceeded a customer's account balance (**"Initial Overdraft Fee"**), and the daily fee that, effective January 25, 2012, Popular charged beginning the 5<sup>th</sup> business day that an account remained overdrawn (**"Continuous Overdraft Fee"**). Overdraft Fees include those fees described in monthly account statements as: "Overdraft Withdrawal," "Overdraft Fee," "Continuous Overdraft Fee" or "NSF/Unavailable Fee." Only Overdraft Fees charged as a result of ATM withdrawals or POS Debit Card purchases are potentially recoverable in this Settlement.

**"Debit Card"** means a card, sticker, tag or other device issued or provided by Popular, including a debit card, check card or ATM card, that can be used to withdraw or debit funds by ATM transactions or make purchases by POS transactions.

Other terms relevant to the parties' Settlement are defined in the Settlement Agreement available on the Settlement Administrator's website: [www.bpnaoverdraftfeesettlement.com](http://www.bpnaoverdraftfeesettlement.com).

### 4. What is a class action?

In a class action lawsuit, one or more people called "class representatives" (in this case, two former Popular savings account customers who were charged Overdraft Fees) sue on behalf of themselves and other people who have similar claims, experiences, and injuries. The group of people who share similar claims, experiences, and injuries are collectively called the "class" or "class members," even though most do not directly participate in the lawsuit. When a class action is settled, the claims of all settlement class members, except for those people who choose to exclude themselves from the settlement, are settled at one time in one court. For information on how to exclude yourself, see Question 13 below.

### 5. Why is there a settlement?

In this Lawsuit, the Court has not decided in favor of Plaintiffs or Popular with respect to any of the Disputed Practices, and the Court has not found that Popular did anything wrong. Instead, Plaintiffs and Popular agreed to settle this Lawsuit on behalf of Plaintiffs and all Settlement Class Members (except those that have elected to exclude themselves from the Settlement). For the Plaintiffs and Settlement Class Members, the Settlement assures that a financial recovery is available to all Settlement Class Members and avoids the risk that Plaintiffs ultimately will not be successful on their claims or will not be successful in having this Lawsuit certified as a class action. Given the risks associated with litigation, Plaintiffs and Settlement Class Counsel believe that the Settlement is in the best interest of the Settlement Class Members and that the Settlement is fair, adequate, and reasonable. Popular has agreed to the Settlement to avoid the risk of losing at trial, and to avoid the time, expense, and inconvenience associated with the defense of this Lawsuit.

## ARE YOU A SETTLEMENT CLASS MEMBER?

If you received a notice or postcard by mail addressed to you providing notice of the Settlement ("Mailed Notice"), Popular has identified you as a person who incurred at least one Overdraft Fee on ATM or POS Debit Card transactions during the Class Period in a New York-based Popular Account. To the extent you incurred any such Overdraft Fee as a result of one or more of the Disputed Practices, you may be a Settlement Class

Member and may submit a Claim Form. Even if you did not receive a Mailed Notice, you may still be a Settlement Class Member, as described below. To determine whether you are a Settlement Class Member and therefore eligible to file a Claim Form to receive a payment resulting from this Settlement, you must be a person contained within the definition of Settlement Class Member, as explained below.

## **6. Who is a Settlement Class Member?**

You are a Settlement Class Member if, during the Class Period, you: (1) held at least one Account in New York, and (2) incurred at least one Overdraft Fee in such Account(s), (3) in connection with an ATM withdrawal or POS Debit Card transaction, (4) as a result of one or more of the Disputed Practices.

If the Account was maintained by a single person, that person is the Settlement Class Member. If the Account was a joint account, all joint account holders are Settlement Class Members. Persons who maintained only Popular business or commercial accounts are not Settlement Class Members.

See Question 7 below for exceptions to the Settlement Class Member definition.

## **7. Are there exceptions to being included?**

The following are not Settlement Class Members:

- (a) directors, officers and employees of Popular, Popular's parent entity(ies), any Popular subsidiary, or any other entity(ies) in which Popular has a controlling interest;
- (b) the Court, immediate family members of the Court, and employees of the Court; and
- (c) any person that timely and properly excludes himself or herself from the Settlement Class.

## **THE SETTLEMENT BENEFITS – WHAT CAN SETTLEMENT CLASS MEMBERS GET?**

## **8. What benefits does the Settlement provide?**

Popular has agreed to provide the following payments to Settlement Class Members who submit timely and complete Claim Forms:

1. Absent the *pro rata* adjustments set forth below, Settlement Class Members will receive a distribution equal to (i) 50% of all Initial Overdraft Fees paid by them on their Account(s) during the Class Period for ATM withdrawals or POS Debit Card transactions that the Settlement Class Member estimates were caused by one or more of the Disputed Practices; and (ii) 50% of one (1) Continuous Overdraft Fee for every two (2) Initial Overdraft Fees incurred by the Settlement Class Member on ATM withdrawals or POS Debit Card transactions from January 25, 2012 through September 30, 2014. If the total amount of all Qualified Claims received from all Settlement Class Members is more than \$5,200,000.00, then each claim will be reduced *pro rata* to reduce the total amount of Popular's aggregate settlement payments to Settlement Class Members to \$5,200,000.00. If the total value of all Qualified Claims received is less than \$550,000.00, then the 50% payment rate applied above will be increased until it reaches 100% or the total amount of Popular's aggregate settlement payments to Settlement Class Members equals \$550,000.00, whichever occurs first.

Popular has searched its records to determine the total amount of Initial Overdraft Fees (but not Continuous Overdraft Fees) paid by each Settlement Class Member for qualifying ATM withdrawals or POS Debit Card transactions during the Class Period, for each Popular Account. Settlement Class Members can obtain the total amount of Initial Overdraft Fees they paid during the Class Period by calling the Settlement Administrator at 1-888-208-9630 or visiting the Settlement Administrator's website: [www.bpnaoverdraftfeesettlement.com](http://www.bpnaoverdraftfeesettlement.com). The Settlement Administrator will calculate the amount to be paid to each Settlement Class Member based on the information provided by Popular, unless a Settlement Class Member submits evidence to the Settlement Administrator that he or she was charged a different amount of Initial Overdraft Fees for ATM withdrawals or POS Debit Card transactions during the Class Period.

Settlement Class Members should only submit one (1) Claim Form, regardless of the number of eligible Popular Accounts they maintained. If more than one Account holder for a joint Popular Account submits a Claim Form

for the same Account, the Settlement payments will be allocated among them by the Settlement Administrator. If any Account holder for a joint Popular Account excludes himself or herself from this Settlement, no Settlement payment will be made by the Settlement Administrator for that Account.

Settlement Class Members are *not* required to submit any proof in support of their claims, *except for* the Claim Form, unless (i) Popular's records show they were not charged any Initial Overdraft Fees on ATM withdrawals or POS Debit Card transactions during the Class Period, or (ii) they dispute the number of Initial Overdraft Fees charged on ATM withdrawals or POS Debit Card transactions during the Class Period shown in Popular's records.

2. In addition to the payments described in No. 1 above, Popular has agreed to pay the costs of settlement administration and notice up to \$250,000.00.

3. In addition to the payments described in Nos. 1 and 2 above, Popular has agreed to pay the Settlement Class Counsel's attorneys' fees, costs, and expenses in an amount of up to \$1,950,000.00 and an incentive award to the Plaintiffs of \$10,000.00.

4. In addition to the payments described in Nos. 1, 2, and 3 above, Popular has agreed to revise the disclosures provided to new Account holders to describe (1) the type(s) of account balance information that Popular may provide or otherwise make available at ATM terminals and, if applicable, POS terminals, including a definition or other description of each type of balance information; and (2) the type of account balance information that Popular uses to determine when an overdraft has occurred for the purpose of assessing an Overdraft Fee.

## 9. How do I receive a payment from this Settlement?

If you are a Settlement Class Member, whether or not you received a Claim Form in the mail, you **must** submit a valid and timely Claim Form in order to receive any payment. A Claim Form will be mailed to all putative Settlement Class Members who can be identified by Popular, and for whom Popular has a valid mailing address. You may also submit a claim online by visiting the Settlement website, [www.bpnaoverdraftfeesettlement.com](http://www.bpnaoverdraftfeesettlement.com), or request a Claim Form by calling 1-888-208-9630, or by mailing the Settlement Administrator at the address in Question 24 below.

## 10. How do I submit a Claim Form?

You should read the instructions on the Claim Form carefully and fill out the **entire** Claim Form. You'll need to include:

- (a) your full name and the name used on your Popular Account, if different
- (b) your current mailing address;
- (c) your estimate of the percentage (1 to 100%) of Initial Overdraft Fees you incurred that were caused by one or more of the Disputed Practices; AND
- (d) a signed Certification that your Claim Form has been completed fully and accurately.

To properly submit a Claim Form, follow these steps:

- Complete and sign your Claim Form;
- Submit your Claim Form by mailing to Banco Popular Overdraft Fee Settlement, c/o A.B. Data, Ltd., P.O. Box 173048, Milwaukee, WI 53217; or online using the Settlement Administrator's website, [www.bpnaoverdraftfeesettlement.com](http://www.bpnaoverdraftfeesettlement.com). If you submit your Claim Form online, you will need to include either: (i) the **Notice ID #** provided in the Claim Form mailed to You; or (ii) the Popular Account Number(s) for all eligible Popular Accounts. Your Claim Form must be postmarked or filed online no later than July 23, 2018.
- Submit only one Claim Form. If you submit more than one Claim Form, only the last timely Claim Form will be considered.
- If you dispute the amount of Initial Overdraft Fees that the Settlement Administrator believes that you

paid, based on information provided by Popular, you may submit documentary proof (such as a bank statement) of the amount of Initial Overdraft Fees that you paid to Popular for ATM withdrawals or POS Debit Card transactions during the Class Period.

Do **not** send a copy of the Claim Form to the Court, Plaintiffs, Popular, Settlement Class Counsel, or Popular's Counsel. If you mail your Claim Form so that it is not postmarked by the deadline, you will not be eligible to receive payment from this Settlement. It is recommended that you keep a copy of your completed Claim Form.

### 11. When will I get my payment?

The payments will be mailed to Settlement Class Members who submitted valid and timely Claim Forms after (1) the claims period has expired, (2) the Court has granted "final approval" of the Settlement, (3) and any appeals are resolved.

The Court will hold a hearing on August 6, 2018 at 3:00 p.m. to decide whether to finally approve the Settlement (see the section below titled "The Court's Final Approval Hearing"). If the Court approves the Settlement, there may be appeals. Resolving any appeals that are made can take a long time. Please be patient. Please check the settlement website, [www.bpnaoverdraftfeesettlement.com](http://www.bpnaoverdraftfeesettlement.com), for updates and other important information about the Settlement. You may also call 1-888-208-9630 toll-free for settlement updates.

### 12. What am I giving up as a Settlement Class Member?

In exchange for the settlement payments discussed above, Settlement Class Members agree to release any legal claims they may have against Popular based on this Lawsuit or Popular's charging of Overdraft Fees. If you do not exclude yourself from the Settlement, and the Settlement receives final approval, you will be bound by these releases, even if you did not submit a Claim Form or receive a Settlement payment, and you cannot sue or be part of any other lawsuit against Popular, as described in Section XIV of the Settlement Agreement.

A complete copy of the Settlement Agreement can be obtained at [www.bpnaoverdraftfeesettlement.com](http://www.bpnaoverdraftfeesettlement.com), or by calling 1-888-208-9630 toll-free. The Settlement Agreement specifically describes the Settlement Class Members' releases in legal terminology. Speak with Settlement Class Counsel (see the section below on "The Lawyers Representing Settlement Class Members") or your own lawyer if you have questions about the releases or what they mean.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

If you want to maintain the right to sue Popular based on the legal claims alleged in this case, then you must follow the steps below to exclude yourself from the Settlement. This is also called "opting out" of the Settlement. If you exclude yourself, you cannot get a payment from this Settlement.

### 13. How do I get out of the Settlement?

To exclude yourself from the Settlement, you **must** send a letter to the Settlement Administrator by U.S. Mail, including the following:

- your name, address, and telephone number;
- a clear statement that you want to be excluded from the settlement of the lawsuit named *Valle v. Popular Community Bank*, Index No. 653936/2012; AND
- your personal signature.

You must mail your exclusion notice, **postmarked no later than July 6, 2018** to:

Banco Popular Overdraft Fee Settlement Exclusions  
c/o A.B. Data, Ltd.  
P.O. Box 173001  
Milwaukee, WI 53217

You cannot exclude yourself by telephone, by e-mail, or on the Settlement Administrator’s website. If you submit an exclusion notice as provided above, (1) you will not receive any payment from this Settlement; (2) you cannot object to the Settlement; and (3) you will not be legally bound by anything that happens in this Lawsuit.

**14. If I do not exclude myself, can I sue Popular myself for Overdraft Fees I was charged?**

No. Unless you exclude yourself, you give up any right to sue Popular for any of the claims that this Settlement resolves. You must exclude yourself from this Settlement in order to pursue your own lawsuit against Popular or any of the other “Released Parties” defined and described in the Settlement Agreement. If you have a pending lawsuit against Popular or any of the Released Parties, speak to your lawyer immediately.

**15. If I exclude myself, can I get a payment from this Settlement?**

No. If you exclude yourself, you cannot get a payment from the Settlement.

**THE LAWYERS REPRESENTING SETTLEMENT CLASS MEMBERS**

**16. Do I have a lawyer in this case?**

The Court has appointed the following attorneys and law firms to represent you and other putative Settlement Class Members:

<b>Joseph P. Guglielmo</b> <b>Scott+Scott, Attorneys at Law, LLP</b> <b>The Helmsley Building</b> <b>230 Park Avenue, 17<sup>th</sup> Floor</b> <b>New York, New NY 10169</b>	<b>Joseph S. Tusa</b> <b>Tusa P.C.</b> <b>150 Motor Parkway, Ste. 401</b> <b>Hauppauge, NY 11788</b>
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These lawyers have been certified by the Court as “Settlement Class Counsel.” You will not be charged or otherwise pay for services performed by Settlement Class Counsel. Subject to final approval of the Settlement and subsequent approval of the fee award by the Court, Popular has agreed to pay the attorneys’ fees (described below) to Settlement Class Counsel separate from any payment to Settlement Class Members. Settlement Class Counsel will not assist any Settlement Class Member in objecting to approval of the Settlement or opting out of the Settlement. If you want to be represented by your own lawyer, you may hire one at your own expense.

**17. How will Settlement Class Counsel be paid?**

Settlement Class Counsel will ask the Court to approve a payment of up to \$1,950,000.00 for attorneys’ fees and reimbursement of their expenses incurred during this five-year litigation. The attorneys’ fees and reimbursement of expenses that Popular has agreed to pay to Settlement Class Counsel are in addition to any payments that Popular has agreed to make to Settlement Class Members who submit a valid, timely and complete Claim Form, in addition to the settlement administration and notice costs that Popular has agreed to pay (up to \$250,000.00), and in addition to the incentive awards that Popular has agreed to pay to Plaintiffs Josefina and Wilfredo Valle for their services as Plaintiffs and class representatives (\$10,000.00 total).

**OBJECTING TO THE SETTLEMENT**

If you are a Settlement Class Member and do not exclude yourself from the Settlement, you can object to approval of the Settlement or some part of it.

## 18. How do I object to the Settlement?

If you are a Settlement Class Member and you do not exclude yourself from the Settlement, you can object to approval of the proposed Settlement. You may not file an objection if you are not a Settlement Class Member or if you exclude yourself from the Settlement.

You can give reasons why you think the Court should not approve the Settlement. The Court will consider your views. To object, you must file your objection with the Court, mail a copy to the Settlement Administrator and parties listed below, and include the following information in your objection:

- a caption or title identifying it as an “Objection to Class Settlement in *Valle v. Popular Community Bank*, Index No. 653936/2012 (N.Y. Sup.)”;
- your full name, address, and telephone number;
- an explanation of the basis upon which you claim to be a Settlement Class Member;
- all grounds for the objection, accompanied by any legal support for the objection known to you or to your counsel;
- the number of times you have objected to a class action settlement within the five years preceding the date that you file the objection, the caption of each case in which you have made such objection, and a copy of any orders or opinions related to or ruling upon your prior such objections that were issued by the trial and appellate courts in each listed case;
- the identity of all counsel who represent you, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement or fee application;
- the number of times in which your counsel and/or counsel’s law firm have objected to a class action settlement within the five years preceding the date that you object or file the objection, the caption of each case in which counsel or the firm has made such objection, and a copy of any orders related to or ruling upon counsel’s or the firm’s prior such objections that were issued by the trial and appellate courts in each listed case;
- any and all agreements that relate to the objection or the process of objecting – whether written or verbal – between you and your counsel and any other person or entity;
- the identity of all counsel representing you who will appear 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;
- a statement confirming whether you intend to personally appear and/or testify at the Final Approval Hearing;
- your personal signature (an attorney’s signature is not sufficient); and
- if you are represented by an attorney(s) in connection with the objection, the signature of each such attorney below a statement that “No other attorney has a financial interest, either directly or indirectly, in the representation of this objecting party.”

You must file with the Court and serve your objection to the parties at the following addresses, postmarked **no later than July 6, 2018**:

Clerk of the Court New York County Courthouse 60 Centre Street New York, NY 10007	Banco Popular Overdraft Fee Settlement c/o A.B. Data, Ltd. P.O. Box 173048 Milwaukee, WI 53217
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<p>Rachael M. Trummel  Andrew E. Nieland  BARACK FERRAZZANO KIRSCHBAUM  &amp; NAGELBERG LLP  200 W. Madison Street, Suite 3900  Chicago, IL 60606</p>	<p>Jonathan D. Lupkin  LUPKIN PLLC  80 Broad St. Suite 1301  New York, NY 10004</p>
<p>Joseph P. Guglielmo  SCOTT+SCOTT,  ATTORNEYS AT LAW, LLP  The Helmsley Building  230 Park Avenue, 17th Floor  New York, NY 10169</p>	<p>Joseph S. Tusa  TUSA P.C.  150 Motor Parkway, Ste. 401  Hauppague, NY 11788</p>

Only persons who remain members of the Settlement Class and who have filed and served valid and timely notices of objection shall be entitled to be heard at the Final Approval Hearing. See Questions 20 and 22 below.

**19. What’s the difference between objecting and excluding yourself?**

Objecting is simply telling the Court that you do not agree with something about the Settlement. Excluding yourself is making the election to not be part of the Settlement Class. If you exclude yourself, you have no basis to object, because the Settlement no longer affects you. If you object and the Court approves the Settlement anyway, you will be legally bound by the result, including the releases of claims set forth in the Settlement Agreement. If you file an objection, you can and should submit a timely, complete Claim Form to preserve your potential eligibility to receive a payment under the Settlement.

**THE COURT’S FINAL APPROVAL HEARING**

The Court will hold a hearing called a “Final Approval Hearing” (also known as a “Fairness Hearing”) to decide whether to approve the Settlement. **No Settlement Class Member is required to attend the Final Approval Hearing**, even if you filed a Claim Form to receive a Settlement payment.

**20. When and where will the Court decide whether to finally approve the Settlement?**

The Court will hold a Final Approval Hearing to decide whether to finally approve the Settlement. You may attend and you may ask to speak, but you don’t have to do either one.

The Final Approval Hearing will be on **August 6, 2018** before Judge O. Peter Sherwood, at 3:00 p.m. at the New York Supreme Court, New York County, 60 Centre Street, New York, NY 10007, Commercial Division Part 49, Room 252. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check Settlement Administrator’s website for updates.

At this hearing, the Court will consider whether the Settlement and all of its terms are adequate, fair, and reasonable. If there are objections, the Court will consider them. The Court may listen to people who have asked for permission to speak at the hearing and complied with the other requirements for objections explained in Question 18 above. The Court may also decide how much to award Settlement Class Counsel for attorneys’ fees and expenses for representing the Settlement Class Members and whether and how much to award the Plaintiffs for representing the Settlement Class Members.

At or after the hearing, the Court will decide whether to finally approve the proposed Settlement. There may be appeals after that. We do not know how long these decisions will take.

The Court may change deadlines listed in this Notice without further notice to Settlement Class Members. To keep up on any changes in the deadlines, please contact the Settlement Administrator or review the settlement website, [www.bpnaoverdraftfeesettlement.com](http://www.bpnaoverdraftfeesettlement.com).

## 21. Do I have to attend the Final Approval Hearing?

**No.** Settlement Class Members are not required to attend the Final Approval Hearing, and not attending will not affect any Claim Form you file to receive a payment from the Settlement. Settlement Class Counsel will answer any questions asked by the Court. But, you are welcome to attend at your own expense. If you intend to have a lawyer appear on your behalf at the Final Approval Hearing, your lawyer must enter a written notice of appearance of counsel with the Clerk of the Court no later than July 6, 2018 and you must comply with all of the requirements explained above in Question 18.

If you send a valid and timely objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time and complied with the other requirements for a proper objection, the Court will consider it.

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

If you submitted a proper written objection to the Settlement, you or a lawyer acting on your behalf may speak at the Final Approval Hearing to the extent permitted by the Court. To do so, you must send a letter saying that you intend to appear and wish to be heard. This letter is called a “Notice of Intention to Appear,” and it must include the following:

- your name, address, and telephone numbers;
- a statement that this is your “Notice of Intention to Appear” at the Final Approval Hearing in *Valle v. Popular Community Bank*, Index No. 653936/2012 (N.Y. Sup.);
- the reasons you want to be heard;
- copies of any papers, exhibits, or other evidence or information that is to be presented to the Court at the Final Approval Hearing; and
- Your personal signature (an attorney’s signature is not sufficient).

You must mail your Notice of Intention to Appear, postmarked no later than July 6, 2018 to all addresses in Question 18.

## IF YOU DO NOTHING

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

If you are a Settlement Class Member and you do nothing, you will get no payment from this Settlement, and you will be legally bound by the Court’s decisions in this Settlement. Unless you exclude yourself, if the Court grants final approval to the Settlement, you will not be able to sue or be part of any other lawsuit against Popular or any of the Released Parties regarding the legal claims in this case.

## GETTING MORE INFORMATION

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

You may obtain additional information by:

- Calling the Settlement Administrator toll-free at 1-888-208-9630.
- Writing to the Settlement Administrator at the following address:

Banco Popular Overdraft Fee Settlement  
c/o A.B. Data, Ltd.  
P.O. Box 173048  
Milwaukee, WI 53217

- Visiting the settlement website, [www.bpnaoverdraftfeesettlement.com](http://www.bpnaoverdraftfeesettlement.com), where you will find: answers to frequently asked questions about the Settlement; a Claim Form; Settlement-related documents; Settlement-related deadlines; the Court Order Preliminarily Approving the Settlement and Conditionally Certifying the Settlement Class; Plaintiffs' Complaint; Popular's Answer to the Complaint; and other relevant information.
- Reviewing legal documents that have been filed with the Clerk of the Court in this Lawsuit at the Court offices provided in Question 18 during regular office hours.
- Contacting Settlement Class Counsel listed in Question 16 above.

**PLEASE DO NOT CALL THE JUDGE, THE COURT CLERK, ANYONE ELSE AT THE COURT, OR POPULAR TO ASK QUESTIONS ABOUT THIS LAWSUIT OR NOTICE.**

**THE COURT WILL NOT RESPOND TO LETTERS OR TELEPHONE CALLS. IF YOU WISH TO ADDRESS THE COURT, YOU MUST FILE AN APPROPRIATE PLEADING OR MOTION WITH THE CLERK OF THE COURT IN ACCORDANCE WITH THE COURT'S USUAL PROCEDURES.**