

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DAVID MOSKOWITZ, *et al.*,

Plaintiffs,

v.

AMERICAN EXPRESS COMPANY and
AMERICAN EXPRESS TRAVEL RELATED
SERVICES COMPANY, INC.,

Defendants.

Case No. 1:19-cv-00566 (NGG)(JRC)

Hon. Nicholas G. Garaufis

PROPOSED PRELIMINARY APPROVAL ORDER

WHEREAS, Plaintiffs¹ and Defendants American Express Company and American Express Travel Related Services Company, Inc. (“Defendants,” and together with Plaintiffs, the “Parties”), without waiving any right, claim, or defense and without conceding or admitting any fact, allegation, or matter, have determined to settle all claims asserted against Defendants and their predecessors, successors, assigns, subsidiaries, and affiliates, in this Action with prejudice on the terms and conditions set forth in the Stipulation and Agreement of Settlement between Plaintiffs and Defendants dated January 15, 2026 (the “Stipulation”), subject to approval of this Court (the “Settlement”);

¹ “Plaintiffs” means the Debit Card Classes for Alabama, District of Columbia, Kansas, Maine, Mississippi, North Carolina, Ohio, Oregon, Utah and Illinois and the Non-Rewards Credit Card Classes for District of Columbia, Kansas and Illinois, inclusive of the Class Representatives, and all other individual plaintiffs who at any time have been parties to the Action: Anthony Oliver, Terry Gayle Quinton, Susan Burdette, Gianna Valdes, Zachary Draper, Nate Thayer, Michael Thomas Reid, Gary Accord, Nanci-Taylor Maddux, Joseph Realdine, Marilyn Baker, Sherie McCaffrey, and Ellen Maher.

WHEREAS, Plaintiffs have made applications, pursuant to Rule 23 of the Federal Rules of Civil Procedure, for an order preliminarily approving the Settlement in accordance with the Stipulation, and approving notice of the Settlement to the Classes;

WHEREAS, the Court has considered: (i) Plaintiffs' motion for preliminary approval of the Settlement and the papers filed and arguments made in connection therewith; and (ii) the Stipulation and the exhibits attached thereto;

WHEREAS, the Court, having found that the proposed forms of Class notice and the proposed Class notice plan are adequate and reasonable, and the proposed Distribution Plan is reasonable and the Class notice should be disseminated to Class Members for their review prior to the Settlement Hearing; and

WHEREAS, unless otherwise defined herein, all capitalized terms contained in this Order shall have the same meanings as they have in the Stipulation.

NOW THEREFORE, IT IS HEREBY ORDERED:

1. **Preliminary Approval of the Settlement** – Pursuant to Fed. R. Civ. P. 23(e)(1)(B), based on “the parties’ showing that the court will likely be able to ... approve the proposal[s] under Rule 23(e)(2)” the Court hereby preliminarily approves the Settlement, as embodied in the Stipulation, and “direct[s] notice in a reasonable manner to all class members who would be bound by the proposal[s],” as described below. Fed. R. Civ. P. 23(e)(1)(B).

2. **Settlement Hearing** – The Court will hold a settlement hearing (the “Settlement Hearing”) on June 17, 2026 at 11:00Am. at the United States District Court for the Eastern District of New York, Brooklyn Courthouse, 225 Cadman Plaza East, Brooklyn, NY 11201, for the following purposes: (i) to determine whether the proposed Settlement on the terms and conditions provided for in the Stipulation is fair, reasonable, and adequate to the Settlement

Class, and should be approved by the Court; (ii) to determine whether the Judgment substantially in the form attached as Exhibit B to the Stipulation should be entered dismissing the Action with prejudice against Defendants; (iii) to determine whether the proposed Distribution Plan for the proceeds of the Settlement is fair and reasonable and should be approved; (iv) to determine whether the application for an award of attorneys' fees, reimbursement of Litigation Expenses, and any service awards for Class Representatives should be approved; and (v) to consider any other matters that may properly be brought before the Court in connection with the Settlement. Notice of the Settlement and the Settlement Hearing shall be given to Settlement Class Members as set forth in ¶4 of this Order.

3. The Court may adjourn the Settlement Hearing without further notice to the Settlement Class, and may approve the proposed Settlement with such modifications as are agreed to, if appropriate, without further notice to the Settlement Class.

4. **Retention of Claims Administrator and Manner of Giving Notice** – Co-Lead Counsel (consisting of the law firms Berman Tabacco and Gordon Ball PLLC) (“Co-Lead Counsel”) are hereby authorized to retain A.B. Data, Ltd. (the “Claims Administrator”) to disseminate notice to the Class, process Claims, and administer the Settlement, as more fully set forth below. Notice of the Settlement and the Settlement Hearing shall be given as follows:

(a) Commencing no later than fourteen (14) days of entry of this Order (the “Notice Date”), the Claims Administrator shall cause copies of the Notice and the Claim Form to be posted on the website developed for this Action, www.AmexAntitrust.com, from which copies of the Notice and Claim Form can be downloaded, and the Claims Administrator shall commence distribution of the Summary Notice via press release on PR Newswire and engage in a digital and

social media campaign to provide notice of the Settlement, including in apps and websites targeted to reach the Classes; and

(b) Prior to the Settlement Hearing, Co-Lead Counsel shall file with the Court proof, by affidavit or declaration, of such publication.

5. **Approval of Form and Content of Notice** – The Court: (i) approves, as to form and content, the Notice and the Claim Form, attached to the Declaration in Support of Plaintiffs’ Motion for Preliminary Approval of Stipulation and Agreement of Settlement as Exhibits__ and __, respectively; and (ii) finds that the distribution of the Notice, the posting of the Notice and Claim Form on the website developed for this Action, www.AmexAntitrust.com, and the digital and social media advertising campaign (a) is the best notice practicable under the circumstances; (b) constitutes notice that is reasonably calculated, under the circumstances, to apprise Class Members of the proposed Settlement (including the Releases to be provided thereunder); the application for an award of attorneys’ fees, reimbursement of Litigation Expenses, and any service awards for Plaintiffs; their right to object to the Settlement, Distribution Plan, and/or application for an award of attorneys’ fees, reimbursement of Litigation Expenses, and any service awards for Plaintiffs; and their right to appear at the Settlement Hearing; (c) constitutes due, adequate, and sufficient notice to persons entitled to receive notice of the proposed Settlement; and (d) satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure and the United States Constitution (including the Due Process Clause). The date and time of the Settlement Hearing shall be included in the Notice before it is published.

6. **Participation in the Settlement** – Class Members who wish to receive a distribution from the Net Settlement Fund must complete and submit a Claim Form in accordance with the instructions contained therein. Unless the Court orders otherwise, all Claim Forms must

be submitted no later than ninety (90) days following the Notice Date. Notwithstanding the foregoing, Co-Lead Counsel shall have the discretion, but not the obligation, to accept late-submitted claims for processing by the Claims Administrator so long as distribution of the proceeds of the Settlement Fund or Net Settlement Fund is not materially delayed. By submitting a Claim Form, a person shall be deemed to have submitted to the jurisdiction of the Court with respect to his or her Claim and the subject matter of the Settlement.

7. Each Claim Form submitted must satisfy the following conditions: (i) it must be properly completed, signed, and submitted in a timely manner in accordance with the provisions of the preceding paragraph; (ii) it must include supporting documentation, if any and as may be deemed adequate by Co-Lead Counsel or the Claims Administrator; and (iii) the Claim Form must be signed under penalty of perjury. Notwithstanding the foregoing, Co-Lead Counsel shall have the right, but not the obligation, to waive what they deem to be formal or technical defects in any Claims submitted in the interest of achieving substantial justice.

8. Any Class Member who or which does not timely and validly submit a Claim Form or whose Claim is not otherwise approved by the Court: (i) shall be deemed to have waived his or her right to share in the Net Settlement Fund; (ii) shall be forever barred from participating in any distributions therefrom; (iii) shall be bound by the provisions of the Stipulation and the Settlement and all proceedings, determinations, orders, and judgments in the Action relating thereto, including, without limitation, the Judgment or Alternate Judgment, if applicable, and the Releases provided for therein, whether favorable or unfavorable to the Class; and (iv) will be barred from commencing, maintaining, or prosecuting any of the Releasing Parties' Claims against each and all of the Released Parties, as more fully described in the Stipulation and Notice.

9. **Appearance and Objections at Settlement Hearing** – Any Class Member who or which has not previously requested exclusion from the Class in connection with the prior notice of pendency may enter an appearance in the Action, at his or her own expense, individually or through counsel of his or her own choice, by filing with the Clerk of Court a notice of appearance within seventy (70) days following the Notice Date, or as the Court may otherwise direct, and serving copies of such notice of appearance on Co-Lead Counsel and Defendants' Counsel at the addresses set forth in ¶11 of this Order. Any Class Member who does not enter an appearance will be represented by Co-Lead Counsel.

10. Any Class Member may file a written objection to the proposed Settlement, proposed Distribution Plan, application for an award of attorneys' fees and Litigation Expenses, and/or any service awards for Plaintiffs and appear and show cause, if he, she, or it has any cause, why any of the foregoing should not be approved; *provided, however*, that no Class Member shall be heard unless that person or entity has filed a written objection with the Court within seventy (70) days following the Notice Date, or as the Court may otherwise direct, and served copies of such objection on Co-Lead Counsel and Defendants' Counsel at the addresses set forth below.

Co-Lead Counsel

Todd A. Seaver
Joseph J. Tabacco, Jr.
Carl N. Hammarskjold
Berman Tabacco
425 California Street
Suite 2300
San Francisco, CA 94104
Email:
tseaver@bermantabacco.com;
jtabacco@bermantabacco.com;
chammar skjold@bermantabacco.com

Gordon Ball
Gordon Ball PLLC
3728 West End Avenue
Nashville, TN 37205
Email:
gball@gordonball.com

Defendants' Counsel

Kevin J. Orsini
Helam Gebremariam
David H. Korn
Rebecca Schindel
Cravath, Swaine & Moore LLP
Two Manhattan West
375 Ninth Avenue
New York, NY 10001
Email:
korsini@cravath.com
hgebremariam@cravath.com
dkorn@cravath.com
rschindel@cravath.com

11. Any objections, filings, or other submissions by the objecting Class Member must contain:

- (a) a heading that refers to this Action by case name and case number;
- (b) a statement of the specific legal and factual basis for each objection, including whether the objection applies only to the objecting person, a specific subset of the Class or the entire Class;
- (c) the identity, address, and telephone number of all counsel representing the objector (if any);
- (d) a statement of whether the objecting or intervening person intends to appear at the Settlement Hearing, either in person or through counsel;
- (e) a description of any and all evidence the objecting person may offer at the Settlement Hearing, including but not limited to the names, addresses, and expected testimony of any witnesses; all exhibits intended to be introduced at the Settlement Hearing;
- (f) documents sufficient to prove membership in the Class; and

(g) a list of other cases in which the objector or intervenor or counsel for the objector or intervenor has appeared, either as an objector or counsel for an objector, in the last five years.

12. Any Class Member who or which does not make his or her objection in the manner provided herein, shall be deemed to have waived his or her right to object to any aspect of the proposed Settlement, proposed Distribution Plan, and/or application for an award of attorneys' fees, reimbursement of Litigation Expenses, and any service awards for Plaintiffs, and shall be forever barred and foreclosed from objecting to the fairness, reasonableness, or adequacy of any of the foregoing or from otherwise being heard concerning any of the foregoing in this or any other proceeding.

13. **Notice and Administration Costs** – All reasonable Notice and Administration Costs up to \$250,000 shall be paid as set forth in the Stipulation without further order of the Court. Any Notice and Administration Costs in excess of \$250,000 may be paid from the Settlement Fund only with the approval of the Court.

14. **Settlement Fund** – The contents of the Settlement Fund held by Western Alliance Bank (which the Court approves as the “Escrow Agent”), shall be deemed and considered to be *in custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as they shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

15. **Taxes** – Co-Lead Counsel are authorized and directed to prepare any tax returns and any other tax reporting form for or in respect to the Settlement Fund, to pay from the Settlement Fund any Taxes owed with respect to the Settlement Fund, and to otherwise perform all obligations with respect to Taxes and any reporting or filings in respect thereof without further order of the Court in a manner consistent with the Stipulation.

16. **Termination of Settlement** – If the Settlement is terminated as provided in the Stipulation, this Order shall be vacated, rendered null and void and be of no further force and effect, except as otherwise provided by the Stipulation, and this Order shall be without prejudice to the rights of Plaintiffs and Defendants, and the Parties shall revert to their respective positions as of October 23, 2025, as provided in the Stipulation.

17. **Litigation Stay** – All proceedings in the Action with respect to Released Parties are stayed until further order of the Court, except as may be necessary to implement the Settlement set forth in the Stipulation or comply with the terms thereof. Pending final determination of whether the Settlement set forth in the Stipulation should be approved, each Releasing Party, either directly, representatively, or in any other capacity, is enjoined from prosecuting in any forum any Settled Claims or assisting any third party in commencing or maintaining any suit against any Released Parties related in any way to any Settled Claim.

18. **Supporting Papers** – Co-Lead Counsel shall file the opening papers in support of final approval of the proposed Settlement, the Distribution Plan, and the application for an award of attorneys’ fees, reimbursement of Litigation Expenses, and any service awards for Plaintiffs within fifty (50) days following the Notice Date, and reply papers, if any, shall be filed within ninety (90) days following the Notice Date.

19. **Summary of Deadlines** – The Settlement, as preliminarily approved in this Order, shall be administered according to its terms pending the Settlement Hearing. Deadlines arising under the Settlement and this Order include, but are not limited to, the following:

- Notice: to commence no later than fourteen (14) days following entry of this Order (“Notice Date”);

- Motion for Final Approval of the Settlement (“Final Approval Motion”) and application for attorneys’ fees, Litigation Expenses and any service awards to Class Representatives (“Fee Application”): to be filed no later than fifty (50) days following the Notice Date;
- Objection Deadline: seventy (70) days following Notice Date;
- Claims Deadline: ninety (90) days following Notice Date;
- Replies in Support of Final Approval Motion and Fee Application: ninety (90) days following Notice Date; and
- Settlement Hearing: no earlier than one hundred five (105) days following Notice Date.

20. In the event that any date or deadline set forth herein falls on a Saturday, Sunday or federal holiday, such date or deadline shall be deemed moved to the first business day thereafter that is not a federal holiday.

21. The Court retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

IT IS SO ORDERED.

DATED: February 3, 2026

s/Nicholas G. Garaufis
HON. NICHOLAS G. GARAUFIS
United States District Judge