

1 Charles D. Marshall (State Bar No. 236444)  
 2 **MARSHALL LAW FIRM**  
 3 2121 N. California Blvd., Suite 290  
 4 Walnut Creek, CA 92596  
 5 Telephone: (925) 575-7105  
 6 Facsimile: (855) 575-7105  
 7 cdm@marshall-law-firm.com

8 Attorney for Plaintiff  
 9 **RON DAVIS**

10 **UNITED STATES DISTRICT COURT**  
 11 **NORTHERN DISTRICT OF CALIFORNIA**

12 RON DAVIS, an individual, on behalf of  
 13 himself and all others similarly situated,

14 Plaintiff,

15 vs.

16 VISA, Inc., a Delaware corporation,

17 Defendant.

Case No. 3:13-cv-5125-CRB

**CLASS ACTION**

**ORDER PRELIMINARILY APPROVING  
 CLASS ACTION SETTLEMENT,  
 CONDITIONALLY CERTIFYING THE  
 SETTLEMENT CLASS, PROVIDING  
 FOR NOTICE AND SCHEDULING  
 ORDER**

21  
22  
23  
24  
25  
26  
27  
28

1 WHEREAS, Plaintiff<sup>1</sup> and Defendant in the Action entitled *Davis v. VISA Inc.*, No. 3:13-  
2 cv-5125-CRB (N.D. California) and have entered into a Settlement Agreement, filed October 27,  
3 2014, after arms-length settlement discussions;

4 AND, WHEREAS, the Court has received and considered the Settlement Agreement,  
5 including the accompanying exhibits;

6 AND, WHEREAS, Plaintiff has made an application for an order preliminarily approving  
7 the settlement of this Action, and for its dismissal with prejudice upon the terms and conditions set  
8 forth in the Settlement Agreement;

9 AND, WHEREAS, the Court has reviewed the application for such order, and has found  
10 good cause for same.

11 NOW, THEREFORE, IT IS HEREBY ORDERED:

12 **A. The Settlement Class is Conditionally Certified**

13  
14 1. Pursuant to Federal Rule of Civil Procedure 23, and for settlement purposes only,  
15 the Court hereby certifies the following Class:

16  
17 All Persons in the United States who (1) maintain a VISA standard, VISA  
18 Rewards, or VISA premium branded credit card offering an automobile rental  
19 collision damage waiver benefit, (2) who, prior to November 6, 2014, made a  
20 claim to VISA for such benefit based on an incident involving a Zipcar (the  
"Claim"), and (3) whose claims were denied because the vehicle involved was a  
Zipcar.

21 Attached to the Settlement Agreement as Exhibit C is a list of all Persons who (based on a review  
22 of records maintained by Defendant) qualify as potential members of the Settlement Class under  
23 the definition set forth above. Excluded from the Settlement Class are the following: (a) all  
24 Persons who file timely Requests for Exclusion, (b) all Persons who had their claims discharged in  
25 bankruptcy, finally adjudicated on the merits or otherwise released against Defendant, (c) the  
26

27 <sup>1</sup> All capitalized terms herein have the same meanings as set forth in the Parties' Settlement  
28 Agreement unless otherwise specifically defined.

1 Defendant, IINA, and any respective parent, subsidiary, affiliate, or control person of either, as  
2 well as their officers, directors, agents, servants, or employees, (d) any judge presiding over this  
3 Action, and (e) the immediate family members of any such Person(s).

4         2.         With respect to the Class and for settlement purposes only, the Court preliminarily  
5 finds the prerequisites for a class action under Federal Rules of Civil Procedure 23(a) and (b)(3)  
6 have been met, including: (a) numerosity; (b) commonality; (c) typicality; (d) adequacy of the  
7 class representative and Class Counsel; (e) predominance of common questions of fact and law  
8 among the Class for purposes of settlement; and (f) superiority.

9         3.         Pursuant to Federal Rule of Civil Procedure 23, the Court hereby appoints Plaintiff  
10 Ron Davis as the class representative.

11         4.         Having considered the factors set forth in Federal Rule of Civil Procedure 23(g)(1),  
12 the Court hereby appoints the Marshall Law Firm as Class Counsel.

13                 **B.         The Settlement Agreement is Preliminarily Approved and Final Approval**  
14                 **Schedule Set**

15         5.         The Court hereby preliminarily approves the Settlement Agreement and the terms  
16 and conditions of settlement set forth therein, subject to further consideration at the Fairness  
17 Hearing (or “Final Approval Hearing”) described below.

18         6.         The Court has concluded a preliminary assessment of the fairness, reasonableness,  
19 and adequacy of the Settlement Agreement, and hereby finds that the settlement falls within the  
20 range of reasonableness meriting possible final approval. The Court therefore preliminarily  
21 approves the proposed settlement as set forth in the Settlement Agreement.  
22  
23  
24  
25  
26  
27  
28

1           7. Pursuant to Federal Rule of Civil Procedure 23(e), the Court will hold a Fairness  
2 Hearing on March 20, 2015 at 10:00 a.m., in the Courtroom of the Honorable Charles R. Breyer,  
3 United States District Court for the Northern District of California, 450 Golden Gate Avenue,  
4 Courtroom 6 – 17th floor, San Francisco, CA 94102 for the following purposes:

5           a. finally determining whether the Class meets all applicable requirements of  
6 Federal Rules of Civil Procedure 23, and this the Class should be certified for the purposes of  
7 effectuating the settlement;

8           b. determining whether the proposed settlement of the Action on the terms and  
9 conditions provided for in the Settlement Agreement is fair, reasonable and adequate and should  
10 be approved by the Court;

11           c. considering the application of Class Counsel for an award of attorney's fees  
12 and reimbursement of expenses, as provided for under the Settlement Agreement;

13           d. considering the application of Plaintiff for a class representative incentive  
14 award, as provided for under the Settlement Agreement;

15           e. considering whether the Court should enter a Final Settlement Order and  
16 Judgment;

17           f. considering whether the release of the Released Claims as set forth in the  
18 Settlement Agreement should be provided;

19           g. ruling upon other matters as the Court may deem just and appropriate.

20           8. The Court may adjourn the Fairness Hearing and later reconvene such hearing  
21 without further notice to Class Members.  
22  
23  
24  
25  
26  
27  
28



1 administrative functions, and shall respond to Class Member inquiries, as set forth in the  
2 Settlement Agreement and this Order under the direction and supervision of the Court.

3 14. The Court directs Plaintiff's counsel to establish a Settlement Website in  
4 accordance with the applicable provisions of the Settlement Agreement, making available copies  
5 of this Order, Class Notice, Claims Forms that may be downloaded and submitted by email or  
6 mail, the Settlement Agreement and all Exhibits thereto and such other information as may be of  
7 assistance to Class Members or required under the Settlement Agreement. The Class Notice and  
8 Claims Forms shall be made available to Class Members through the Settlement Website on the  
9 date notice is first published and continuously thereafter through the Effective Date.  
10

11 15. The costs of Notice, processing of claims of Class Members, creating and  
12 maintaining the Settlement Website, and all other Claim Administrator and Notice expenses shall  
13 be paid by Defendant in accordance with the applicable provisions of the Settlement Agreement.  
14

15 **D. Procedure for Class Member Participation in the Settlement**

16 16. The Court approves the Parties' proposed Claim Form. Any Class Member who  
17 wishes to participate in the settlement shall complete a Claim Form in accordance with the  
18 instructions contained therein and submit it to the Claims Administrator no later than 90 days after  
19 the Fairness Hearing, which date will be specifically identified in the Claim Form. Such deadline  
20 may be further extended without notice to the Class by written agreement of the Parties.

21 17. The Claims Administrator shall have authority to accept or reject claims in  
22 accordance with the Settlement Agreement.  
23

24 18. Any Class Member may enter an appearance in the Action, at his, her or its, own  
25 expense, individually or through counsel who is qualified to appear in the jurisdiction. All Class  
26 Members who do not enter an appearance will be represented by Class Counsel.  
27







1 incentive award must provide written notice of their intention to appear at the Fairness Hearing no  
2 later than 45 days after the Notice Date, the date for which will be specifically identified in the  
3 Notices. Class Members who do not oppose the settlement, the application for attorney's fees and  
4 reimbursement of expenses, or class representative incentive awards, need not take any action. A  
5 Class Member's failure to submit a timely written objection in accordance with the procedures set  
6 out in this order and in the Notices waives any right the Class Member may have to object to the  
7 settlement, attorney's fees and expenses, or the class representative incentive award, to appear at  
8 the Fairness Hearing, or to seek other review of the Final Judgment and Order.  
9

10 IT IS SO ORDERED.

11  
12 DATED: December 12, 2014



13 THE HONORABLE CHARLES R. BREYER  
14 UNITED STATES DISTRICT JUDGE  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27