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17 *Counsel for Plaintiff John Lofton*

18 **IN THE UNITED STATES DISTRICT COURT**
 19 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
 20 **SAN FRANCISCO DIVISION**

21 JOHN LOFTON, an individual, on his own behalf
and on behalf of all others similarly situated,

22 Plaintiff

23 v.

24 BANK OF AMERICA CORPORATION, FIA
 25 CARD SERVICES, N.A., a national banking
 26 association, CARLSON COMPANIES, INC., a
 27 Minnesota corporation, CARLSON TRAVEL
 28 GROUP, INC. a California corporation, and
 DOES 1 to 100,

Defendants.

No. 07-5892 (SI)

[PROPOSED] ORDER
PRELIMINARILY APPROVING
CLASS ACTION SETTLEMENT,
PROVISIONALLY CERTIFYING
A NATIONWIDE CLASS,
APPROVING PROCEDURE AND
FORM OF NOTICE, AND
SCHEDULING FAIRNESS
HEARING

1 Upon review and consideration of the Motion for Preliminary Approval, the Class
2 Action Settlement Agreement (“Settlement Agreement”), and the attachments to each which
3 have been filed with the Court, and having been fully advised in the premises, it is HEREBY
4 ORDERED, ADJUDGED and DECREED as follows:

5 1. The Parties have agreed to settle this Action upon the terms and conditions set forth
6 in the Settlement Agreement, which has been filed with the Court.

7 2. The Court has reviewed the Settlement Agreement, as well as the files, records, and
8 proceedings to date in this matter. The definitions in the Settlement Agreement are hereby
9 incorporated as though fully set forth in this Order, and capitalized terms shall have the
10 meanings attributed to them in the Settlement Agreement.

11 3. Based upon preliminary examination, the Court finds that the Settlement
12 Agreement of the Parties substantially fulfills the purposes and objectives of the class action,
13 and provides substantial relief to the Class without the risk, burdens, cost, or delay associated
14 with continued litigation, trial, and/or appeal; the Settlement Agreement appears fair,
15 reasonable, adequate, and in the best interests of the Class; the Class should be certified for
16 settlement purposes, subject to Paragraph 18 below; and a hearing should be held after notice to
17 the Class to determine whether the Settlement Agreement is fair, reasonable, and adequate and
18 whether Final Judgment and an Order of Dismissal with Prejudice (the “Fairness Hearing”)
19 should be entered in this action, based upon the Settlement Agreement.

20 4. The Settlement Agreement, including its exhibits, is preliminarily approved as
21 fair, reasonable, and adequate. The Court finds that: (a) the Settlement Agreement is the result
22 of arms’ length negotiations between experienced attorneys familiar with the legal and factual
23 issues of this case; (b) all members of the Class are treated fairly under the Agreement; (c) the
24 Settlement Agreement is sufficient to warrant notice of the settlement to members of the Class
25 and the Fairness Hearing described below; and (d) the Settlement Agreement meets all
26 applicable requirements of law, including Federal Rule of Civil Procedure 23 (c) & (e), and the
27 Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. 1715. The Court further finds that

1 Defendants timely and properly notified the appropriate state and federal officials of the
2 Settlement Agreement, pursuant to 28 U.S.C. § 1715 of CAFA. The Court has reviewed the
3 Defendants' notices and accompanying materials, and finds that they complied with any
4 applicable requirements of CAFA.

5 5. The Court certifies, for settlement purposes only, the Class as defined in the
6 Settlement Agreement.

7 6. In connection with the certification for settlement purposes only, the Court makes
8 the following preliminary findings pursuant to Rule 23 of the Federal Rules of Civil Procedure:

9 (a) The Class is so numerous that joinder of all members is impracticable;

10 (b) There are questions of law or fact common to the Class,;

11 (c) The claims of the named Plaintiff are typical of those of the proposed Class, as all
12 were allegedly improperly charged "fuel related" fees by Defendants, or not provided the lowest
13 fare as a result of the inclusion of such "fuel related" fees;

14 (d) The named Plaintiff is capable of fairly and adequately protecting the interests of
15 the above-described Class in connection with the proposed Settlement Agreement;

16 (e) For purposes of determining whether the Settlement Agreement is fair, adequate,
17 and reasonable, common questions of law and fact predominate over questions affecting only
18 individual members of the Class members. Accordingly, the Class is sufficiently cohesive to
19 warrant adjudication through settlement by representation; and

20 (f) For purposes of settlement, a settlement with the above-described Class is superior
21 to other available methods for the fair and efficient resolution of the claims of the Class.

22 7. In making the findings set forth in Paragraph 6, the Court finds that the Class
23 warrants certification for settlement purposes on a nationwide basis. Named plaintiff John
24 Lofton is designated as class representative.

25 8. The Court appoints Jay Edelson, Ethan Preston, and Ryan D. Andrews of
26 KAMBEREDELSON, LLC as Class Counsel. For purposes of these settlement approval
27 proceedings, the Court finds that these attorneys are competent and capable of exercising their
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1 responsibilities as Class Counsel.

2 9. A final approval hearing (the "Fairness Hearing") shall be held before this Court
3 on April 15, 2009 at 4 pm to determine whether the Settlement Agreement is fair, reasonable, and
4 adequate and should be approved. At that time, the Court shall also consider the incentive
5 awards to the class representative and reasonable attorneys' fees to Class Counsel. Papers in
6 support of final approval of the Settlement Agreement, incentive awards, and the Attorneys'
7 fees shall be filed with the Court according to the schedule set forth in Paragraph 15 below. The
8 Fairness Hearing may be postponed, adjourned, or continued by order of the Court without
9 further notice to the Class. After the Fairness Hearing, the Court may, in its discretion, enter
10 Judgment in accordance with the Settlement Agreement that will adjudicate the rights of the
11 Class Members with respect to the claims being settled.

12 10. Within ninety (90) days after the entry of this Order, the Defendants shall
13 complete dissemination of the notice of the Settlement Agreement and Fairness Hearing to the
14 members of the Class by directly mailing notice, either by First-Class Mail or electronic mail
15 where appropriate, to the last-known addresses of members of the Class as contained in
16 Defendants' books and records as of the date of this Order.

17 11. The Court finds that the contents of the notice and the manner of its dissemination
18 described in Paragraph 10 is the best practicable notice under the circumstances and is
19 reasonably calculated, under all the circumstances, to reasonably apprise the members of the
20 Class of the pendency of this action, the terms of the Settlement Agreement, and their right to
21 object to the Settlement or exclude themselves from the Class. The Court further finds that the
22 form of the notice is reasonable, that it constitutes due, adequate, and sufficient notice to all
23 persons entitled to receive notice, and that it meets the requirements of Due Process.

24 12. Any Claim Form submitted by a member of the Class must be received or
25 postmarked no later than April 3, 2009, ~~2008~~ (60 days from the completion of notice or 150 days from
26 entry of this Order).

27 13. Each member of the Class who wishes to be excluded from the Class and follows
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1 the procedures set forth in this Paragraph shall be excluded. Any potential member of the Class
 2 may mail a written request for exclusion, in the form specified in the notice, to the Claims
 3 Administrator, postmarked no later than April 3, 2009; ~~2008~~ (150 days from entry of this Order). All
 4 Persons who properly make a request for exclusion from the Class shall not be Class Members
 5 and shall have no rights with respect to the Settlement Agreement, should it be approved. The
 6 names of all such excluded individuals shall be attached as an exhibit to any Final Judgment and
 7 Order of Dismissal with Prejudice entered by this Court.

8 14. Any member of the Class who has not timely submitted a written request for
 9 exclusion from the Class, and thus is a Class Member, may object to the fairness,
 10 reasonableness or adequacy of the Agreement, the incentive award, or the attorneys' fees and
 11 expenses sought, or any of them. Class Members may do so either on their own or through
 12 counsel hired at their expense. Any Class Member who wishes to object to the Settlement
 13 Agreement must file an objection with this Court on or before April 13, 2009; ~~2008~~ (150 days from
 14 entry of this Order). The objection must contain the following: (i) a notice of the objector's
 15 intention to appear at the Fairness Hearing, if the objector so intends; (ii) the name and address
 16 of the objector and the objector's counsel (if the objector intends to appear through counsel);
 17 (iii) a statement of the basis for each objection asserted; (iv) documentary proof that the objector
 18 is a Class Member; (v) any legal authorities that the objector wishes the Court to consider; (vi) a
 19 list of documents and things the objector wishes the Court to consider; (vii) a list of documents
 20 and things the objector may offer as evidence or exhibits; and (viii) the names and addresses of
 21 any witnesses the objector may call to testify and a summary of each such witness's expected
 22 testimony. On or before that same date, any such objecting Class Members shall serve a copy of
 23 such papers by hand, First-Class Mail, or overnight delivery service to the Claims Administrator
 24 at [address].
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26 15. Papers in support of final approval of the Settlement Agreement, incentive awards,
 27 and the award of attorneys' fees and expenses shall be filed with the Court on or before

28 April 8, 2009; ~~2008~~ via hand service to
 [PROPOSED] ORDER Court. 5

1 16. The Fairness Hearing shall be held on April 15, 2009 ~~2008~~, at 4 :00 p.m.

2 17. Ninety (90) days from the entry of this Order shall be set aside to receive and
3 consider comment or objection from any governmental entity in response to the CAFA-required
4 notice provided by Defendants. Any comment or objection made by any governmental entity
5 regarding the Settlement Agreement will be addressed with the Court at the Fairness Hearing
6 and resolved in a manner agreed upon by the parties and approved by the Court.

7 18. In the event the Settlement Agreement is not approved by the Court, or for any
8 reason the parties fail to obtain a Final Judgment and Order of Dismissal with Prejudice as
9 contemplated in the Settlement Agreement, or the Settlement Agreement is terminated pursuant
10 to its terms for any reason, then the following shall apply:

11 (a) All orders and findings entered in connection with the Settlement Agreement shall
12 become null and void and have no force and effect whatsoever, shall not be used or
13 referred to for any purposes whatsoever, and shall not be admissible or discoverable in
14 this or any other proceeding;

15 (b) The conditional certification of a Class pursuant to this Order shall be vacated
16 automatically, the Action and Related Actions shall proceed as though the Class had
17 never been certified pursuant to the Settlement Agreement and such findings had never
18 been made, and the Actions shall return to the procedural status quo before entry of this
19 Order;

20 (c) Nothing contained in this Order is, or may be construed as, any admission or
21 concession by or against the Defendant or Plaintiffs on any point of fact or law,
22 including, but not limited to, factual or legal matters relating to any effort to certify this
23 case as a class action;

24 (d) Nothing in this Order or Action pertaining to the Settlement Agreement shall be
25 used as evidence in any further proceeding in this case, including, but not limited to,
26 motions or proceedings seeking treatment of this case as a class action;

27 (e) Nothing in this Order or pertaining to the Settlement Agreement, may be deemed,
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1 or shall be used, offered or received against Defendants, as an admission, concession or
2 evidence of the validity of any Released Claim or that the certification of an adversarial
3 Nationwide class pursuant to such claims is otherwise valid in any context outside of
4 this Agreement; and

5 (f) All of the Court's prior Orders having nothing whatsoever to do with class
6 certification shall, subject to this Order, remain in force and effect.

7 19. Pending final determination of whether the proposed Settlement should be
8 approved, no Class member directly, derivatively, in a representative capacity, or in any other
9 capacity, shall commence any action against any of the Released Parties in any court or tribunal
10 asserting any of the Released Claims.

11 20. The firm of Rust Consulting, Inc. is hereby appointed as Claims Administrator for
12 the Agreement and shall perform all of the duties of the Claims Administrator set forth in the
13 Settlement Agreement.

14 21. Counsel are hereby authorized to use all reasonable procedures in connection with
15 approval and administration of the settlement that are not materially inconsistent with this Order
16 or the Settlement Agreement, including making, without further approval of the Court, minor
17 changes to the form or content of the notice and other exhibits that they jointly agree are
18 reasonable or necessary.
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20 November 4, 2008

21 Dated: ~~October __, 2008~~

22 By: 

23 THE HONORABLE SUSAN ILLSTON
24 UNITED STATES DISTRICT COURT JUDGE
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EXHIBIT E

NOTICE OF PENDENCY OF CLASS ACTION SETTLEMENT

IN THE UNITED STATES DISTRICT COURT – NORTHERN DISTRICT OF CALIFORNIA

John Lofton v. Bank of America, FIA Card Services, Carlson Companies Inc., and Carlson Travel Group, Inc., Case No. CV 07-05892

IF YOU PAID “FUEL RELATED” FEES WHEN REDEEMING WORLDPOINTS FOR AIRFARE FROM JUNE 27, 2005 TO NOVEMBER 30, 2007, YOU MAY BE ENTITLED TO A PAYMENT FROM A CLASS ACTION SETTLEMENT

>>[Click Here to Download a Copy of the Settlement Agreement](#)<<

For Former FIA WorldPoints Cardholders Only

>> [Click Here to Make a Claim](#)<<

>>[Click Here to Download a Paper Claim Form](#)<<

(All Claim Forms Must be Received or Postmarked By _____)

IMPORTANT

PLEASE READ THIS NOTICE CAREFULLY

IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS AND BENEFITS UNDER THE PROPOSED SETTLEMENT

The United States District Court for the Northern District of California authorized this Notice. This is not a solicitation from a lawyer.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM BY _____. (only required for former cardholders)	If you are no longer an FIA WorldPoints Cardholder, this is the only way to get a payment. Give up your right to be part of any other lawsuits involving claims associated with this case.
EXCLUDE YOURSELF BY _____.	Get no refund. This is the only option that allows you to be a part of other lawsuits involving claims associated with this case.
OBJECT BY _____.	Write to the Court about the reasons that you are against the settlement.
ATTEND A HEARING ON _____.	Request that you be allowed to speak in Court about the fairness of the settlement.
DO NOTHING	If you are currently an FIA WorldPoints

	Cardholder you will automatically receive a check or credit on your account. Former cardholders who do nothing will receive no payment. Both will give up their rights.
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- **These rights and options – and the deadlines to exercise them – are explained in this notice.**
- **The Court must decide whether to approve the settlement. If it does, and after any appeals are resolved, payments will be distributed to those who qualify.**

1. What Is This?

This notice is to inform you of the proposed Settlement of a lawsuit pending in the United States District Court in San Francisco, California. The Court has granted preliminary approval of the settlement and has certified the Settlement Class defined in this notice, subject to a fairness hearing which will take place on [date] at [time] in Courtroom 10, U.S. Courthouse, 450 Golden Gate Avenue, 19th Floor, San Francisco, California, to determine if the proposed Settlement is fair, reasonable and adequate and to consider the request for attorneys’ fees and expenses.

This notice explains the nature of the lawsuit and the terms of the settlement and informs you of your legal rights and obligations.

By settling this lawsuit, Bank of America, FIA Card Services NA, Carlson Companies, Inc. and Carlson Travel Group, Inc. (the “Defendants”) are not admitting that they are liable to the Settlement Class.

You have options, explained below.

2. Who Is In The Settlement Class?

You are a member of the Settlement Class and your rights are affected if you are a person (or entity) in the United States or its Territories and if you are a former or current FIA WorldPoints Cardholder who redeemed earned WorldPoints for airfare and were charged a “fuel related” fee from June 27, 2005 to November 30, 2007, paid that fee, and were not previously refunded for this charge.

3. What Is This Lawsuit About?

Plaintiff filed a class action in the United States District Court, Northern District of California, on behalf of a proposed class, alleging that the Defendants charged FIA WorldPoints cardholders who redeemed their WorldPoints for airfare a “fuel related” fee not imposed by the airline despite representations that the lowest fare would be provided and that any fuel fee charged would be from the airline. To resolve this matter without the expense and uncertainties of

litigation in this class action, the Parties have reached a proposed settlement. The settlement provides automatic monetary relief to current FIA WorldPoints cardholders and for former cardholders to receive a cash payment by submitting a claim form. This settlement is not an admission of wrongdoing by any party.

4. Why Is This a Class Action?

In a class action, one or more people, called Class Representatives (in this case John Lofton), sue on behalf of people who have similar claims. All these people are a Class or Class Members. One court resolves the issues for all Class Members, except for those who exclude themselves from the Class. U.S. District Judge Susan Illston is in charge of this class action.

5. What Relief Is Provided to Class Members Under the Settlement?

The Defendants have established a settlement fund of \$1.45 million dollars and all current and former FIA WorldPoints cardholders in the settlement class will receive an equal share of all monies.

A. Relief for Current FIA WorldPoints Cardholders – Automatic Refund. Class Members who are current FIA WorldPoints Cardholders will receive either a check or a credit on their FIA WorldPoints credit card account of their equal share of the settlement fund. *Current FIA WorldPoints cardholders, whose accounts are open for charges, do not need to submit a claim form or provide any response to receive this refund.*

B. Relief for Former FIA WorldPoints Cardholders – Claim Form Required. Class Members who are no longer FIA WorldPoints Cardholders whose accounts were open for charges at the time their accounts were closed will also receive an equal share of the settlement fund, but must submit a claim form by **[date]** through the process described below to receive a refund. Click [here](#) to submit a claim. Click [here](#) to download a paper copy of the claim form.

6. What Are My Legal Rights?

I am a Current FIA WorldPoints Cardholder, What do I Need to Do to Receive a Refund?

Current FIA WorldPoints cardholders whose accounts are open for charges and who redeemed their WorldPoints for airfare from June 27, 2005 through November 30, 2007 do not need to do anything to receive a refund or remain a member of the class. After the total number of persons entitled to a payment is determined, each current FIA WorldPoints cardholder will automatically receive an equal share of the settlement fund.

I am a Former WorldPoints Cardholder, How Do I File A Claim for a Refund?

Class Members who are no longer FIA WorldPoints Cardholders must submit a claim form either on-line or the paper copy that came with your notice in order to receive their equal share of the settlement fund. If you lose your claim form you may obtain another by clicking [here](#) or calling the toll-free number and requesting a copy from the Claims Administrator. You must then mail a completed paper claim form to the Claims Administrator. **The claim form must be received or postmarked by [INSERT DATE] or your claim will be rejected.**

Step 1 – Determine that You are a Member of the Settlement Class. If you were a former WorldPoints cardholder, but no longer have an active FIA WorldPoints credit card, you are still entitled to make a claim if you redeemed your WorldPoints for airfare from June 27, 2005 through November 30, 2007 and if your account was open for charges at the time it was closed.

Step 2 – Complete a Claim Form. You must complete all information requested in the claim form and verify the accuracy of the information provided in the claim form. Claim forms that are incomplete or are not signed will be rejected.

Step 3 –Mail Paper Form to Claims Administrator. Mail the completed claim form to the claims administrator or submit the on-line claim form as instructed.

7. How Do I Get Out of the Settlement?

If you do not wish to be a member of the Settlement Class, you may exclude yourself by writing to the Claims Administrator. You must provide your full name and address, state that you want to opt out of the WorldPoints settlement, and deliver your request by mail, hand, or overnight delivery service to the Claims Administrator, at [address]. **Your request *must* be received or postmarked no later than [date].**

8. If I Don't Exclude Myself, Can I Sue the Defendants for the Same Thing Later?

No. Unless you exclude yourself, you give up the right to sue any of the Defendants for the claims that this settlement resolves. If you have a pending lawsuit asserting similar claims against these Defendants, speak to your lawyer in that lawsuit immediately. You must exclude yourself from *this* Class to continue your own lawsuit. Remember, the exclusion deadline is **[Insert Date]**.

9. If I Exclude Myself, Can I Receive Money From This Settlement?

No. If you are a current cardholder and exclude yourself you will not receive any credit. If you are a former cardholder and exclude yourself, do not send in a claim form to ask for any money. But, you may sue, continue to sue, or be part of a different lawsuit against the Defendants.

10. How Do I Object to the Settlement?

The Court will hold a Fairness Hearing to determine if the proposed Settlement is fair, reasonable and adequate and to consider a motion for attorneys' fees and expenses on [date] at [time] in Courtroom 10, U.S. Courthouse, 450 Golden Gate Avenue, 19th Floor, San Francisco, California. If you are a member of the Settlement class you or your counsel have the right to appear before the Court and object to the settlement. However, you must file a Notice of Intention to Appear and Object. **All objections *must* be filed with the Court by [date].** You must (1) provide your full name and address; (2) proof of class membership; (3) include all arguments, citations, and evidence supporting your objection; (4) specify who, if anyone, will attend the hearing to speak for your objection; (5) deliver your objection by mail, hand, or overnight delivery service to the Claims Administrator to the address listed above; and (6) file a copy of your objection with the Clerk of Court at Clerk of Court, U.S. Courthouse, 450 Golden Gate Avenue, 16th Floor, San Francisco, California, 94102.

11. What is the Difference Between Objecting and Excluding?

Objecting is simply telling the Court that you do not like something about the settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

12. If I Remain in the Settlement Class, Who Represents Me?

The Court has approved the following attorneys to represent the Settlement Class. They are called "Class Counsel." 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.

Class Counsel:

Jay Edelson
Ethan Preston
Ryan D. Andrews
KamberEdelsonLLC
350 North LaSalle., Suite 1300
Chicago, IL 60654
Tel: [toll free number]

13. What is Plaintiffs' Counsel's Attorneys' Fee Award?

The Court has appointed the attorneys listed above who have prosecuted this case on behalf of the Settlement Class and will request approval of the Court for attorneys' fees and costs of up to \$587,500. If approved by the Court, this amount will be paid directly by the Defendants to Class Counsel and will not reduce any benefit to you from the settlement.

14. What is the Incentive Awards to the Class Representative?

The Court has appointed John Lofton as Class Representative, who will receive \$2,500 for his service as class representative. If approved by the Court, this amount will be paid directly by the Defendants to the Class Representative and will not reduce the benefit to you from the settlement.

15. Who Is Paying the Costs Associated with the Settlement?

Costs associated with the notice and administration of this settlement will be paid by the Defendants.

16. What Claims Are Being Released in this Settlement?

Unless you exclude yourself from the settlement, you will be part of the Settlement Class. By staying in the Settlement Class, all of the Court's orders will apply to you, and you will give Bank of America, FIA Card Services NA, Carlson Companies Inc., and Carlson Travel Group and all of their affiliated companies and their predecessors and successors (the "Released Parties"), a "release" for all arising from or relating to the Defendants' imposition and collection of "fuel related" fees and/or failing to provide lowest fair available to the Settlement Class. A release means you cannot sue or be part of any other lawsuit against the Released Parties about the claims or issues in this Lawsuit ever again. To read the full release, see the Settlement Agreement.

17. When Will the Court Determine the Fairness of the Settlement?

A hearing will be held on the fairness of the proposed settlement. At the hearing, the Court will be available to hear any objections and arguments concerning the fairness of the proposed settlement, including the amount of the award to Plaintiffs' counsel for costs and attorneys' fees, and any incentive award to Lofton. The Court will hold the Fairness Hearing on [date] at [time] in Courtroom 10, U.S. Courthouse, 450 Golden Gate Avenue, 19th Floor, San Francisco, California YOU ARE NOT OBLIGATED TO ATTEND THIS HEARING UNLESS YOU PLAN TO OBJECT TO THE SETTLEMENT.

If the settlement is not approved, the case will proceed as if no settlement had been attempted.

There can be no assurance that if the settlement is not approved, the Settlement Class will recover more than is provided in the settlement, or indeed, anything.

18. Where Can I Obtain More Information About the Settlement?

Any questions you or your attorney may have concerning this notice should be directed to Class Counsel at the address listed above, or you can contact the Claims Administrator at [address, telephone number, email]. Please include the case name and number, and your name and your current return address on any letters, not just the envelopes. **You may also contact Class Counsel at [toll free number]. You may also read the Settlement Agreement by downloading it from this site or by requesting a copy from the Claims Administrator.**

Please do not contact the Court Clerk or the Defendants' Attorneys as they are not in a position to give you any advice about this settlement.

By Order of the Court Dated: [date]

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

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EXHIBIT F

LEGAL NOTICE

If you paid “fuel related” fees when redeeming WorldPoints for airfare from June 27, 2005 to November 30, 2007, you may be entitled to a payment from a class action settlement. Please read this legal notice & visit [www.\[website\].com](http://www.[website].com)

What is this notice about?

Certain FIA WorldPoints Cardholders may be entitled to an automatic credit on their accounts in a proposed settlement of a class action lawsuit. This notice provides a summary. You should read the full notice for complete information. You can get a copy of the full notice by visiting [www.\[website\].com](http://www.[website].com), calling the toll-free number below or writing to the address listed below.

What is the case about?

Plaintiff claims that Defendants Bank of America, FIA Card Services, N.A., Carlson Companies, Inc., and Carlson Travel Group, Inc. charged FIA WorldPoints Cardholders who redeemed their WorldPoints for airfare a “fuel related” fee not imposed by an airline despite representations that the lowest fare would be provided and that any fuel fee charged would be from the airline. To resolve this matter without the expense and uncertainties of continuing this class action, the Parties have reached a proposed settlement. The settlement provides an automatic refund to current FIA WorldPoints Cardholders and for former cardholders to receive a cash payment by submitting a claim form. This settlement is not an admission of wrongdoing by any party.

What could I get from the Settlement?

A settlement fund of \$1.45 million dollars will be established. Certain current FIA WorldPoints Cardholder and former FIA WorldPoints Cardholders who submit a claim will receive an equal share of all monies. Class Members who are current FIA WorldPoints Cardholders will receive either a check or a credit on their FIA WorldPoints credit card account of their equal share of the settlement fund.

Current FIA WorldPoints Cardholders whose accounts are open for charges do not need to submit a claim form or provide any response to receive this refund.

If you recently canceled your FIA WorldPoints credit card account or are no longer a cardholder and wish to get a refund, you must complete a Claim Form. You can submit a claim online at [www.\[website\].com](http://www.[website].com) or request a paper copy from the Claims Administrator at [toll free number]. The Claims Administrator will review your Claim Form and determine whether you are a member of the Class entitled to a refund.

How do I know if I will receive an automatic credit?

If you received this notice you have been identified as having redeemed WorldPoints for airfare and are a potential class member. If the settlement is approved and you remain a class member entitled to a check or an automatic credit, you need to have a WorldPoints credit card account open for charges, and not have previously received a refund for the “fuel related fee.” You should receive an automatic credit on your WorldPoints credit card account no later than [date].

Who represents me?

The Court has approved attorneys to represent the Settlement Class. They are called “Class Counsel.” You will not be charged for these lawyers. As part of the settlement, Class Counsel will request an award of attorneys’ fees and expenses not to exceed \$587,500 payable by Defendants. No award of fees or expenses will reduce the benefit to any class member. The Court has also appointed a Class Representative who will get an award of \$2,500 for his time and service. You may retain your own counsel, but only at your own expense.

What are my Legal Rights?

- *Stay in the Settlement Class as Current Cardholder:* You do not have to do anything to stay in the Class and receive a check or an automatic credit as a current cardholder. You may also object to the proposed settlement.
- *Object to the proposed Settlement:* You or your lawyer has the right to appear before the Court and object to the proposed Settlement. Your written objection must be filed with the Court by [date].
- *Exclude Yourself from the Settlement Class:* If you do not wish to be a member of the Settlement Class, you may exclude yourself by writing to the Claims Administrator. Your request *must* be received or postmarked by [date].

If you remain in the Settlement Class and the Court approves the proposed Settlement, you will receive the benefits of the proposed Settlement. You will also be bound by all orders and judgments of the Court and your claims against Defendants for the conduct at issue in this case will be resolved and released.

When will the Court Consider the Proposed Settlement?

The Court will hold a Fairness Hearing to determine if the proposed Settlement is fair, reasonable and adequate and to consider a motion for attorneys’ fees and expenses on [date] at [time] in Courtroom 10, U.S. Courthouse, 450 Golden Gate Avenue, 19th Floor, San Francisco, California. You may, but do not have to, appear at the Fairness Hearing. If comments or objections have been received, the Court will consider them at this time.

For more information about the proposed Settlement and a copy of the full notice, visit: [www.\[website\].com](http://www.[website].com), call: [toll free number], write to: Claims Administrator [address] or contact Class Counsel: Jay Edelson, Ethan Preston, and Ryan D. Andrews, KamberEdelson, LLC, 350 N. LaSalle Street, Ste. 1300, Chicago, IL 60654 [toll free number].

Please do not contact the Court Clerk or the Defendants’ Attorneys as they are not in a position to give you any advice about this settlement.

By Order of the Court Dated: [date], 2008

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

EXHIBIT A – Publication Notice – Draft #1

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EXHIBIT G

LEGAL NOTICE

If you paid “fuel related” fees when redeeming WorldPoints for airfare from June 27, 2005 to November 30, 2007, you may be entitled to a payment from a class action settlement. Please read this legal notice and visit [www.\[website\].com](http://www.[website].com)

What is this notice about?

Certain current and former FIA WorldPoints Cardholders may be entitled to a cash payment in proposed settlement of a class action lawsuit. This notice provides a summary. You should read the full notice for complete information. You can get a copy of the full notice by visiting [www.\[website\].com](http://www.[website].com), calling the toll-free number below, or writing to the address listed below.

What is the case about?

Plaintiff claims that Defendants Bank of America, FIA Card Services, Carlson Companies, Inc., and Carlson Travel Group, Inc. charged FIA WorldPoints Cardholders who redeemed their WorldPoints for airfare a “fuel related” fee not imposed by an airline despite representations that the lowest fare would be provided and that any fuel fee charged would be from the airline. To resolve this matter without the expense and uncertainties of continuing this class action, the Parties have reached a proposed settlement. The settlement provides for FIA WorldPoints Cardholders to receive either a cash payment by submitting a claim form or a credit to their current accounts. This settlement is not an admission of wrongdoing by any party.

What could I get from the Settlement?

A settlement fund of \$1.45 million dollars will be established. Certain current FIA WorldPoints Cardholder and former FIA WorldPoints Cardholders who submit a claim will receive an equal share of all monies. Former cardholders who remain in the settlement class **must submit a claim form** to receive an equal share of the settlement fund and a check will be mailed to them.

How do I know if I am eligible to submit a claim form?

If you were a former WorldPoints cardholder, but no longer have an active FIA WorldPoints credit card, but your credit card account was open for charges at the time it was closed, you are still entitled to make a claim if you redeemed your WorldPoints for airfare from June 27, 2005 through November 30, 2007, were charged “fuel related fee,” paid the “fuel related fee” and did not previously receive a refund for the “fuel related fee.” If you are a class member, you can submit a claim on-line at [www.\[website\].com](http://www.[website].com) or request a paper copy from the claims administrator at [toll free number].

Who represents me?

The Court has approved attorneys to represent the Settlement Class. They are called “Class Counsel.” You will not be charged for these lawyers. As part of the settlement, Class Counsel will request an award of attorneys’ fees and expenses not to exceed \$587,500 payable by Defendants. No award of fees or expenses will reduce the benefit to any class member. The Court has also appointed a Class Representative who will get an award of \$2,500 for his time and service. You may retain your own counsel, but only at your own expense.

What are my Legal Rights?

• *Submit a Claim Form for a Refund as a Former Cardholder:* If you are no longer a FIA WorldPoints cardholder and wish to get a refund, you must complete the accompanying claim form. Claim forms **must** be received or postmarked by [date]. The Claims Administrator will review your claim form and determine whether you are a member of the Settlement Class entitled to a refund.

• *Object to the Proposed Settlement:* You or your lawyer has the right to appear before the Court and object to the proposed Settlement. Your written objection must be filed with the Court by [date].

• *Exclude Yourself from the Settlement Class:* If you do not wish to be a member of the Settlement Class, you may exclude yourself by writing to the Claims Administrator. Your request **must** be received or postmarked by [date].

If you remain in the settlement class and the Court approves the proposed Settlement, you will receive the benefits of the proposed Settlement. You will also be bound by all orders and judgments of the Court and your claims against Defendants for the conduct at issue in this case will be resolved and released.

When will the Court Consider the Proposed Settlement?

The Court will hold a Fairness Hearing to determine if the proposed Settlement is fair, reasonable and adequate and to consider a motion for attorneys’ fees and expenses on [date] at [time] in Courtroom 10, U.S. Courthouse, 450 Golden Gate Avenue, 19th Floor, San Francisco, California. You may, but do not have to, appear at the Fairness Hearing. If comments or objections have been received, the Court will consider them at this time.

For more information about the proposed Settlement and a copy of the full notice and/or claim form, visit: [www.\[website\].com](http://www.[website].com), call: [toll free number], write to: Claims Administrator [address] or contact Class Counsel: Jay Edelson, Ethan Preston, and Ryan D. Andrews, KamberEdelson, LLC, 350 N. LaSalle Street, Ste. 1300, Chicago, IL 60654

Please do not contact the Court Clerk or the Defendants’ Attorneys as they are not in a position to give you any advice about this settlement.

By Order of the Court Dated: [date], 2008

UNITED STATES DISTRICT COURT, NORTHERN
DISTRICT OF CALIFORNIA