

**UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO
Judge John L. Kane**

Civil Action No. 09-cv-00938-JLK, consolidated with No. 10-cv-00765-JLK

**JAMES P. TENNILLE, ROBERT SMET, ADELAIDA DELEON, and
YAMILET RODRIGUEZ**, individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

**THE WESTERN UNION COMPANY and WESTERN UNION FINANCIAL
SERVICES, INC.,**

Defendants.

ORDER

This matter comes before the Court on Plaintiffs' Motion of Class Counsel Pursuant to Federal Rule of Civil Procedure 60(a) for Correction of the Court's October 15, 2014 Order (Doc. 371) Regarding the Amount to Be Deposited into the Class Settlement Fund, And To Be Paid As Attorneys' Fees. The Court's September 23, 2014 Order Modifying Magistrate Judge's Recommendation re Attorney Fees (Doc. 363), amended *nunc pro tunc* (Doc. 370), ordered an award of fees equal to 30% of the Class Settlement Fund (Doc. 370 at 5).

Without a fixed Settlement Effective Date and the subsequent date for funding the Class Settlement Fund being known, the amount to be deposited into the Class Settlement Fund has always been an approximation. This case has been subject to various appeals that only recently have been concluded. The Settlement Effective Date is now agreed by the Parties to be January 12, 2016. In contemplation of a final accounting of the amount to be deposited, the parties Settlement Agreement (Doc. 172-2, p. 21) provides “[n]ot later than 30 days after the Settlement Effective Date...Western Union shall provide the Administrator...(d) the amount of unclaimed funds, less administrative fees and charges as specified in their contracts and/or state statutes that Western Union is holding for those putative Class members whose funds have not yet escheated, as provided by Subsection 2.C.” By virtue of the Settlement Effective Date being confirmed, Defendants have represented that the actual amount of funds to be deposited into the Class Settlement Fund on the funding date is \$145,446,968.77.

On October 15, 2014, this Court entered its Amended Order Modifying Magistrate Judge’s Recommendations re Attorney Fees (the “Fee Opinion”) (Doc. 370) granting Class Counsel’s Motion for Attorney Fees (Doc. 195) and awarding attorneys’ fees in the amount of 30% of the funds to be deposited into the Class Settlement Fund (Doc. 370 at 5). Also on October 15, 2014, the Court entered an Order stating:

The Court found at the Fairness Hearing that approximately \$135,239,199.14 will be deposited into the Class Settlement Fund ... [and] 1. Class Counsel shall be paid \$40,571,759.70 out of the Class Settlement Fund pursuant to Paragraph 5.A of the Stipulation and Agreement of Compromise and Settlement ('Settlement Agreement,' Doc. 172-2) and Paragraph 1 of the Amended Final Judgment."

(Doc. 371 at 1-2) (the "Fee Order").

As stated in the Fee Opinion (Doc. 370), the Court awarded 30% of the Class Settlement Fund. The amount stated in the Court's Fee Order (Doc. 371) was an approximation only as the actual amount of the Class Settlement Fund could not be, and was not finally determined at that time. Now it can.

It has been and remains the Court's intention to award 30% of the Class Settlement Fund to Class Counsel as and for their attorneys' fees. Doc. 370. Now that the Settlement Effective Date as defined in the parties Settlement Agreement is known, that accounting for the deposit into the Class Settlement Fund can be accurately determined and not merely approximated, The Fee Order (Doc. 371) is ripe for correction under FRCP 60(a). The that the amount to be deposited into the Class Settlement Fund is \$145,446,968.77 and 30% of that amount to be paid Class Counsel is \$43,634,090.63.

Accordingly, it is **HEREBY ORDERED**:

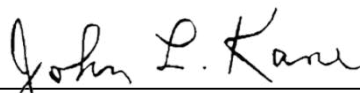
1) Plaintiffs' Motion of Class Counsel Pursuant to Federal Rule of Civil Procedure 60(a) for Correction of the Court's October 15, 2014 Order (Doc. 371)

Regarding the Amount To Be Deposited Into the Class Settlement Fund, And To Be Paid As Attorneys' Fees (Doc. 437) is hereby GRANTED.

2) The Fee Order (Doc. 371) shall be corrected to reflect the amount to be deposited into the Class Settlement Fund is \$145,446,968.77, and the amount Class Counsel shall be paid is \$43,634,090.63.

3) The Class Settlement Fund shall be funded, and Class Counsel and Class Representatives shall be paid out of the Class Settlement Fund, in the time and manner set forth in the Settlement Agreement (Doc. 172-2).

DONE AND SIGNED this 27th day of January, 2016.



JOHN L. KANE
SENIOR U.S. DISTRICT COURT JUDGE