UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

**Case No. 1:10-cv-23235/HOEVELER**

DAVID KARDONICK, individually and on behalf of all others similarly situated and the general public,

Plaintiff,

v.

JPMORGAN CHASE & CO. and CHASE BANK USA, N.A.

Defendants.

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**DEFENDANTS' MOTION TO EXTEND TIME TO RESPOND TO MOTION TO INTERVENE**

Pursuant to Fed. R. Civ. P. 6 (b)(1)(A), Defendants JPMorgan Chase & Co. and Chase Bank USA, N.A. (collectively, "Chase") hereby request a 3-day extension of the deadline to file its opposition to the objectors' Motion to Intervene. The Motion to Intervene asks for leave to intervene for the purpose of taking discovery and opposing the class action settlement that is pending before this Court. In support of this motion, Chase states as follows:

1. This motion is filed before Chase's response is due. The Motion to Intervene was filed and served upon Chase on March 9, making Chase's response due on March 28.

2. Chase respectfully requests a 3-day extension of this deadline, making Chase's response due on March 31. This is the first extension Chase has requested, and Chase does not anticipate that it will need to request any additional extensions.

3. Good cause exists to extend this deadline. The requested extension will permit Chase to (a) investigate whether the objectors are actually members of the class and have standing to intervene, (b) investigate and address the wide-ranging assertions made in the objectors' motion, and (c) prepare a more concise and useful response for the benefit of the Court. An extension is also warranted because previously-scheduled obligations of Chase's counsel make it very difficult to respond by the deadline.

4. Counsel for the named plaintiffs do not oppose this motion.

5. Counsel for the objectors have indicated that they will agree to an extension only if plaintiffs and Chase agree to postpone the class notice process pending a decision on their Motion to Intervene. This objection to the proposed extension lacks merit for several reasons

6. First, the settlement in this action was filed on December 21, 2010. Counsel for the objectors have declined to say when they first learned of the settlement, but they are involved in a number of payment protection cases, so it would be surprising if they did not learn about the settlement relatively soon after it was publicly filed with the Court.

7. Second, counsel for the objectors knew of both the settlement and this Court's order granting preliminary approval of the settlement, at the latest, on February 12, 2011, when one of their lawyers, Mr. Steve Owings, was informed by telephone of the settlement and the preliminary approval order by counsel for plaintiffs in this action. Despite learning of the settlement and the preliminary approval order no later than February 12, 2011, counsel for the objectors waited until March 9 to file their motion to intervene.

8. Third, whether or not the requested extension is granted, the motion to intervene will not be fully briefed and decided before class notice goes out. Under this Court's rules, briefing on the motion to intervene is not scheduled to be complete until April 7, only two business days before the April 11 deadline for distributing notice set by this Court's preliminary approval order. Moreover, the logistics involved in preparing and mailing more than fifteen million class notices are substantial and require advance planning and commitment of funds. That has already occurred. All fifteen million notices have already been printed; these notices would have to be reprinted if the notice process were suspended or interrupted. Moreover, over 90 percent of the funds required to pay for the notice process will already have been spent by the time responses to the motion to intervene are due on the current (unextended) due date of March 28.

9. Fourth, on February 23 and 24, 2011, undersigned counsel advised counsel for the objectors that the process of printing the notices was scheduled to begin on the coming weekend, and that they should provide their objections to the settlement by close of business on February 25, 2011 if they wanted their objections to be considered before printing of fifteen million notices occurred. Counsel for the objectors nevertheless waited until March 9, 2011 to file their motion.

10. Fifth, objectors have not shown any valid grounds for interrupting the notice process. All of the objections they have made to the settlement are objections that can be considered at the final approval hearing scheduled for September 2011, once the record regarding the settlement is complete and the Court has heard from all interested parties. Interrupting the notice process would merely frustrate and delay the process of placing a full record before the court for consideration at a final approval hearing.

11. Finally, as counsel for Chase will show in its opposition papers, the objectors have failed to raise any issues that would justify vacating the preliminary approval order already issued by this Court. Preliminary approval is a low bar. Preliminary approval is warranted if the proposed settlement is within the range of what might be approvable at the conclusion of a fairness hearing. Objectors offer no basis for concluding that the proposed settlement is outside that range. Their objections to the settlement are based on a highly inaccurate characterization of the settlement in this action and a related settlement involving another credit card issuer. Objectors offer no evidence in support of these inaccurate characterizations; all they offer is speculation and innuendo. If given sufficient time to submit its opposition, Chase will demonstrate in its opposition papers that the proposed settlement is the product of arms-length bargaining by experienced and able counsel with the assistance of a nationally acclaimed mediator; that the settlement was preceded by extensive informal discovery and followed by additional confirmatory discovery; that the settlement represents a fair and reasonable compromise of the parties' claims; that the class is likely to recover nothing if the litigation proceeds; and that Objectors' pejorative characterizations of the settlement have no merit.

12. This motion is made in the interest of justice, not to delay the proceedings, and will not prejudice any party.

Pursuant to Local Rule 7.1(a)(3), Chase's counsel has conferred with counsel for all parties and non-parties in a good faith effort to resolve the issues in this motion without court involvement and has been unable to do so.

Respectfully submitted,

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