

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
(Miami Division)**

David Kardonik, John David, and Michael  
Clemins, individually and on behalf of all  
others similarly situated and the general public,

Plaintiffs,

CASE No. 1:10-cv-23235-WMH

V.

JP Morgan Chase & Co, and Chase Bank  
USA, N.A.

Defendants. \_\_\_\_\_/

**OBJECTION TO PRELIMINARILY-APPROVED SETTLEMENT**

Class member, William McWhorter, by undersigned counsel objects to the  
preliminarily-approved settlement and says:

1. Class member, William McWhorter, was referred to the undersigned by Paul S. Rothstein, Esq.

**Proof of Class Membership**

2. Objector William McWhorter, c/o N. Albert Bacharach, Jr., 115 NE 6<sup>th</sup> Avenue, Gainesville, Florida 32601, postcard notice number 4YB4D29, was enrolled in a payment protection product during the class period and has filed an electronic claim form.

**Notice of Intent to Appear**

3. Objector McWhorter gives notice of his intent to appear by counsel before the Honorable William Hoeverler, Senior U.S. District Judge, on September 9, 2011, at 10:30 a.m., in his Courtroom on the 9<sup>th</sup> Floor of the C. Clyde Adkins, United

States Courthouse, 301 North Miami Avenue, Miami, Florida 33128 to cross examine witnesses and present legal arguments. Objector McWhorter does not intend to offer documents into evidence or call witnesses.

### **Objections**

4. The legal notice by order of the Court does not meet minimum constitutional due process requirements of providing class members with notice and an opportunity to be heard.
5. The notice subsection “Your Legal Rights and Options” is deficient as class members have four, not three, options regarding the proposed settlement.
6. The notice is silent as to class members right to retain their own counsel.
7. The notice is silent as to who will be conducting the hearing currently scheduled for September 9, 2011.
8. The notice is silent as to the courthouse address, the courtroom and the time of the September 9, 2011 hearing.
9. The notice fails to explain that the September 9, 2011 hearing is a fairness hearing to determine if the proposed settlement is fair, adequate and reasonable.
10. The proposed settlement is not fair, adequate or reasonable.
11. The proposed settlement fails to provide information regarding what happens to the \$20 million common fund if there is a low take rate by class members. i.e., if 1,600 people make claim, do they each get \$1,000.00? Or is there some maximum amount of damages per claimant? And, if so, what happens to the surplus funds?
12. Based on the deficiencies of the Notice and the terms of the preliminarily-approved settlement, the fees requested are unreasonable and excessive.

13. All other timely filed objections not inconsistent with these objections are incorporated and made a part of this pleading.

WHEREFORE, Objector William McWhorter respectfully requests that this Court:

A. Upon proper hearing, sustain these Objections;

B. Upon proper hearing, enter such Orders as are necessary and just to adjudicate these Objections and to alleviate the inherent unfairness, inadequacies and unreasonableness of the proposed Settlement.

Respectfully submitted,

/s/ N. Albert Bacharach, Jr.  
N. Albert Bacharach, Jr.  
Florida Bar Number: 209783  
Attorney for Objector  
**N. ALBERT BACHARACH, JR., P.A.**  
115 Northeast 6<sup>th</sup> Avenue  
Gainesville, Florida 32601  
(352) 378-9859

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 19<sup>th</sup> day of August, 2011, the foregoing was filed electronically with the Clerk of the Court using the CM/ECF filing system and that all other parties in this proceedings will automatically be notified by the CM/ECF electronic mail system.

/s/ N. Albert Bacharach, Jr.  
N. Albert Bacharach, Jr.