

DHF

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
AZMIE MADANAT, on behalf of himself
and all others similarly situated,

MEMORANDUM AND ORDER

Plaintiffs,

-against-

FIRST DATA CORP., et. al,

Defendants.

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
CV 11-364
(Wexler, J.)

JUL 16 2012

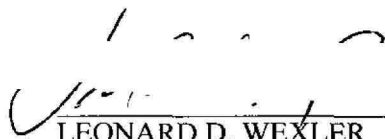
LONG ISLAND OFFICE

-----X
WEXLER, District Judge:

Presently before the court is a Report and Recommendation ("R&R") of the assigned Magistrate Judge, E. Thomas Boyle. The R&R recommends that Plaintiff's motion for class certification, pursuant to Rule 23 of the Federal Rules of Civil Procedure should be granted in part and denied in part. In particular, the R&R recommends that the motion should be granted with respect to Plaintiff's claim for declaratory relief and injunctive relief as it pertains to the Optional Liquidated Damages Clause contained in all of First Data's merchant agreements. In all other respects, the motion was recommended to be denied. Additionally, the R&R recommends that Plaintiff be appointed class representative and that Plaintiff's counsel be appointed class counsel.

The R&R is dated May 3, 2012, and was filed on the Court's ECF system under docket entry number 71, as of that date. The time to file objections having passed without receipt of such objections, the R&R is hereby adopted. See 28 U.S.C. §636 (b)(1)(c); Fed. R. Civ. P. 72. The motion for conditional certification is granted. The Clerk of the Court is directed to take appropriate action as to docket entry number 71.

SO ORDERED



LEONARD D. WEXLER
UNITED STATES DISTRICT JUDGE

Dated: Central Islip, New York
July 16, 2012