

STATE OF MAINE
CUMBERLAND, SS.

BUSINESS AND CONSUMER
DOCKET
CIVIL ACTION
Docket No. BCD-CIV-2021-00027

ETHAN A. CHURCHILL and
RHONDA YORK, on behalf of
themselves and all others similarly
situated,

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Plaintiffs,

v.

BANGOR SAVINGS BANK,

Defendant.

**DECLARATION OF SOPHIA G. GOLD IN SUPPORT OF PLAINTIFFS’ MOTION
FOR AWARD OF ATTORNEYS’ FEES, COSTS, AND EXPENSES, SETTLEMENT
ADMINISTRATOR’S COSTS, AND CLASS REPRESENTATIVES’ SERVICE AWARDS**

I, Sophia Gold, declare as follows:

1. I am counsel of record of Plaintiffs Ethan A. Churchill and Rhonda York and the proposed Class Counsel for the settlement Class in the above-captioned matter. I submit this declaration in support of Plaintiffs’ Motion for Award of Attorneys’ Fees, Costs and Expenses, Settlement Administrator’s Cost and Class Representatives’ Service Award. I have personal knowledge of the facts set forth in this declaration and could and would testify competently to them if called upon to do so.

2. Class Counsel has emerged as leaders in nationwide litigation against financial institutions over the assessment of improper fees. As detailed in Class Counsel’s firm resume, attached hereto as **Exhibit A**, Class Counsel has extensive experience litigating similar cases across the country.

3. The Court should award Class Counsel the standard fee of one-third of the Settlement Amount as contemplated by the Settlement Agreement. Not only is this amount

customary, it is also supported by the contingency of the fee, the complexity of the case, the result achieved, and the standard one-third amount that Class Counsel has been awarded in this type of banking fee litigation.

4. The benefit conferred by the Settlement is substantial. Bangor will provide \$2,000,000.00 in monetary relief, that will be directly distributed on a pro rata basis—without the need for Class Members to complete a claim form or submit any accompanying proof—to the Settlement Classes in the form of either a direct deposit into Active Accounts, cash settlement check to Settlement Class Members with Closed Accounts that are not Charged-Off Accounts, or Overdraft Forgiveness for Charged-Off Accounts. This benefit is automatic, as Settlement Class Members need not submit a claim, nor provide proof of damages or any supporting documentation. The benefit conferred represents approximately 65% of the Class’s estimated potential damages.

5. The risk of continued litigation was high. This case faced potential obstacles at all junctures that could have resulted in no recovery at all for the Settlement Classes, including losing at the pleading stage; losing class certification; losing summary judgment; losing at trial; or losing on appeal at either class certification or after a successful trial. Additionally, the risk of protracted litigation would likely reduce the amount of the benefit ultimately obtained due to years of delay and increased cost of litigation. Notwithstanding these hurdles, Class Counsel endeavored to take this case on a pure contingency fee basis, devoted significant time and resources, and chose to forego pursuing other cases as sources of income in the face of assuming the significant risk of nonpayment.

6. This case involved complexities of bank processing and law that are novel, difficult, and ever evolving. To Class Counsel’s knowledge, no similar APPSN Fee or Retry Fee claims have proceeded to trial. This means that there is no model for Plaintiffs’ case and therefore,

unforeseen pitfalls could easily derail the Settlement Class's claims should they proceed through the rigors of litigation. To even be able to identify the alleged inappropriate fees requires specialized knowledge and skill by both experts and experienced complex litigation attorneys, as do the theories surrounding the alleged fees, not to mention the specialized knowledge of class action procedure required to achieve certification, let alone settlement.

7. Courts regularly award a one-third or higher fee from common fund settlements involving similar banking fee claims in state and federal courts throughout the nation. *See Exhibit B.*

8. In this case, Class Counsel advanced \$30,567.70 in expenses, contingent on the outcome of litigation. Of these expenses, \$21,150 consisted of expert fees, \$7,750 were for mediation, and the remaining \$1,667.70 were for filing, service of process, *pro hac*, and administrative fees.

9. The Settlement Administrator has estimated that its costs will be approximately \$79,347 to the date of completion, which is in line with Class Counsel's experience for this type of settlement.

10. The Court should similarly grant the Class Representatives service awards of \$5,000 each in recognition of the time and effort they spent and the result they obtained on behalf of the absent Class Members who will receive compensation without even having to submit a claim. The Class Representatives' efforts and involvement have benefitted the Settlement Classes as a whole, as they have regularly consulted with Class Counsel, provided documents and information, reviewed pleadings, and participated in the settlement process.

I declare under penalty of perjury under the laws of the State of Maine that the foregoing is true and correct. Executed this 1st day of November, 2022, at Albany, California.



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