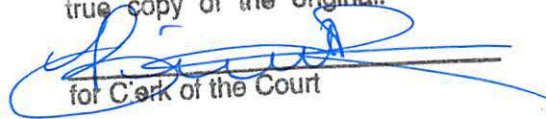


I hereby certify this to be a true copy of the original.


for Clerk of the Court

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COURT FILE NUMBER 1203-18531
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON
PLAINTIFF(S) MACARONIES HAIR CLUB AND LASER CENTER INC., OPERATING AS FUZE SALON
DEFENDANT(S) BOFA CANADA BANK, BANK OF MONTREAL, BANK OF NOVA SCOTIA, CANADIAN IMPERIAL BANK OF COMMERCE, CAPITAL ONE BANK (CANADA BRANCH), CITIGROUP INC., FEDERATION DES CAISSES DESJARDINS DU QUEBEC, MASTERCARD INTERNATIONAL INCORPORATED, NATIONAL BANK OF CANADA INC., ROYAL BANK OF CANADA, TORONTO-DOMINION BANK and VISA CANADA CORPORATION



Brought pursuant to the *Class Proceedings Act*, SA 2004 c C-16.5

DOCUMENT **ORDER**
Mastercard – Settlement Approval

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

BRANCH MACMASTER LLP
LUCIANA P. BRASIL
1410 – 777 Hornby Street
Vancouver, BC V6Z 1S4
Telephone: (604) 654-2999
Facsimile: (604) 684-3429

AND

CAMP FIORANTE MATTHEWS MOGERMAN LLP
REIDAR MOGERMAN
400 – 856 Homer Street
Vancouver, BC V6B 2W5
Telephone: (604) 689-7555
Facsimile (604) 689-7554

DATE ON WHICH ORDER WAS PRONOUNCED: August 30, 2018

LOCATION OF HEARING OR TRIAL: Calgary, Alberta

NAME OF MASTER/JUDGE WHO MADE THIS ORDER: Associate Chief Justice Rooke

ON THE APPLICATION of the Plaintiff, Macaronies Hair Club and Laser Center Inc., operating as Fuze Salon ("Macaronies"), coming on for hearing at Calgary, Alberta on July 5, 2018 and August 23, 2018, and on hearing Reidar Mogerman, Luciana Brasil, Jen Winstanley and Chelsea Hermanson, counsel for the Plaintiff; Sean Griffin and Antoine Brylowski, counsel for the defendant National Bank of Canada; Robert Kwinter, counsel for the defendant Visa Canada Corporation; Jeffrey Simpson and James Musgrove for the defendant MasterCard International Incorporated (the "Settling Defendant"); Edward Babin and Michael Bookman for the objector Wal-Mart Canada Corp.; Kyle Taylor for the objector Home Depot of Canada Inc.; and Katherine Kay and Danielle Royal for the non-settling defendants and on reading the pleadings and materials filed, and on being advised that the Plaintiff and others have entered into an agreement with Visa Canada Corporation. (collectively, the "Parties"), dated June 2, 2017 (the "Settlement Agreement"); and on being advised that the Plaintiff and the Settling Defendant consent to this Order; and on being advised that the Non-Settling Defendants take no position on this Order;

THIS COURT ORDERS that:

1. The Settlement Agreement, as attached at Schedule "A", is incorporated into this Order in its entirety and forms part of this Order, and the definitions in the Settlement Agreement shall be applied in interpreting this Order;
2. In the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail;
3. The Settlement Agreement is fair, reasonable and in the best interests of the Alberta Mastercard Settlement Class;

4. The Settlement Agreement is hereby approved pursuant to section 35 of the *Class Proceedings Act*, SA 2003, c C-16.5 and shall be implemented in accordance with its terms and the terms of this Order;
5. The Settlement Agreement forms part of this Order and is binding upon the representative plaintiff and all members of the Alberta Mastercard Settlement Class who have not validly opted-out (collectively; the “Alberta Mastercard Settlement Class Members”, each a “Alberta Mastercard Settlement Class Member”), and the Settling Defendant;
6. This Order, including the Settlement Agreement, is binding upon each Alberta Mastercard Settlement Class Member including those persons who are minors or mentally incapable and the requirements of Rule 2.11 of the *Alberta Rules of Court* are dispensed with in respect of the Alberta Proceeding;
7. Upon the Effective Date, each Releasor shall consent to and shall be deemed to have consented to the dismissal as against the Releasees of any other actions or proceedings in Alberta he, she or it has commenced, without costs and with prejudice;
8. Upon the Effective Date, each other action or proceeding commenced in Alberta by any Alberta Releasor shall be and is hereby dismissed against the Releasees, without costs and with prejudice;
9. Subject to paragraphs 11 and 12 of this Order, upon the Effective Date, each Releasor who has not validly opted-out of the Alberta Proceeding has released and shall be conclusively deemed to have forever, finally and absolutely released the Releasees from the Released Claims as provided for in the Settlement Agreement;
10. Upon the Effective Date, each Releasor (i) shall not now or hereafter threaten, institute, prosecute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim, proceeding, complaint

or demand against, or collect or seek to recover from, any Releasee or any other person or persons who will or could bring or commence or continue any claim, crossclaim, claim over or any claim for contribution, indemnity or any other relief against any Releasee in respect of any Released Claims, except for the continuation of the Canadian Proceedings against the Non-Settling Defendants or other Persons who are not Releasees, and (ii) are permanently barred and enjoined from doing so;

11. The use of the terms “Releasors” and “Released Claims” in this Order does not constitute a release of claims by those Alberta Mastercard Settlement Class Members who are resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors;
12. Instead of releasing the claims against the Releasees, upon the Effective Date, each Alberta Releasor who is resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors covenants and undertakes not to sue or make any claim in any way nor to threaten, commence, participate in or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims;
13. All claims for contribution, indemnity or other claims over against a Releasee, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes, fees and costs, relating to the Released Claims, which were or could have been brought in the Canadian Proceedings or otherwise by any Non-Settling Defendant, Settled Defendant or any other Person or party, against a Releasee, or by a Releasee against a Non-Settling Defendant or any other Person or party who are not Releasees, are barred, prohibited and enjoined in accordance with the terms of this Order except as set out in section 6.1(1)(a) of the Settlement Agreement;
14. If the Court or a final decision of an appellate court of competent jurisdiction in this proceeding determines that there is a right of contribution, indemnity or other claim over, whether in equity or in law, by contract, statute or otherwise:

- (a) The Alberta Mastercard Settlement Class Members shall reduce or limit their claims against the Non-Settling Defendants and/or named or unnamed co-conspirators to not be entitled to claim or recover from the Non-Settling Defendants and/or named or unnamed co-conspirators who are not Releasees that portion of any damages (including punitive damages, if any), restitutionary award, disgorgement of profits, interest and costs (including investigative costs claimed pursuant to s. 36 of the *Competition Act*) that corresponds to the Proportionate Liability of the Releasees proven at trial or otherwise; and
 - (b) This Court shall have full authority to determine the Proportionate Liability of the Releasees at the trial or other disposition of the Alberta Proceeding, whether or not the Releasees remain in the Alberta Proceeding or appear at the trial or other disposition, and the Proportionate Liability of the Releasees shall be determined as if the Releasees are parties to the Alberta Proceeding and any determination by this Court in respect of the Proportionate Liability of the Releasees shall only apply in the Alberta Proceeding and shall not be binding on the Releasees in any other proceedings;
15. If the Non-Settling Defendants would not have the right to make claims for contribution, indemnity or other claims over, whether in equity or in law, by statute or otherwise, from or against the Releasees, then nothing in this Order is intended to or shall limit, restrict or affect any arguments which the Non-Settling Defendants may make regarding the reduction of any assessment of damages, restitutionary award, disgorgement of profits or judgment against them in the Alberta Proceeding;
16. For greater certainty, the bar order in paragraphs 13 through 15 deals only with claims over and is not intended to bar *bona fide* independent and direct claims and causes of action arising by contract, statute or otherwise between Mastercard and any Non-Settling Defendant for relief other than that claimed by

the Plaintiff in the Alberta Proceeding, including *bona fide* independent and direct claims and causes of action that Mastercard and any Non Settling Defendant may have against each other under the Mastercard Rules;

17. A Non-Settling Defendant may, on motion to this Court brought on at least ten (10) days' notice to counsel for the Settling Defendant seek orders for the following:
 - (a) documentary discovery and an affidavit of documents in accordance with the *Alberta Rules of Court*, Alta Reg 124/2010 from the Settling Defendant;
 - (b) oral discovery of a representative of the Settling Defendant, the transcript of which may be read in at trial;
 - (c) leave to serve a request to admit on the Settling Defendant in respect of factual matters; and/or
 - (d) the production of a representative of the Settling Defendant to testify at trial, with such witness to be subject to cross-examination by counsel for the Non-Settling Defendants;
18. The Settling Defendant retains all rights to oppose such motion(s) brought under paragraph 17 of this Order and to seek such ancillary relief as they deem appropriate (including, without limitation, confidentiality protections and/or costs). Nothing in this Order is intended to interfere with the power of this Court to make such orders as to costs and other terms as it considers appropriate on any such motion;
19. A Non-Settling Defendant may effect service of the motion(s) referred to in paragraph 17 above on the Settling Defendant by service on counsel of record for the Settling Defendant in the Alberta Proceeding;
20. For purposes of enforcement of this Order and the Settlement Agreement, this Court will retain an ongoing supervisory role and the Settling Defendant

acknowledges the jurisdiction of this Court and attorns to the jurisdiction of this Court solely for the purpose of implementing, administering and enforcing the Settlement Agreement and this Order subject to the terms and conditions set out in the Settlement Agreement and this Order;

21. Except as provided herein, this Order does not affect any claims or causes of action that any Alberta Mastercard Settlement Class Member has or may have against the Non-Settling Defendants or named or unnamed co-conspirators who are not Releasees in the Alberta Proceeding;
22. No Releasee shall have any responsibility or liability relating to the administration of the Settlement Agreement or the Distribution Protocol or the administration, investment, or distribution of the Trust Account;
23. Subject to the provisions of the Settlement Agreement, the Settlement Amount, plus accrued interest less any monies paid out pursuant to the Settlement Agreement, shall be held in trust for the benefit of the Settlement Class, pending further order of the Courts;
24. The approval of the Settlement Agreement is contingent upon approval by the BC Court, the Saskatchewan Court, the Quebec Court and the Ontario Court and the terms of this Order shall not be effective unless and until the Settlement Agreement is approved by the BC Court, the Saskatchewan Court, the Quebec Court and the Ontario Court and the Ontario Proceeding, the Saskatchewan Proceeding, and the BC Proceeding have been dismissed with prejudice and without costs and the Quebec Proceeding has been declared settled out of court as against the Settling Defendant in the relevant proceeding by the Courts. If such orders are not secured in BC, Saskatchewan Quebec and Ontario, this Order shall be null and void and without prejudice to the rights of the Parties to proceed with the Alberta Proceeding and any agreement between the Parties incorporated in this Order shall be deemed in any subsequent proceedings to have been made without prejudice;

25. In the event that the Settlement Agreement is terminated in accordance with its terms, on motion made on notice to the Plaintiff or the Settling Defendant, as appropriate:
- (a) This Order shall be declared null and void and be without prejudice to any party; and
 - (b) Each party to the Alberta Proceeding shall be restored to his, her or its respective position in the Alberta Proceeding as it existed immediately prior to the execution of the Settlement Agreement.
26. On notice to the Court, but without further order of the Court, the Parties to the Settlement Agreement may agree to reasonable extensions of time to carry out any of the provisions in the Settlement Agreement;
27. The determination of the form of any additional notice to the Alberta Mastercard Settlement Class Members regarding approval of the Settlement Agreement and/or claims filing process, and the approval of a plan of dissemination of any additional notice be and are hereby adjourned to be dealt with by further orders of the Courts;
28. Except as aforesaid, the Alberta Proceeding be and is hereby dismissed against the Settling Defendant without costs and with prejudice;
29. The approval of the Settlement Agreement is without prejudice to the rights and defences of the Non-Settling Defendants in connection with the ongoing Alberta Proceeding. No person may cite or refer to all or any part of this Order and any reasons given by the Court in connection with this Order as against any of the Non-Settling Defendants, except as is necessary to enforce this Order;

Endorsement of this Order

30. This Order may be endorsed in counterparts, electronically or by facsimile; and
31. Endorsement of this Order by the Non-Settling Defendants is dispensed with.

Associate Chief Justice J.D. Rooke

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:



Signature of Reidar Mogerman
Counsel for the Plaintiff



Signature of Jeffrey Simpson
Counsel for Mastercard International Incorporated