

COPY

1 **LAW OFFICE OF JONATHAN WEISS**
2 JONATHAN WEISS (SBN 143895)
3 10576 Troon Avenue
4 Los Angeles, California 90064-4436
5 Tel: (310) 558-0404

6 Attorney for the Class

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

DEC 08 2017

Sherril R. Carter, Executive Officer/Clerk
By: Roxanna Arraiga, Deputy

7 **DLA PIPER LLP (US)**
8 PERRIE M. WEINER (SBN 134146)
9 EDWARD D. TOTINO (SBN 169237)
10 2000 Avenue of the Stars, Suite 400 North Tower
11 Los Angeles, California 90067-4704
12 Tel: 310.595.3000
13 Fax: 310.595.3300

14 Attorneys for Defendant
15 SYNCHRONY BANK, f/k/a GE CAPITAL
16 RETAIL BANK

RECEIVED DEC 08 2017

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **FOR THE COUNTY OF LOS ANGELES**

19 JAMES E. ELIAS and JAMES P. KOZIK,
20 individually and on behalf of others
21 similarly situated,

22 Plaintiffs,

23 v.

24 SYNCHRONY BANK, f/k/a GE CAPITAL
25 RETAIL BANK, a federally-chartered
26 savings association, and DOES 1-10,
27 inclusive,

28 Defendants

CASE NO. BC555883

[Assigned to the Hon. Kenneth R. Freeman –
Dept. 310]

**ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Hearing:
Date: December 7, 2017
Time: 10 a.m.
Dept: 310

Complaint Filed: August 28, 2014
FAC Filed: April 17, 2015
SAC Filed: February 17, 2016
TAC Filed: April 10, 2017

1 The Court conducted a hearing regarding the fairness and final approval of the Settlement,
2 Class Representatives' service payments and Class Counsel's attorney's fees and litigation costs
3 in this action on December 7, 2017, at 10 a.m. in Department 310 of the Superior Court of the
4 State of California for the County of Los Angeles, the Honorable Kenneth R. Freeman presiding.
5 All parties appeared by counsel of record.

6 After considering the papers and the arguments of counsel, and after considering the
7 December 7, 2017, Declaration of Andrew Perry on behalf of Class Administrator filed with the
8 Court on December 8, 2017, and good cause appearing therefor, the Court GRANTS the Motion
9 for Final Approval and Judgment, Class Representatives' service payments, and Class Counsel's
10 Application for Attorneys' Fees and Costs, and the Court rules as follows:

11 IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

- 12 1. The Amended Settlement Agreement and Release ("Settlement Agreement") is
13 hereby incorporated with and made part of this Final Order Approving Class
14 Action Settlement ("Final Order"). Unless otherwise provided in this Final Order,
15 all capitalized terms shall have the same meaning as set forth in the Settlement
16 Agreement.
- 17 2. This Court has jurisdiction over the subject matter of this Action and all parties to
18 this Action, including the Class Members as defined in Section 1(f) of the
19 Settlement Agreement. The Class Members consist of all residents of California
20 who, between March 27, 2012 and June 16, 2017, (1) received a telephone call
21 regarding the collection of a debt and spoke with an agent of Synchrony Bank
22 (formerly known as GE Capital Retail Bank and GE Money Bank), (2) did not
23 have an account with Synchrony Bank at the time of the call and (3) was not
24 informed at the beginning of the call that the call may be recorded. The Court
25 refers to the class just defined as the "Class."
- 26 3. The Settlement Agreement previously filed in this action, and the terms set forth
27 herein, are thereby found and determined to be fair, reasonable, and adequate, and
28 are hereby approved.

- 1 4. The Court finds that the form, manner and content of the Class Notice specified in
2 Section 5 of the Settlement Agreement and Exhibits B and D thereto provided a
3 means of notice reasonably calculated to apprise the Class Members of the
4 pendency of the action and the proposed settlement, and thereby met the
5 requirements of California Rules of Court Rule 3.769 and California Code of Civil
6 Procedure § 382, as well as due process under the United States Constitution, the
7 California Constitution, and any other applicable laws, constituted the best
8 practicable notice under the circumstances, and constituted due and sufficient
9 notice to all Class Members entitled thereto.
- 10 5. This Final Order applies to all claims or causes of action settled under the terms of
11 the Settlement Agreement, and shall be fully binding with respect to all Class
12 Members who did not properly request exclusion pursuant to the Order
13 Preliminarily Approving Settlement entered by this Court on June 16, 2017. A list
14 of all Class Members who have properly requested exclusion is attached hereto as
15 Exhibit A.
- 16 6. The Class Representatives and each member of the Class who has not submitted a
17 valid and timely request for exclusion from the Class, and their respective heirs,
18 assigns, successors, agents, attorneys, executors, and representatives, shall have,
19 fully, finally, irrevocably, and forever released Synchrony Bank and, whether or
20 not specifically named herein, each of its past or present directors, officers,
21 employees, agents, insurers or reinsurers, shareholders, attorneys, advisors,
22 consultants, representatives, partners, affiliates, related companies, any entity on
23 whose behalf Synchrony Bank or GE Capital Retail Bank may have acted, parents,
24 subsidiaries, joint venturers, independent contractors, service providers, vendors,
25 divisions, predecessors, successors, and assigns, from any and all liabilities,
26 claims, causes of action, damages, costs, attorneys' fees, losses, or demands,
27 whether known or unknown, existing or potential, suspected or unsuspected, (1)
28 asserted in the Third Amended Complaint, (2) relating to the transactions, actions,

1 conduct or events that are the subject of the Third Amended Complaint, (3)
2 relating to the violation of the California Invasion of Privacy Act, Cal. Penal Code
3 §§ 630, *et seq.*, including, without limitation, Cal. Penal Code §§ 631, 632, and/or
4 632.7, (4) relating to the recording, eavesdropping upon and/or monitoring of
5 telephone calls, and/or (5) arising out of the institution, prosecution, assertion,
6 defense, settlement or resolution of the Action (collectively, the “Released
7 Claims”). Except for proceedings to enforce the terms of the Settlement
8 Agreement, the Class Representatives and each member of the Class who has not
9 submitted a valid and timely request for exclusion from the Class are enjoined
10 from filing, maintaining, causing or knowingly permitting the filing or
11 maintenance of any lawsuit, administrative action, or other proceeding, in any
12 state, federal or foreign court, or before any local, state, federal or foreign
13 administrative agency, or any other tribunal, that arises from or relates to any of
14 the Released Claims.

- 15 7. The Claims Administrator shall conduct all administration of the Common Fund.
16 The Claims Administrator shall disburse attorney’s fees and costs to Class Counsel
17 from the Common Fund as ordered by the Court. The Claims Administrator shall
18 prepare and issue all disbursements of the Common Fund to Authorized Claimants
19 (including the two (2) claims that were submitted late), and any remaining
20 unclaimed or uncashed funds to Charitable Organization(s) as described in the
21 Settlement Agreement or as otherwise ordered by the Court. The Claims
22 Administrator shall pay itself from the Common Fund all reasonable fees and costs
23 owed to it for the administration of the Settlement and notice to the Class in the
24 amount of One Hundred Nineteen Thousand Dollars (\$119,000.00).
- 25 8. If it has not already done so, Defendant shall wire or cause to be wired the
26 difference between Nine Hundred Ninety-Ninety Thousand Nine Hundred Ninety-
27 Nine Dollars (\$999,999.00) and any amount previously delivered to the Claims
28 Administrator to fund the Common Fund within the time period specified in the

1 Settlement Agreement. The Claims Administrator shall issue the checks for the
2 appropriate pro-rata Net Settlement Amount to each Authorized Claimant entitled
3 to same within the time periods specified in the Settlement Agreement.

4 9. The Court finds that Class Counsel are qualified to represent the Class. The Court
5 hereby grants Class Counsel's request for an award of attorney's fees in the
6 amount of \$399,999.00 and costs in the amount of \$22,310.99 to be paid from the
7 Common Fund. The Court finds that the amount of this award is fair and
8 reasonable in light of the efforts expended by Class Counsel in prosecuting this
9 Action and the results obtained. The amount of this award is based on the
10 lodestar-multiplier analysis.

11 10. The Court approves a service payment of \$5,000.00 to be paid from the Common
12 Fund to Class Representative James Elias and a service payment of \$2,500.00 to
13 be paid from the Common Fund to Class Representative James Kozik as
14 compensation for instituting, prosecuting and/or bearing the laboring oar and risk
15 of this litigation as Class Representative.

16
17
18 **IT IS SO ORDERED.**

19 Dated: DEC 08 2017, 2017

KENNETH R. FREEMAN

21 **HON. KENNETH R. FREEMAN**
22 **Judge of the Superior Court**

Exhibit "A"

James E. Elias v. Synchrony Bank

Timely Requests for Exclusion

	<u>Name</u>	<u>Address</u>
1.	PATRICIA MCELMURRY	2056 DEWAYNE AVE, CAMARILLO, CA 93010
2.	INNA BADRAN	12352 RUNNYMEDE ST. UNIT 5, NORTH HOLLYWOOD, CA 91605

ATTORNEY'S CERTIFICATE OF SERVICE

I, Jonathan Weiss, certify:

I am, and at all times mentioned herein was, an active member of the State Bar of California and not a party to the above-entitled cause. My business address is 10576 Troon Avenue, Los Angeles, California 90064-4436. On December 8, 2017, I served the foregoing [PROPOSED] ORDER GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT by electronically transmitting a true and correct copy thereof to CaseAnywhere for dissemination to counsel of record listed as follows:

Perrie M. Weiner
Edward D. Totino
Monica D. Scott
DLA PIPER LLP (US)
2000 Avenue of the Stars, Suite 400n
Los Angeles CA 90067-4735
Email: perrie.weiner@dlapiper.com; edward.totino@dlapiper.com;
monica.scott@dlapiper.com

Dated: December 8, 2017

/s/

Jonathan Weiss