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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

CARMEN TERRY, On Behalf of
Herself, All Others Similarly
Situating and the General Public,

Plaintiff,

v.

JPMORGAN CHASE BANK, N.A.;
and REAL TIME RESOLUTIONS,
INC.,

Defendant.

) Case No. 15-cv-01666-DMS-KSC
)
) **CLASS ACTION**
)
) **ORDER GRANTING UNOPPOSED**
) **MOTION FOR PRELIMINARY**
) **APPROVAL OF CLASS ACTION**
) **SETTLEMENT**
)
)
)
) U.S. District Judge Dana M. Sabraw
)
)

1 WHEREAS, Plaintiff Carmen Terry, on behalf of herself and the proposed
2 Settlement Class, and Defendants JP Morgan Chase Bank N.A. (“Chase”) and Real
3 Time Resolutions, Inc. (“Real Time” and, together with Chase, “Defendants”) have
4 agreed, subject to Court approval following notice to the Settlement Class and a final
5 hearing thereon, to settle the above captioned matter pursuant to the terms of the
6 Settlement Agreement and Release (the “Agreement” or “Settlement”) submitted
7 herewith;

8 WHEREAS, the Court has considered the Agreement, together with the
9 Exhibits attached thereto, the record in this case, and the briefs and arguments of
10 counsel;

11 WHEREAS, Plaintiff has moved the Court for an order granting preliminary
12 approval of the Settlement, and Defendants do not oppose said motion or such an
13 order;

14 WHEREAS, this Court preliminarily finds, for purposes of settlement only,
15 that the Settlement appears to be the product of serious, informed, non-collusive
16 negotiations, has no obvious deficiencies, does not improperly grant preferential
17 treatment to the Class Representative or segments of the Settlement Class, and falls
18 within the range of possible approval as fair, reasonable and adequate;

19 WHEREAS, any term not defined herein shall have the meaning ascribed to it
20 as set forth in the Agreement;

21 NOW, THEREFORE, IT IS HEREBY ORDERED:

22 1. The Court hereby preliminarily approves the Agreement, and the
23 Settlement set forth therein, subject to further consideration at the Final Approval
24 Hearing described below.

25 2. The Final Approval Hearing shall be held on **January 5, 2018**, at **1:30**
26 **p.m.** in Courtroom 13A (13th Floor) of the United States District Court for the
27 Southern District of California, located at 333 West Broadway, San Diego,

1 California to determine whether to approve final certification of the Settlement Class
2 for settlement purposes; whether the proposed Settlement is fair, reasonable and
3 adequate to the Settlement Class and should be approved by the Court; whether a
4 final judgment should be entered herein; whether the proposed plan of allocation of
5 the Settlement Fund should be approved; the amount of any service award to the
6 Class Representative; the amount of fees and expenses that should be awarded to
7 Class Counsel; and such other matters as may be necessary or appropriate.

8 3. Pursuant to Rule 23, the Court hereby preliminarily certifies, solely for
9 purposes of effectuating this proposed Settlement, a Settlement Class consisting of:
10 California borrowers who obtained a residential mortgage loan owned or serviced by
11 Chase and secured by real property located in the State of California, as to which,
12 between July 28, 2011 through August 1, 2017, Chase (1) released the lien on the
13 property securing the loan, and (2) directly or indirectly, thereafter attempted to
14 collect or actually collected unpaid balances on the loan after the lien release.
15 Excluded from the Settlement Class are: (a) members of the class action lawsuit
16 entitled Banks, et al. v. JPMorgan Chase Bank, N.A., Case No. RG12614875 (Cal.
17 Super. Ct.), including the settlement and related actions subject to the separate prior
18 class action settlement in that action; and (b) the Judges to whom the Action is
19 assigned and any members of the Judges' staff or immediate family members.

20 4. The Court preliminarily finds, solely for purposes of effectuating the
21 Settlement, that the Settlement Class appears to meet the requirements of Rule 23 of
22 the Federal Rules of Civil Procedure for a settlement class, specifically that:

23 (a) The Settlement Class appears to be so numerous that joinder of all
24 members is impracticable;

25 (b) There appear to be questions of law or fact common to the
26 Settlement Class for purposes of determining whether the Settlement should be
27 approved;

1 (c) Plaintiff's claims appear to be typical of the claims being resolved
2 through the Settlement;

3 (d) Plaintiff appears to be capable of fairly and adequately protecting
4 the interests of all members of the Settlement Class in connection with the
5 Settlement;

6 (e) For purposes of determining whether the Settlement is fair,
7 reasonable and adequate, common questions of law and fact appear to predominate
8 over questions affecting only individual members of the Settlement Class.
9 Accordingly, the Settlement Class appears to be sufficiently cohesive to warrant
10 settlement by representation; and

11 (f) For purposes of the Settlement, certification of the Settlement
12 Class appears to be superior to other available methods for the fair and efficient
13 settlement of the claims of the Settlement Class.

14 5. Solely for purposes of effectuating the proposed Settlement, the Court
15 preliminarily designates Plaintiff as the Class Representative and pursuant to Rule
16 23(g)(1) of the Federal Rules of Civil Procedure, the Court hereby appoints Timothy
17 G. Blood and Thomas J. O'Reardon of Blood Hurst & O'Reardon, LLP as Class
18 Counsel.

19 6. The Court approves the form and manner of Class Notice set forth in the
20 Agreement and the Exhibits attached thereto, as further delineated herein, and finds
21 that said notice meets the requirements of Rule 23 and due process, is the best notice
22 practicable under the circumstances and shall constitute sufficient notice to all
23 persons entitled thereto.

24 7. The Court hereby appoints Kurtzman Carson Consultants, LLC as the
25 "Settlement Administrator" to supervise and administer the Settlement, including the
26 Notice Program and the distribution of settlement awards.

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1 8. Prior to the Final Approval Hearing, the notice and award distribution
2 process shall be administered as follows:

3 (a) Within thirty (30) days of this Order, the Settlement
4 Administrator shall cause the applicable Mail Notice to be sent by first class mail to
5 each individual in the Settlement Class identified on the Class List, to their last
6 known addresses as updated by a query of the National Change of Address database
7 by the Settlement Administrator. To the extent that any of the notices are returned as
8 undeliverable, the Settlement Administrator shall engage in reasonable skip tracing
9 to try to locate the individual in the Settlement Class whose notice was returned, and
10 re-mail the notice to the individual in the Settlement Class as appropriate.

11 Defendants shall cooperate with this effort, including by supplying on a confidential
12 basis to the Settlement Administrator additional information from its reasonably
13 available computerized account records that the Settlement Administrator may
14 reasonably request for purposes of performing skip traces.

15 (b) Within thirty (30) days of this Order, the Settlement
16 Administrator shall establish the Settlement Website, which shall include a copy of
17 the First Amended Complaint, the Agreement, the motion for preliminary approval,
18 Settlement-related deadlines and this Order granting preliminary approval. The
19 Settlement Website shall also provide the Settlement Class with instructions for
20 requesting a copy of the Long-Form Notice and shall list a toll-free telephone
21 number that individuals in the Settlement Class can call for information pertaining to
22 the Settlement.

23 (c) The Court may adjourn or continue the Final Approval Hearing
24 without further notice to the Settlement Class. The Court may approve the proposed
25 Settlement, with such modifications as may be agreed to by the Parties, if
26 appropriate, without further notice to the Settlement Class.

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1 (d) Any individuals who wish to exclude themselves from the
2 Settlement Class (“opt-out”) must do so by submitting a written Request for
3 Exclusion to the Settlement Administrator postmarked no later than 30 (thirty) days
4 prior to the date set forth in Paragraph 2 above for the Final Approval Hearing. A
5 Request for Exclusion must: (i) be signed by the individual in the Settlement Class
6 who is requesting exclusion; (ii) include the full name, address and applicable Chase
7 account number(s) of the individual in the Settlement Class requesting exclusion; and
8 (iii) include the following statement: “I/we request to be excluded from the
9 settlement in the Terry action.” No request for exclusion will be valid unless all of
10 the information described above is included. Except in cases of legal incapacity, no
11 individual in the Settlement Class, or any person acting on behalf of or in concert or
12 participation with said individual in the Settlement Class, may exclude any other
13 individual in the Settlement Class from the Settlement Class. Individuals who
14 submit a valid and timely Request for Exclusion shall have no rights under the
15 Settlement, shall not share in the distribution of the Settlement Fund and shall not be
16 bound by any final judgment entered in this action.

17 (e) The Settlement Administrator will retain a copy of all Requests
18 for Exclusion, whether valid or invalid. Not later than fourteen (14) days before the
19 Final Approval Hearing, the Settlement Administrator shall file with the Court a
20 declaration that lists the names of all of the individuals in the Settlement Class who
21 submitted valid Requests for Exclusions.

22 (f) Counsel are hereby authorized to use all reasonable procedures in
23 connection with approval and administration of the Settlement that are not materially
24 inconsistent with this Order or the Agreement, including making, without further
25 approval of the Court, minor changes to the form or content of the Class Notice and
26 other Exhibits that they jointly agree are reasonable and necessary. The Court
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1 reserves the right to approve the Agreement with such modifications, if any, as may
2 be agreed to by the Parties without further notice to the Settlement Class.

3 9. By no later than forty-five (45) days prior to the Final Approval Hearing
4 Class Counsel shall file motions for final approval of the Settlement, attorneys' fees
5 and expenses and an incentive award for the Class Representative, and all supporting
6 documentation and papers necessary to enter a final judgment in this matter. Any
7 reply in support of final approval or in response to any objections shall be filed no
8 later than seven (7) days prior to the Final Approval Hearing.

9 10. Attendance at the Final Approval Hearing by Settlement Class Members
10 is not required. However, Settlement Class Members may appear at the Final
11 Approval Hearing, if he or she so desires, as an "objector" and object to the
12 Settlement or any aspect thereof, including the applications for awards of attorneys'
13 fees and expenses to Class Counsel or a service award to the class representative,
14 **provided, however,** that no appearance or objection will be allowed unless, no later
15 than thirty (30) days prior to the date set forth in Paragraph 2 above for the Final
16 Approval Hearing, the objector both files a written objection with the Court and
17 mails the objection to each of the following: (i) Class Counsel – Thomas J.
18 O'Reardon, Blood Hurst & O'Reardon, LLP, 701 B Street, Suite 1700, San Diego,
19 California 92101; and (ii) Defendants' Counsel – Benjamin G. Diehl, Stroock &
20 Stroock & Lavan LLP, 2029 Century Park East, Los Angeles, California 90067. An
21 objection must include the following: (i) the objector's name, address and telephone
22 number, and, if represented by counsel, the name, bar number, address and telephone
23 number of his or her attorney; (ii) documents establishing, or information sufficient
24 to allow the Parties to confirm, that the objector is a Settlement Class Member; (iii)
25 include a statement of the individual's specific objections and the grounds supporting
26 the objection; (iv) identify and produce copies of any documents that the objector
27 desires the Court to consider; (v) a statement whether the objector intends to appear

1 at the Final Approval Hearing, either in person or through counsel; and (vi) the
2 objector's original signature. Neither the objector's electronic signature nor the
3 signature (original or electronic) of the objector's attorney, if any, will suffice. Any
4 Settlement Class Member who does not timely make an objection in the prescribed
5 manner shall be deemed to have waived such objection and shall forever be
6 foreclosed from making any objection to the fairness or adequacy of the proposed
7 Settlement, the award of attorneys' fees and expenses to Class Counsel, or any other
8 aspect of this Settlement, unless otherwise ordered by the Court.

9 11. All notice and administration expenses incurred in connection with the
10 Settlement, including the Notice Program and settlement award distribution process
11 shall be paid to the Settlement Administrator from the Settlement Fund as set forth in
12 the Agreement.

13 12. This Order, the Settlement and any other incident of this preliminary
14 approval proceeding shall not be construed or deemed to be evidence of an admission
15 or concession by Defendants of any liability or wrongdoing by Defendants or any of
16 their affiliates, agents, representatives, vendors, or any other person or entity acting
17 on their behalf, and shall not be construed or deemed to be evidence of an admission
18 or concession that any person suffered compensable harm or is entitled to any relief.

19 13. If the proposed Settlement is not finally approved for any reason, then
20 this Order and the Agreement shall have no further force and effect, and the Parties'
21 rights and defenses shall be restored, without prejudice, to their respective positions
22 as if the Agreement had never been executed and this Order never entered. In the
23 event that the Settlement is not approved, or is terminated, canceled or fails to
24 become effective for any reason, the remaining Settlement Fund, including any
25 interest thereon, less expenses and taxes incurred or due and owing and payable from
26 the Settlement Fund in accordance with this Agreement, shall be returned to

1 Defendants within five (5) business days following the event triggering non-
2 approval, termination, cancellation or failure to become effective.

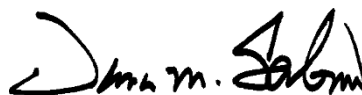
3 14. The deadlines set forth in this Order, including, without limitation,
4 adjourning the Final Approval Hearing, may be extended by Court order. Notice of
5 the extension of any deadline shall be posted on the Settlement Website by the
6 Settlement Administrator.

7 15. Pending the Final Approval Hearing, this Action is stayed for all
8 purposes, except those proceedings related to effectuation of the Settlement.

9 16. Pending the Final Approval Hearing, Plaintiff and all individuals in the
10 Settlement Class are hereby enjoined from commencing, pursuing, maintaining,
11 enforcing or prosecuting, either directly or indirectly, any Released Claims in any
12 judicial, administrative, arbitral or other forum, against any of the Released Parties.
13 Such injunction will remain in force until the Court enters the Final Approval Order
14 or until such time as the Parties notify the Court that the Settlement has been
15 terminated. Nothing herein will prevent any individual in the Settlement Class, or
16 any person actually or purportedly acting on behalf of any such individual(s), from
17 taking any actions to stay or dismiss any Released Claim(s). This injunction is
18 necessary to protect and effectuate the proposed Settlement, this Order, and the
19 Court's flexibility and authority to effectuate the Settlement and to enter judgment
20 when appropriate, and is ordered in aid of this Court's jurisdiction and to protect its
21 judgments. This injunction does not apply to any individual who submits a valid
22 Request for Exclusion from the Settlement.

23 IT IS SO ORDERED.

24 Dated: September 15, 2017



25
26 Hon. Dana M. Sabraw
27 United States District Judge