

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

**JESSE KRIMES, on Behalf of Himself and
All Others Similarly Situated,**

Plaintiff,

vs.

**JPMORGAN CHASE BANK, N.A., and
DOES 1-10,**

Defendants.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Plaintiff, Jesse Krimes, by and through undersigned counsel, on behalf of himself and all persons similarly situated, complains and alleges as follows:

NATURE OF THE CASE

1. This is a civil action seeking monetary damages, restitution, declaratory relief, and injunctive relief from JPMorgan Chase Bank, N.A. (“Chase”) arising out of Chase’s deceptive, fraudulent, and illegal scheme to exploit one of the most vulnerable groups imaginable – releasees from federal corrections facilities.

2. If these individuals want *their own* money after they are released from prison, they are forced to accept a “consumer relationship” with Chase. And as a result of this relationship, Chase issues these individuals a debit card and charges them exorbitant and unusual fees once they are released from a federal Bureau of Corrections facility.

3. Chase is the exclusive provider of debit cards issued to federal inmates upon their release from a federal Bureau of Prisons facility. At the time of release, a federal releasee with a balance in his inmate account is forced to receive funds on a non-reloadable Chase debit card.

4. When a federal inmate is released, they receive a one-page form with a Chase debit card attached. The one-page form simply contains instructions on how to activate the card, and a “card fee schedule.” Federal releasees are never even given an opportunity to review or agree to any terms and conditions governing the debit card’s use. In fact, federal releasees are not even given a copy of any terms and conditions of the card.

5. Chase’s card fee schedule includes numerous fees that ordinary consumers would never be charged. For instance, there is a \$10.00 fee to withdraw one’s own money at a bank teller window. There is a \$2.00 charge for each non-network ATM transaction that is purportedly waived once for each deposit made, but the card is non-reloadable, meaning that a federal releasee can never make a deposit. There is even a \$1.50/month “inactivity charge,” meaning Chase levies a \$1.50 penalty for each month the card is not used.

6. The true terms and conditions governing these and other fees are not disclosed to federal releasees. Aside from federal releasees’ having never been given a copy of the terms and conditions, Chase’s separately available FAQ misleadingly states that “[y]ou may withdraw money from a teller at a Chase location, or any bank that displays the Visa/MasterCard logo.” *See Ex. A.* What Chase does not mention is that teller-assisted withdrawals will cost \$10.00, and a withdrawal at a bank that is not in the Chase network, even if it displays the Visa/MasterCard logo, will result in a \$2.00 fee. Also, by way of example, Chase’s FAQ states that “[y]ou can also find out your balance by doing a Balance Inquiry transaction at an ATM.” *See Ex. A.* Chase neglects to mention that each balance inquiry costs \$0.45.

7. Federal releasees are at the greatest risk and in the greatest need of support upon their release, as they re-acclimate themselves to living in modern society. Every cent counts for federal releasees who are coming out of prison without an immediate means of income, or

8. In sum, Chase's unilateral imposition of unavoidable debit card fees and other undisclosed terms deprives federal releasees from their own money to which they are rightfully entitled.

JURISDICTION AND VENUE

9. This Court has original jurisdiction of this action under the Class Action Fairness Act of 2005. Pursuant to 28 U.S.C. §§ 1332(d)(2) and (6), this Court has original jurisdiction because the aggregate claims of the putative Class exceed \$5 million, exclusive of interest and costs, and at least one of the members of the proposed classes is a citizen of a different state than Chase.

10. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because Chase is subject to personal jurisdiction here and regularly conducts business in the Eastern District of Pennsylvania, and because a substantial part of the events or omissions giving rise to the claims asserted herein occurred in the Commonwealth of Pennsylvania and this district.

THE PARTIES

11. Plaintiff, Jesse Krimes, is a resident and citizen of the Commonwealth of Pennsylvania.

12. Defendant JPMorgan Chase Bank, N.A. ("Chase") maintains its principal place of business in Columbus, Ohio. Chase regularly and systematically conducts business throughout the Commonwealth of Pennsylvania, including in this district, among elsewhere. Among other things, Chase is engaged in the business of providing retail banking services, including the issuance of debit cards, to millions of consumers, including Plaintiff and members of the Class.

13. Defendant Does 1-10, upon information and belief, are corporations, associations, individuals, or other legal entities that are currently unknown to Plaintiff and represent the true names or capacities of the legal entities that execute, authorize, or are otherwise responsible for the conduct and damages alleged herein.

COMMON FACTUAL ALLEGATIONS

A. Federal Releasees

14. There are over 200,000 inmates in the custody of the federal Bureau of Prisons in approximately 120 institutions.

15. Any money a federal inmate may have possessed at the time of incarceration is placed into a custodial account while the inmate remains incarcerated at a federal corrections facility. Subsequent funds may be deposited (or withdrawn) into this account while the inmate is incarcerated. For example, an inmate may earn funds through work programs, or receive funds sent by friends or family.

16. Any funds an inmate does not spend while incarcerated are the property of the inmate and returned upon release.

17. Federal releasees receive money they possessed while incarcerated on a debit card issued by Chase, which Chase refers to as the "Chase U.S. Debit Card." The terms of the Chase U.S. Debit Card are non-negotiable and not well disclosed. If inmates want to access their money, they must accept the Chase U.S. Debit Card's terms.

18. Federal releasees are not given or otherwise made aware of the terms and conditions governing the Chase U.S. Debit Card. Upon being released, they are simply handed an envelope which contains a Chase U.S. Debit Card, and a one-page form letter explaining how to activate the card and setting forth a debit card fee schedule.

B. Chase's Debit Card Monopoly

19. Chase imposes whatever terms and conditions it wishes on recipients of the Chase U.S. Debit Card. Chase has perfected its scheme through two principal means.

20. First, since at least 2008, Chase has been the exclusive issuer of debit cards to federal inmate releasees, which Chase refers to as the "Chase U.S. Debit Card" program. Chase secured its monopoly position through a non-competitive selection process that bypassed the customary competitive bidding process mandated by federal law.

21. This questionable practice undercuts the benefits federal law envisions through competitive bidding, such as increased competition on price, quality, and service. It also lacks customary safeguards against fraud and conflicts of interest. The suspect nature of non-bid practices involving Bureau of Prisons inmate funds has drawn widespread scrutiny. For example, in October 2014, Senator Charles E. Grassley sent a written request to the Department of Treasury for information about no-bid practices.¹ It is also reported that the Treasury's Office of the Inspector General is now investigating Chase's no-bid contract (and that of another financial institution), and is expected to issue a report later this year.²

22. Second, Chase exploits a current loophole in federal law that curb banks' predatory practices designed to take advantage of debit cardholders. The Electronic Fund Transfer Act ("EFTA"), 15 U.S.C. § 1693 *et seq.* and accompanying regulations, protects most consumers' right in electronic funds transactions, including debit transactions. The primary purpose of the EFTA "is the provision of individual consumer rights." 15 U.S.C. § 1693(b). By

¹ See Ltr. from Sen. Grassley to Sect'y Jack Lew, available at <https://www.documentcloud.org/documents/1308862-grassley-letter-to-treasury.html> (last accessed Sept. 2, 2015).

² See Marketplace, "How big banks turn prisons into profit centers" (Jan. 28, 2015), available at <http://www.marketplace.org/topics/wealth-poverty/how-big-banks-turn-prisons-profit-centers> (last accessed Sept. 2, 2015).

way of example, the EFTA and its enabling regulations make it illegal to require a consumer to receive payroll benefits (i.e., salary) in the form of a prepaid debit card, because the fees associated with accessing money loaded onto a debit card essentially reduce the total amount of money the consumer rightfully earned and to which she is rightfully entitled.

23. However, the EFTA's current enabling regulations are ambiguous as to whether debit cards provided to federal releasees, such as the Chase U.S. Debit Card, fall within the regulations' ambit. For instance, Regulation E defines a "payroll card account" as an account to which "electronic fund transfers of the consumer's wages . . . are made on a recurring basis." 12 C.F.R. § 1005.2(b)(2). Some argue that the one-time payout of money a releasee accumulated while incarcerated is not a "recurring" fund transfer.³ The same has been argued about government benefits, such as SSA disability benefits or child support, issued via debit card. In other words, current Regulation E does not expressly protect federal releasees or recipients of government benefits.

24. In December 2014, the Consumer Financial Protection Bureau ("CFPB") announced proposed amendments to Regulation E, to address in part perceived gaps or loopholes. *See* 79 Fed. Reg. 77102 *et seq.* (Dec. 23, 2014). One proposed amendment would provide additional protections to recipients of "government benefits" in the form of debit cards. *See id.*

25. Unfortunately, as currently proposed, the amendments to Regulation E would not classify federal releasees' receipt of their money on a Chase U.S. Debit Card as either a "government benefit" or a traditional consumer debit transaction (such as payroll benefits).

³ *See, e.g.*, Prison Policy Initiative, Comments to Proposed Amendments to Regulation E (Mar. 18, 2015) (Ex. B).

26. Thus, even if Regulation E is amended, federal releasees who receive U.S. Debit Cards will be one of the few subsets of consumers, if not the only subset, which are not protected by the EFTA. This means that Chase may continue to exploit federal releasees who are forced to receive and use Chase U.S. Debit Cards if they ever want to access their own money.

C. Plaintiff's Experience with the Chase Inmate Debit Card

27. Plaintiff, Mr. Jesse Krimes, was released from FCI-Fairton in September of 2013.

28. Upon his release, Mr. Krimes was given a prepaid Chase U.S. Debit Card loaded with money he possessed upon being incarcerated and that he accrued while he was incarcerated. A redacted copy of the Chase U.S. Debit Card handed to him upon release is attached as Exhibit C hereto. The debit card is stamped "NON-RELOADABLE." See Ex. C.

29. The debit card came with a 1-page sheet from Chase that explained how to active the card and included a "card fee schedule." This sheet, including the card fee schedule, is attached as Exhibit D hereto. The fee schedule is also reproduced below:

| CARD FEE SCHEDULE | |
|--|---|
| TRANSACTION TYPE | FEE |
| ATM Withdrawal - On Us ¹ | FREE |
| ATM Withdrawal - Domestic | 1 free per deposit; \$2.00 each thereafter |
| ATM Withdrawal - International | \$3.00 |
| ATM Balance Inquiry | \$0.45 |
| Over-the-Counter (OTC) or Teller-assisted Withdrawal | \$10.00 |
| Unlimited Point-of-Sale Access (POS) at all Visa Prepaid Card Retail Locations | FREE |
| Declined Point-of-Sale (POS) Transaction | \$0.25 |
| Foreign Exchange Fee (for all international ATM withdrawals or POS transactions) | 3.50% |
| Inactivity Charge (after 90 consecutive days of no cardholder activity) | \$1.50/month |
| Card Replacement - First per calendar year | FREE |
| Card Replacement Fee - Standard | \$7.50 |
| Card Replacement Fee - Expedited (includes shipping) | \$24.50 |

¹ ATM Owned by JPMorgan Chase or its Partner Networks
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30. Among the unusual fees associated with the Chase U.S. Debit Card is a \$2.00 fee for domestic non-network ATM withdrawals. This is a fee for withdrawing money at any ATM machine not owned or affiliated with Chase. Although the fee schedule purports that a domestic non-network ATM withdrawal is “free per deposit,” *see* Ex. D, the card itself states it is “NOT RELOADABLE,” *see* Ex. C, which means funds cannot be deposited to replenish the card.⁴ Thus, the promised “1 free [non-network ATM withdrawal] per deposit” is illusory.

31. In addition, although in-network ATM withdrawals are purportedly free, upon information and belief, federal releasees may still be charged a withdrawal fee. Moreover, upon information and belief, Chase confusingly requires a cardholder to select “credit” as the method of payment for some merchant transactions, but this is never disclosed to federal releasees. The only information provided to them, on their Chase U.S. Debit Card and the accompanying one-page form letter, is that their card (as the name suggests) is a *debit* card for *debit* transactions.

32. Upon information and belief, most or all of the fees on the card fee schedule bear no relation to the actual costs borne by Chase. For instance, there is no reason a releasee should incur an “inactivity charge” for not using the card. Likewise, there is no rational reason that making a withdrawal at a teller window, as opposed to an ATM, should cost a releasee \$10.00 in fees.

33. Mr. Krimes has incurred at least one service charge in connection with his Chase U.S. Debit Card. When, in July 2015, Mr. Krimes attempted to understand what this charge was for, Chase’s customer service personnel could not adequately explain the charge, and in fact gave him contradictory responses on different occasions.

⁴ *See, e.g.*, Consumer Financial Protection Bureau, <http://www.consumerfinance.gov/askcfpb/389/what-non-reloadable-prepaid-card.html> (last visited August 19, 2015) (“What is a non-reloadable prepaid card? If your card is non-reloadable, you can’t add money to it after it is issued.”).

D. Chase Benefits from Its Wrongful Conduct

34. Chase significantly benefits from its fraudulent, deceptive, and unfair conduct.

35. Chase charges releasees higher fees than they charge other consumers for identical services or transactions. The below chart shows how the fees Chase charges releasees in connection with its U.S. Debit card exceed those it charges ordinary consumers, as well as the fees charged by a different bank who issues debit cards to recipients of SSA benefits:

| Transaction Type | Chase consumer Debit Card ⁵ | Direct Express® SSA Benefits Debit Card ⁶ | Chase Inmate Debit Card ⁷ |
|--|--|--|--------------------------------------|
| ATM Balance Inquiry | \$0.00 (or \$2.00 at non-Chase location) | \$0 | \$0.45 |
| Over-the-Counter (OTC) or Teller-assisted Withdrawal | \$0 | \$0 | \$10.00 |
| Declined Point-of-Sale (POS) Transaction | \$0 | \$0 | \$0.25 |
| Foreign Exchange Fee (for all international ATM withdrawals or POS transactions) | 3.00% | 3.00% | 3.50% |
| Inactivity Charge (after 90 consecutive days of no cardholder activity) | \$0 | \$0 | \$1.50/month |
| Card Replacement Fee - Standard | \$0 | \$4.00 | \$7.50 |
| Care Replacement Fee - Expedited (includes shipping) | \$5.00 | \$13.50 | \$24.50 |

36. Chase has enriched itself at the Class members' expense by charging unfounded fees, and keeping that money for itself.

⁵ Chase Liquid [Debit] Card Agreement, at 5, available at https://www.chase.com/content/dam/chasecom/en/debit-reloadable-cards/documents/chase_liquid_terms_conditions.pdf (last visited August 19, 2005);

⁶ Social Security Administration, "Get Your Payments Electronically," at 6, available at <http://www.ssa.gov/pubs/EN-05-10073.pdf>.

⁷ Ex. E.

E. Class Members Are An Especially Vulnerable Group

37. Federal releasees are among those individuals least able to afford the unusual and unfair fees thrust upon them by Chase simply to access their own money.

38. As one news outlet recently reported, “experts say small penalties can be both more significant – and more insidious – for newly released prisoners, who tend to have less money and banking experience, and face many other barriers to reintegrating into society.”⁸ Companies like Chase can reap substantial profits on the backs of federal releasees because they can exploit a unique, “(literally) captive market.” *Id.*

39. A federal releasee who leaves a corrections facility with nothing more than the clothes on his back and a Chase U.S. Debit Card in his hand has no choice but to pay Chase’s fees to access his own money. As one federal releasee soberingly put it, because of the unfair fees associated with the Chase U.S. Debit Card, “I left prison with \$120. Because of the fees I was only able to use about \$70 of it.”⁹

CLASS ALLEGATIONS

40. Plaintiff brings this action on behalf of himself and all others similarly situated pursuant to Fed. R. Civ. P. 23(a), (b)(2), and (b)(3). This action satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of Rule 23.

41. The proposed classes are defined as:

All persons in the United States who, within the applicable statute of limitations preceding the filing of this action through class

⁸ Marketplace, “How big bank turn prisons into profit centers,” Jan. 28, 2105, *available at* <http://www.marketplace.org/topics/wealth-poverty/how-big-banks-turn-prisons-profit-centers> (last accessed August 19, 2015).

⁹ Al Jazeera America, “Release cards turn inmates and their families into profit stream,” Apr. 20, 2015, *available at* <http://america.aljazeera.com/articles/2015/4/20/release-cards-turn-inmates-and-their-families-into-profit-stream.html> (last accessed August 19, 2015).

certification, were issued a Chase U.S. Debit Card (the “National Class”); and

All persons in the Commonwealth of Pennsylvania who, within the applicable statute of limitations preceding the filing of this action through class certification, were issued a Chase U.S. Debit Card (the Pennsylvania State Subclass) (for purposes of the claim under the UTPCPL, *et seq.* (see Fourth Claim for Relief, *infra*).

The National Class and the Pennsylvania State Subclass are collectively referred to as the “Classes.” Plaintiff reserves the right to modify or amend the definition of the proposed Classes before the Court determines whether certification is appropriate.

42. Excluded from the Classes are Chase, its parents, subsidiaries, affiliates, officers and directors, any entity in which Chase has a controlling interest, all customers who make a timely election to be excluded, governmental entities, and all judges assigned to hear any aspect of this litigation, as well as their immediate family members.

43. The members of the Classes are so numerous that joinder is impractical. The Classes consist of many thousands of members, the identities of whom are within the knowledge of and can be ascertained only by resort to Chase’s records.

44. The claims of the representative Plaintiff are typical of the claims of the Classes in that the representative Plaintiff, like all Class members, is a Chase U.S. Debit Card cardholder. The representative Plaintiff, like all Class members, has been damaged by Chase’s misconduct in that they have been harmed by the same types of deceptive, misleading, and/or fraudulent pretenses and practices. Furthermore, the factual basis of Chase’s misconduct is common to all Class members, and represents a common thread of unfair and unconscionable conduct resulting in injury to all members of the Classes.

45. There are numerous questions of law and fact common to the Classes and those common questions predominate over any questions affecting only individual Class members.

46. Among the questions of law and fact common to the Classes are whether Chase:

- a. Wrongfully converted the funds of the Classes;
- b. Was unjustly enriched through the company's actions;
- c. To the extent applicable, whether and how long Chase fraudulently concealed its past and ongoing wrongful conduct from Plaintiff and other members of the Classes; and
- d. Violated consumer protection and other state law.

47. Other questions of law and fact common to the Classes include:

- e. The proper method or methods by which to measure damages; and
- f. The declaratory and injunctive relief to which the Classes are entitled, including but not limited to rescission or reformation.

48. Plaintiff's claims are typical of the claims of other Class members, in that they arise out of the same wrongful conduct and the same or substantially similar unconscionable conduct by Chase. Plaintiff has suffered the harm alleged and has no interests antagonistic to the interests of any other Class member.

49. Plaintiff is committed to the vigorous prosecution of this action and has retained competent counsel experienced in the prosecution of class actions and, in particular, class actions on behalf of consumers. Accordingly, Plaintiff is an adequate representative and will fairly and adequately protect the interests of the Classes.

50. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Since the amount of each individual Class member's claim is small relative to the complexity of the litigation, the vulnerability of the classes and the virtually unlimited financial resources of Chase, no Class member could afford to seek legal redress

51. Even if Class members themselves could afford such individual litigation, the court system could not. Individualized litigation would significantly increase the delay and expense to all parties and to the Court. Individualized litigation would also create the potential for inconsistent or contradictory rulings. By contrast, a class action presents far fewer management difficulties, allows claims to be heard which might otherwise go unheard because of the relative expense of bringing individual lawsuits, and provides the benefits of adjudication, economies of scale and comprehensive supervision by a single court.

COUNT ONE
Unjust Enrichment
(On Behalf of the National Class)

52. Plaintiff repeats the preceding paragraphs as if set forth fully herein.

53. By means of Chase's wrongful conduct alleged herein, Chase knowingly and forcibly caused Plaintiff and members of the National Class to receive and to use the Chase U.S. Debit Card by or under fraudulent, unfair, deceptive, coercive, unconscionable, and/or oppressive means or conditions.

54. Chase knowingly received and retained wrongful benefits from Plaintiff and members of the National Class. In so doing, Chase acted intentionally or with conscious disregard for the rights of Plaintiff and members of the National Class.

55. As a result of Chase's wrongful conduct as alleged herein, Chase has been unjustly enriched at the expense, and to the detriment, of Plaintiff and members of the National Class.

56. Chase's unjust enrichment is traceable to, and resulted directly and proximately from, the wrongful conduct alleged herein.

57. It is unfair and inequitable for Chase to be permitted to retain the benefits it received, and is still receiving, without justification, from the wrongful conduct alleged herein.

58. The financial benefits derived by Chase rightfully belong to Plaintiff and members of the National Class, in whole or in part. Chase should be compelled to account for and disgorge in a common fund for the benefit of Plaintiff and members of the National Class all wrongful or inequitable proceeds received from them. A constructive trust should be imposed upon all wrongful or inequitable sums received by Chase traceable to Plaintiff and the members of the National Class.

59. Plaintiff and members of the National Class have no choice to take the Chase U.S. Debit Card, and have no adequate remedy at law.

60. Chase's fraudulent, unfair, deceptive, coercive, unconscionable, unilateral, and/or oppressive conduct amounts to an illusory promise, and/or demonstrates a lack of mutual consideration, rendering any agreement that may exist unenforceable, unconscionable, inequitable, void, or voidable.

COUNT TWO
Rescission
(On Behalf of the National Class)

61. Plaintiff repeats the preceding paragraphs as if set forth fully herein.

62. In the alternative to Count One, in the event a valid agreement is found to exist between Chase and members of the National Class, any such agreement should be rescinded.

63. Consent by Plaintiff and members of the National Class to the terms governing the Chase U.S. Debit Card, including the fee schedule, was not real or free, and/or was given

64. The terms governing the Chase U.S. Debit Card, including the fee schedule, were not fully disclosed to Plaintiff and members of the National Class. Thus, Plaintiff and members of the National Class lacked proper notice concerning such terms.

65. The terms governing the Chase U.S. Debit Card, including the fee schedule, contain undisclosed, confusing, misleading, abstruse conditions and terminology. Chase unilaterally drafted and imposed these fees and other terms on Plaintiff and the National Class, which renders any agreement between Chase and Plaintiff and members of the National Class an unenforceable contract of adhesion.

66. Moreover, Plaintiff and other members of the Class were forced or induced to enter into any agreement governing the Chase U.S. Debit Card by fraud or deceit, insofar as Chase misrepresented or omitted the full terms and true fees associated with the debit cards. For example:

(i) terms were not disclosed to Plaintiff of members of the National Class;

(ii) the disclosed fee schedule contradicted language on the debit cards themselves (namely, one free non-network ATM withdrawal per deposit, yet the card is stamped “NON-RELOADABLE,” meaning additional money cannot be deposited); and

(iii) Chase representatives cannot adequately explain the basis for fees incurred, as was the case with Plaintiff.

67. Chase intended, knew, or reasonably should have known, that representations it has made and continues to make (and omissions it has not made and continues not to make) in connection with the Chase U.S. Debit Card were materially false, deceptive, and misleading.

68. As a direct and proximate result of Chase's conduct alleged herein, Plaintiff and members of the National Class believed, and reasonably so, that they had no choice to receive their money that was loaded on the Chase U.S. Debit Card than to accept and use the card.

69. With any possible consent given only under force, mistake, fraud, coercion, duress, and/or oppression, as set forth above, Plaintiff seeks rescission of any allegedly valid agreement governing the Chase U.S. Debit Card and restitution for all fees charged by Chase, on behalf of himself and members of the National Class.

COUNT THREE
Reformation
(On Behalf of the National Class)

70. Plaintiff repeats the preceding paragraphs as if set forth fully herein.

71. In the alternative to Counts One and Two, in the event a valid agreement is found to exist between Chase and members of the National Class, any such agreement should be reformed.

72. Consent by Plaintiff and members of the National Class to the terms governing the Chase U.S. Debit Card, including the fee schedule, was not real or free, and/or was given under force, mistake, duress, coercion, fraud, and/or without consent or mutual material consideration.

73. The terms governing the Chase U.S. Debit Card, including the fee schedule, were not fully disclosed to Plaintiff and members of the National Class. Thus, Plaintiff and members of the National Class lacked proper notice concerning such terms.

74. The terms governing the Chase U.S. Debit Card, including the fee schedule, contain undisclosed, confusing, misleading, abstruse conditions and terminology. Chase unilaterally drafted and imposed these terms on Plaintiff and the National Class, which renders

75. Plaintiff and other members of the National Class were induced to enter into any agreement governing the Chase U.S. Debit Card, insofar as Chase misrepresented or omitted the full terms and true fees associated with the inmate debit cards. For example:

(i) terms were not disclosed to Plaintiff or members of the National Class;

(ii) the disclosed fee schedule contradicted language on the debit cards themselves (namely, one free non-network ATM withdrawal per deposit, yet the card is stamped “NON-RELOADABLE,” meaning additional money cannot be deposited); and

(iii) Chase representatives cannot adequately explain the basis for fees incurred, as was the case with Plaintiff.

76. Chase intended, knew, or reasonably should have known, that representations it has made and continues to make (and omissions it has not made and continues not to make) in connection with the Chase U.S. Debit Card were materially false, deceptive, and misleading.

77. Chase’s fraud or bad faith is further evidence by its breach of the implied covenant of good faith and fair dealing.

78. By common law or statute, the terms governing the Chase U.S. Debit Card impose upon each party a duty of good faith and fair dealing. Good faith and fair dealing, in connection with executing contracts and discharging performance and other duties according to their terms, means preserving the spirit – not merely the letter – of the bargain. Put differently, the parties to a contract are mutually obligated to comply with the substance of their contract in addition to its form. Evading the spirit of the bargain and abusing the power to specify terms constitute examples of bad faith in the performance of contracts.

79. Subterfuge and evasion violate the obligation of good faith in performance even when an actor believes their conduct to be justified. Bad faith may be overt or may consist of inaction, and fair dealing may require more than honesty. Examples of bad faith are evasion of the spirit of the bargain, willful rendering of imperfect performance, abuse of a power to specify terms, and interference with or failure to cooperate in the other party's performance.

80. Chase has breached the covenant of good faith and fair dealing through its wrongful actions alleged herein, through both affirmative misrepresentations and purposeful omissions, and Plaintiff and members of the National Class have suffered damages as a result.

81. In addition, any agreement between Chase and Plaintiff and members of the National Class not only evidences Chase's fraud or bad faith as set forth above, but also accident or mistake.

82. For example, by its own fee schedule, Chase intended the Chase U.S. Debit Card to be loaded with additional money, by reference to one free non-network ATM withdrawal "for each deposit." Nonetheless, each Chase U.S. Debit Card is stamped as being "NON RELOADABLE."

83. The same conduct set forth above could also demonstrate a mutual mistake, insofar as both sides to any agreement governing the terms of the Chase U.S. Debit Card would understand and believe that deposits could be made. In addition, both sides to any agreement were mutually mistaken insofar as Chase has charged fees that do not comport with its fee schedule, or cannot be explained by Chase in reference to its fee schedule. This reveals a potential misunderstanding of each other's intent based on the terms governing the relationship, to the extent that such a relationship is found to have been validly formed. Further, mutual mistakes were relied on by Chase and Plaintiff and members of the National Class.

84. Accordingly, to the extent the releasees and Chase have entered into any form of an agreement, the agreement should be reformed with reasonable and fair terms that are specific and determinable.

85. As a direct and proximate result of Chase's conduct alleged herein, Plaintiff and members of the National Class believed, and reasonably so, that they had no choice to receive their money that was loaded on the Chase U.S. Debit Card than to accept and use the card.

COUNT FOUR
Conversion
(On Behalf of the National Class)

86. Plaintiff repeats the preceding paragraphs as if set forth fully herein.

87. Chase had and continues to have a duty to maintain and preserve the funds of Plaintiff and members of the National Class, and to prevent their diminishment through their own wrongful acts.

88. By placing Plaintiff and Class members' funds into Chase inmate debit card accounts without consent, failing to inform them of material terms, making it difficult to understand the fees associated with those accounts, and charging unusual fees in connection with the Chase U.S. Debit Card, Chase has, without proper authorization, assumed and exercised the right of ownership over these funds, in hostility to the rights of Plaintiff and Class members without legal justification.

89. Chase has wrongfully collected fees from Plaintiff and members of the National Class, and has taken specific and readily identifiable funds from their accounts in payment of such fees in order to satisfy them.

90. Chase continues to retain these funds unlawfully and without the consent or Plaintiff or other members of the National Class.

91. Chase intends to permanently deprive Plaintiff and the National Class of these funds.

92. These funds are properly owned and identifiable by Plaintiff and members of the National Class, not Chase. Yet, Chase now claims that it is entitled to the funds' ownership, contrary to the rights of the Plaintiff and members of the National Class.

93. Plaintiff and the members of the National Class are entitled to immediate possession of these funds.

94. Defendants have wrongfully converted these specific and readily identifiable funds.

95. As a direct and proximate result of this wrongful conversion, plaintiff and members of the National Class have suffered and continue to suffer damages. Chase's wrongful conduct is continuing.

96. By reason of the foregoing, Plaintiffs and the members of the National Class are entitled to recover from defendants all damages and costs permitted by law, including all amounts that Defendants have wrongfully converted.

COUNT FIVE
Pennsylvania's Unfair Trade Practices and Consumer Protection Law
(On Behalf of the Pennsylvania State Subclass)

97. Plaintiff repeats the preceding paragraphs as if set forth fully herein.

98. This claim is asserted on behalf of the members of the Pennsylvania State Subclass under Pennsylvania's Unfair Trade Practices and Consumer Protection Law ("UTPCPL"), 73 P.S. § 201-1, et seq.

99. The UTPCPL, 73 P.S. § 201-3 prohibits "[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce."

100. Chase has engaged in unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce by, inter alia:

a. “Using deceptive representations . . . in connection with goods or services,” see 73 P.S. § 201-2(4)(iv);

b. “Failing to comply with the terms of any written guarantee . . . ,” see 73 P.S. § 201-2(4)(xiv); and

c. “Engaging in any other fraudulent or deceptive conduct which creates a likelihood or confusion or of misunderstanding,” see 73 P.S. § 201-2(4)(xxi).

101. Chase violated the above sections by engaging in the conduct alleged herein.

102. Pursuant to 73 P.S. § 201-9.2, et seq., Plaintiff and members of the Pennsylvania State Subclass obtained unwanted and unrequested services in the form of debit card services that were used primarily for personal, family or household purposes.

103. Chase engaged in unlawful conduct, made affirmative misrepresentations or omissions, or otherwise violated the UTPCPL by, inter alia, knowingly, intentionally, and recklessly misleading Plaintiff and members of the National Class about the terms, fees, and other conditions associated with the Chase U.S. Debit Card.

104. Further, Chase has violated consumer protection by forcing releasees into this disadvantageous relationship. If inmates want their money that is loaded on a Chase U.S. Debit Card, they are required to accept the Chase U.S. Debit Card.

105. To the extent applicable, Chase intended that Plaintiff and Pennsylvania State Subclass members would rely on the company’s misrepresentations, or acts of concealment and omissions, including those in connection with the Chase U.S. Debit Card fee schedule. Further, to the extent applicable, reliance can be presumed under the circumstances.

106. Chase's conduct caused Plaintiff and members of the Pennsylvania State Subclass to suffer ascertainable losses in the form of transaction and related fees that would otherwise not have been incurred in whole or in part.

107. A causal relationship exists between Chase's unlawful conduct and the ascertainable losses suffered by Plaintiff and the Pennsylvania State Subclass.

108. As redress for Chase's repeated and ongoing violations of the UTPCPL, Plaintiff and the Pennsylvania State Subclass are entitled to, *inter alia*, damages and declaratory relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff and the Classes demand a jury trial on all claims so triable and judgment as follows:

1. Declaring Chase's conduct alleged herein to be fraudulent, deceptive, wrongful, unfair, inequitable, and unconscionable;
2. Restitution owing to Plaintiff and the Classes as a result of the wrongs alleged herein in an amount to be determined at trial;
3. An accounting and disgorgement of the ill-gotten gains derived by Chase's misconduct;
4. Actual damages in an amount according to proof;
5. Treble damages, to the extent permitted by law or equity;
6. A temporary and permanent injunction enjoining Chase from engaging in the same wrongful conduct going forward including requiring Chase to adequately disclose facts to render truthful its representations;
7. Punitive and exemplary damages;
8. Pre-judgment and post-judgment interest at the maximum rate permitted by applicable law;

9. Costs and disbursements assessed by Plaintiff in connection with this action, including reasonable attorneys' fees;
10. Rescission of the agreement between the parties
11. Reformation of the agreement between the parties; and
12. Such other relief as this Court deems just and proper.

Dated: September 11, 2015

Respectfully submitted,

/s/ DJS8892

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EXHIBIT A



WELCOME

to the U.S. Debit Card Program!

WLC13534

www.myaccount.chase.com

The U.S. Debit Card is the safe and easy way to make purchases and get cash. Now that you have received your card, here is what to do next:

STEP 1: Activate Your Card

Before you can use your U.S. Debit Card, you must call the Chase Customer Service Help Line to activate it. You can find this number on the back of your card and on the letter your card was attached to in this package.

Follow these steps when you call to activate your card:

1. Enter your 16-digit card number.
2. Remain on the line to hear your account balance.
3. Choose the main menu option for selecting your PIN.
4. Select your 4-digit PIN.
5. Your card is now ready for use.

IMPORTANT: You must follow these steps to successfully activate your card.

You should sign the back of your card immediately.

YOU MUST KEEP THIS CARD FOR YOUR CURRENT PAYMENT AND FUTURE USE.

STEP 2: Use Your Card

To make purchases...

You can use your card anywhere that accepts Visa/MasterCard prepaid cards, including retail stores, restaurants, gas stations and more. Just insert your card into the Point-of-Sale (POS) terminal and choose "credit" or "debit."

If you choose Credit:

Sign the receipt or sign on the POS terminal as directed. You don't need to enter your 4-digit PIN — **just swipe, sign and go!** You will receive a receipt with your purchase.

If you choose Debit:

1. Enter your 4-digit PIN.
2. Tell the cashier if you would like cash back with your purchase. (Many locations, including U.S. post offices and grocery stores, will provide cash back with a purchase.)
3. You will receive a receipt with your purchase and your cash (if applicable).

All purchases and cash back amounts will come directly out of your account.

To get cash...

In addition to getting cash back with a purchase, you can also use your card to withdraw cash at over one million ATMs anywhere, with surcharge-free access at Chase and partner ATMs (where applicable) in the U.S. Just look for ATMs that display the logos on the letter to which your card was attached, and:

1. Insert or swipe your card and enter your 4-digit PIN.
2. Press "Withdrawal" and then "Checking." Follow the instructions until the transaction is completed.
3. Take your cash, your card and your receipt.

FREQUENTLY ASKED QUESTIONS



Is my U.S. Debit Card a credit card?

No, your card is a prepaid card. Each time you use your card, the amount of your purchase or withdrawal will be automatically deducted from your card's balance.

How can I find out the balance on my card?

The easiest way to find out the balance on your card is to visit the cardholder web site at www.myaccount.chase.com. You can also find out your balance by doing a Balance Inquiry transaction at an ATM or by calling Chase Customer Service.

Can I use my card to buy gas at automated fuel dispensers (also known as "pay-at-the-pump")?

Yes. However, we recommend using your card inside at the register and not at the pump. If you pay at the pump, some stations hold up to \$50 of your account funds until the transaction clears. That means you may not have access to those funds for up to 5 days.

Will I have to pay ATM surcharges?

You will not have to pay an ATM surcharge if you use a Chase ATM or if your card is part of a partner ATM network (check the letter to which your card was attached for any applicable partner networks). Please note that at partner ATMs you must press "YES" to accept the surcharge and proceed with your withdrawal. **You will not be charged for the surcharge, nor will the surcharge be deducted from your account.** You can verify this by checking your ATM transaction receipt. Many other ATM owners do charge a fee to use their machines. If you use an ATM with a surcharge, that fee will be charged to your account.

How can I find a surcharge-free ATM?

To locate the nearest Chase ATM, visit www.chase.com and enter your ZIP code. Where applicable, look for an ATM with partner network logos.

What if I enter the wrong PIN or forget my PIN?

If you are having trouble remembering your PIN, **do not** try to guess your PIN when entering it at a retail location or ATM. If you forget your PIN, call Chase Customer Service at the number found on the back of your card to select a new one.

Can I go to a bank teller and withdraw money from my U.S. Debit Card?

You may withdraw money from a teller at a Chase location, or any bank that displays the Visa/MasterCard logo. If you have questions, call Chase Customer Service.

What if my card doesn't work?

If your card doesn't work, please make sure that you have an available balance on the card. If an ATM doesn't accept your card, it may be out of service; simply try another ATM. If your card still does not work, call Chase Customer Service.

What happens to my money if I lose my card?

If you lose your card or if it is stolen, you should call Chase Customer Service right away. Once you report a card as lost or stolen, a new card will be issued, the old card number will be cancelled and the funds in your card account will be secure.

How can I get help with my card or account?

You can access all of your account information online at the My Account web site. It's safe, secure and best of all it's **FREE!**

Using your U.S. Debit Card number and PIN, you can:

- Check your current account balance
- View and print your electronic statement
- Review your transaction history
- Change your PIN
- Contact Customer Service

Just go to www.myaccount.chase.com and have your card number ready!

You can also get help with your U.S. Debit Card by calling Chase Customer Service at the phone number found on the back of your card.

EXHIBIT B



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www.prisonersofthecensus.org

March 18, 2015

Richard Cordray, Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Docket No. CFPB-2014-0031
RIN 3170-AA22
Proposed Amendments to Regulation E: Curb exploitation of people
released from custody

Dear Mr. Cordray:

Pursuant to the rulemaking notice issued in the above-referenced proceeding (the “Notice”),¹ Prison Policy Initiative (“PPI”) respectfully submits the following comments concerning the need for clarification of Regulation E’s applicability to correctional facility “release cards.” As discussed in more detail below, release cards are open loop prepaid cards (which may or may not be reloadable) that are branded as debit cards by a major payment-card network (usually MasterCard). Release cards are issued on behalf of jails or prisons that owe money to people who are released from the facility. While release cards are a relatively new phenomenon, they are being adapted by an increasing number of agencies and often carry complicated and exorbitant fees.

People being released from correctional facilities are forced to use prepaid cards that come with oppressive terms and conditions. Accordingly, PPI believes that the Bureau should take immediate steps to address this issue by clarifying that release cards are deemed to be government benefit payments for purposes of proposed section 1005.15 of Regulation E. In addition, because of the broader problems with financial services inside correctional facilities, the Bureau should conduct an additional rulemaking proceeding to promulgate specific regulations applicable to correctional facility trust accounts.

I. Introduction and Background

With a total incarcerated population of more than 2.4 million people,² the United States sees millions of people released from prison or jail each year.

¹ 79 Fed. Reg. 77102, *et seq.* (Dec. 23, 2014).

² Peter Wagner & Leah Sakala, “[Mass Incarceration: The Whole Pie](#)” (Mar. 12, 2014).

March 18, 2015

Page 2 of 12

For example, 623,337 people were released from prison in 2013,³ and the year before nearly 12 million people were released from local jails.⁴

When people leave a correctional facility, they are often owed money by the correctional authority. The nature of these debts can vary, but as a general matter, a person is usually entitled to a refund of his or her “inmate trust account” balance.⁵ Money in a trust account may consist of funds that a person had in his or her possession when originally taken into custody,⁶ funds that a person earns while working inside a prison or jail,⁷ or money sent by friends and relatives.

A. Release Cards Are Becoming More Prevalent

In 2014, the Association of State Correctional Administrators conducted a survey of thirty-three state corrections agencies, which asked about the agencies’ use of release cards.⁸ According to the survey, seventeen responding agencies (52%) use prepaid debit cards as a method of refunding trust account balances.⁹ Of those agencies, most report that fees are imposed on cardholders,¹⁰ and nine report that the agency implemented the use of release cards within the last three years.¹¹

Use of release cards is also growing in local jails,¹² where population turnover is higher than in prisons. Although the prevalence of release-card use by jails

³ U.S. Dept. of Justice, Bureau of Justice Statistics, *Prisoners in 2013* (NCJ No. 247282) (rev. Sept. 30, 2014), at 10.

⁴ Wagner & Sakala, *supra* note 2.

⁵ See e.g., N.Y. Corr. Law § 500-c(7) (sheriff’s duty to maintain inmate trust accounts); 37 Tex. Admin. Code § 269.1(2)(L) (jail operator must keep a record of all receipts and expenditures of inmate accounts).

⁶ See e.g., Cal. Gov. Code § 26640 (sheriff’s duty to account for “all money and valuables found on each prisoner when delivered at the county jail”).

⁷ Isaac Colunga, *An Alternative Look at the Takings Clause and Inmate Trust Accounts*, 39 U. Tol. L. Rev. 791, 792 (2008) (“[I]n furtherance of security within U.S. prisons, many states prohibit inmates from possessing money while incarcerated. Yet, at the same time, states compensate prisoners for labor performed while incarcerated and deposit those payments into interest-bearing ‘trust’ or ‘spend’ accounts, which are established and maintained for each prisoner.” (footnotes omitted)).

⁸ Detailed responses to the ASCA Survey are available at <http://www.webcitation.org/6WSoQ5hDf> (the “Detailed Response Analysis”); a summary report is available at <http://www.webcitation.org/6WSoalJpb> (the “Summary Report”).

⁹ Summary Report, *supra* note 8, at 1.

¹⁰ *Id.* Although only eleven agencies responded “yes” to the question asking whether there were fees imposed in connection with release cards, of those states responding “no,” three (Arkansas, Florida, and Michigan) provided narrative responses indicating that fees are actually imposed, but for various reasons the respondents did not answer in the affirmative. Of the four states responding “no” without a narrative explanation, two (Indiana and Virginia) report using Jpay as a vendor. As discussed *infra*, note 19, Jpay does not make its fee schedules publicly available; however, PPI has no evidence of any Jpay release cards that are *not* subject to substantial fees. Thus, it is highly likely that fees are imposed on the release cards issued in all (or nearly all) of the seventeen systems that utilize cards.

¹¹ *Id.* at 2.

¹² See generally Amirah Al Idrus, “Debit cards slam released prisoners with sky-high fees, few protections,” Center for Public Integrity (Sept. 30, 2014).

is not centrally tracked, at least three lawsuits have been filed challenging the practice.¹³

Some correctional agencies manage release-card programs in-house, while others outsource management to third party contractors.¹⁴ However, even agencies that manage programs in-house must contract with a another entity to issue the cards and process transactions. In fact, a review of publicly available contracts reveals a variety of firms involved with issuance and management of release cards. This confusing array of entities (generally referred to here as “vendors”) creates an environment ripe for consumer exploitation, by allowing various contractors and subcontractors to evade responsibility for error resolution and other customer service through diffusion of accountability.¹⁵

B. Release Card Fees Are Complex and Costly

Vendors frequently charge predatory fees that do not appear to be based on actual costs. The chart on the following page summarizes some release-card fees found in publicly-available sources.

¹³ *Adams v. Craddock*, U.S. Dist. Ct., W.D. Ark. Case No. 13-cv-5074-jlh (Benton County Arkansas); *Mickelson v. County of Ramsey*, U.S. Dist. Ct., D. Minn. Case No. 13-CV-2911 (SRN/FLN) (Ramsey County, Minnesota); *Regan v. Stored Value Cards*, U.S. Dist. Ct. N.D. Ga. Case No. 14-cv-1187-AT (Rockdale County, Georgia).

¹⁴ Summary Report, *supra* note 8, at 3.

¹⁵ For example, the Ramsey County Contract and Benton County Contract (*see infra*, note 16) used by Keefe Commissary Networks (“Keefe”), both state that release cards “will be issued by First California Bank . . . and transactions [will be] processed by a third-party company called Outpay Systems, L.L.C.” (§ 2). The same contract states that Keefe “shall provide technical support and coordination . . . for processing inmate trust fund balances to Client inmates at the time of release.” *Id.* While the identity of the issuer (First California Bank) seems somewhat clear, it is not apparent what the respective roles of Keefe and Outpay Systems, L.L.C (“Outpay”) are. Although it appears that Outpay acts as a “third party processor,” it is not clear whether Keefe itself is a third party processor, an “independent sales organization,” or some other type of service provider (as such terms are defined in [MasterCard Rule § 7.1](#)). Of particular concern is the fact that the sole point of contact with both correctional facilities and cardholders appears to be the entity that markets the program (in this instance, Keefe), even though MasterCard rules *prohibit* that type of third-party service provider from being a party to the actual cardholder agreement. MasterCard Rule § 7.7.2. Thus, holders of release cards are forced to enter into a contractual relationship with a financial institution with which neither the cardholder nor the correctional facility has any meaningful interaction.

| | | V E N D O R | | | |
|------------------|----------------------------|--------------------------------|--|--------------------------|---|
| | | Keefe Commissary ¹⁶ | Numi Financial ¹⁷ | ReleasePay ¹⁸ | Jpay ¹⁹ |
| F E E T Y P E | Account maintenance | \$1.50/week | \$3.50/week | \$2.50/week | \$2/week (NJ) \$6/month (NC) \$0.50/week (TN) |
| | Per transaction | none | \$0.95 for PIN-based | none | \$0.70 (CO, GA & TN) |
| | Balance inquiry | \$1.50 at ATM | \$1.50 at ATM \$0.50 - \$3.95 by phone | \$1.50 at ATM | \$0.50 (TN & MI) |
| | Inactivity | none | none | \$2 after 90 days | \$2.99 after 90 days (TN and MI) |
| | Refund & close account | \$30 | \$9.95 | \$25 | \$9.95 (TN & MI) |
| | Other cash withdrawal fees | \$6 for ACH \$2.75 for ATM | \$3.50 for ATM \$0.95 for cash-back at merchant | not specified | \$2 at ATM (CO, GA, TN, MI) |
| | Declined transaction | not specified | \$0.50 | none | \$0.50 (TN) |

The above list of fees (which is not comprehensive) illustrates the complexities that cardholders face when trying to maximize the value of their money. It is no secret that those who are incarcerated are disproportionately low-income.²⁰ Thus the impact of such fees will be felt even more acutely by those with low balances on prepaid cards. A cardholder incurs a maintenance fee (usually charged *weekly*) which is levied whether or not there is account activity. As an example, if someone is released with \$125,²¹ a \$2-per-week maintenance fee is

¹⁶ The same fee schedule is used in Ramsey County, Minnesota and Benton County, Arkansas, as disclosed in the respective litigation referenced in note 13, *supra*. The relevant contracts are attached hereto as **Exhibit 1** (“Ramsey County Contract,” which was filed as Exhibit A to the Second Amended Complaint (ECF No. 14) in *Regan v. County of Ramsey*), and **Exhibit 2** (“Benton County Contract,” which was filed as Exhibit 2 to the Plaintiff’s Statement of Undisputed Material Facts (ECF No. 34) in *Adams v. Craddock*. See *supra*, note 13 for additional details about the aforementioned litigation.

¹⁷ Cardholder agreement (attached hereto as **Exhibit 3**) was filed as Exhibit 2 to the Declaration of Brad D. Golden (“Golden Declaration,” ECF No. 7) filed in in *Regan v. Stored Value Cards* (see *supra*, note 13).

¹⁸ Cardholder agreement is attached hereto as **Exhibit 4**, and is available at <http://releasepay.com/docs/008%20T&Cs%20E-S.pdf>

¹⁹ Jpay is a leading provider of release cards, however it does not make its fee schedule available online unless a user creates an account linked to a particular prepaid card. This lack of transparency is another reason why Regulation E (including proposed § 1005.19) should cover release cards. Jpay fees in this table are gathered from the following sources: Detailed Response Analysis, *supra* note 8 (Colorado, Georgia, North Carolina, and Tennessee); Idrus, *supra* note 12 (Michigan); N.J. Dept. of Corr., “[The new JPay Release card is here](#)” (New Jersey).

²⁰ See, e.g., U.S. Dept. of Justice, Bureau of Justice Statistics, [Survey of State Prison Inmates, 1991](#) (NCJ No. 136949) (Mar. 1993), at 3 (out of 521,765 survey participants, 86% had annual income less than \$25,000 after being free for at least a year); Bruce Western, “Invisible Inequality,” in *Punishment and Inequality in America* (2006), at 85-107 (about a third of incarcerated individuals were not working when they were admitted to prison or jail).

²¹ The hypothetical figure of \$125 is based on average release-payment amounts reported by Nevada, Ohio, and Virginia. As part of the MCPA RFP (see *infra*, note 52 and accompanying text), the states of Nevada, Ohio, and Virginia reported that the average trust account refund upon release was, respectively, \$176.92, \$103, and \$105. [MCPA Amendment No. 1](#) (Apr. 13, 2011), at 5-6. The average of those three amounts is \$128.31, which is rounded to \$125 for purposes of this example.

equivalent to a finance charge of 77% per year. If that same hypothetical cardholder makes ten purchases of \$12 each, then a \$0.50 per-transaction-fee would amount to \$5, or 4% of the entire card balance (on top of maintenance fees). If the cardholder wishes to convert a prepaid card into cash, he or she must pay \$10 to \$30 (i.e., 8% to 24% of the entire deposit amount) merely to close the account. Alternatively, if the cardholder simply tries to spend the card balance by using it for payments, he or she will likely end up with a residual unspent amount that is either consumed by fees or forfeited to the vendor,²² thereby inflating the vendor's profits,²³ despite the fact that card vendors incur no credit risk, because all card transactions are prepaid by the consumer.

As indicated in the previous table, some vendors may charge different cardholder fees under different contracts. This variation indicates that consumer fees are not cost-based, but instead are merely a profit mechanism that is undisciplined by either regulatory oversight or an efficient marketplace.

In addition to the monetary fees extracted by vendors, cardholders are often forced by into contracts with binding arbitration provisions²⁴ notwithstanding the fact that the consumer has been coerced into the contract and thus has not voluntarily agreed to arbitrate.²⁵ Cardholders who are forced waive their right to access the courts also effectively relinquish their right to enforce their already diluted contractual rights and remedies; therefore, regulation that ensures fair terms, meaningful consumer choice, and meaningful dispute resolution is acutely needed.

²² One release card provider even boasts that facilities benefit from release cards because the cards “eliminate unclaimed property reporting.” Golden Decl., *supra* note 17 ¶ 3. This appears to be a common practice among prison-related vendors, *see also* [Comments of Prison Policy Initiative](#), Fed. Communications Comm’n, WC Dkt. No. 12-375 (Jan. 21, 2015) (describing similar account-forfeiture practices by providers of inmate telecommunications service companies).

²³ *See generally*, Tim Barker, “[Prison services are profitable niche for Bridgeton company](#),” St. Louis Post-Dispatch (Feb. 15, 2015) (“In 2012 . . . Keefe Commissary Network, along with two other subsidiaries, recorded a robust \$41 million net income on \$375 million in sales.”).

²⁴ Both Numi Financial and ReleasePay include arbitration clauses in their cardholder agreements (see Exhibits 3 and 4, respectively). Cards issued by Keefe Commissary also appear to be subject to mandatory arbitration, based on website [Terms and Conditions](#). As noted in note 19, *supra*, Jpay does not make its cardholder agreements publicly available.

²⁵ When courts enforce arbitration provisions contained in adhesive contracts, they typically do so under the theory that even a contract offered on a “take-it-or-leave-it” basis allows the party with less bargaining power to walk away. *E.g.*, *Montgomery v. Applied Bank*, 848 F.Supp. 2d 609, 616 (S.D.W.Va. 2012) (holding arbitration provision in credit agreement enforceable because “Plaintiff puts forth no evidence of a pressing need and the record is devoid of any evidence that she had no other alternative but to enter into a credit card agreement with this particular Defendant.”). The same cannot be said of release cards (at least in facilities that do not offer other payment methods), because a consumer must agree to the cardholder agreement in order to receive *their own money*.

C. The Promised Benefits of Release Cards Are Dubious

Release-card vendors often claim that such cards provide a variety of benefits to cardholders and correctional facilities, although both types of benefits are dubious. Typically, release cards are promoted as more convenient for cardholders than receipt of a paper check.²⁶ Such promotional claims overlook several important details. First, while prepaid cards can be used at many retail outlets, they cannot be used to pay some critical expenses that are incurred by people recently released from prison. For example, few landlords accept payment cards for payment of rent or security deposits. Recently released people may also be required to pay fines or user fees to various government agencies (such as probation offices), many of which do not accept payment cards. Second, while it is true that cashing a check can be an expensive proposition for unbanked consumers, that does not necessarily mean that release cards are a less costly option. Again, suppose someone is released from prison with \$125. A fee at a retail check-casher could realistically be one payment of three to four dollars.²⁷ If the same amount is loaded onto a prepaid card, the cardholder is more likely to make a series of smaller withdrawals.²⁸ Assuming two ATM withdrawals with a \$2.75 ATM fee (the average ATM fee reported on the chart above), the cardholder would end up paying \$5.50 in fees—more than the average cost of cashing a check. Moreover, for cards with large balances, a cardholder may be forced to make multiple ATM withdrawals, since some ATMs cap withdrawals at \$400 per transaction.²⁹

Release-card vendors claim that the cards are “more secure” than cash or checks.³⁰ This assertion overlooks the fact that many release cards (especially in the high-turnover jail environment) are issued without the cardholder’s name embossed on the card.³¹ Accordingly, there is no way for merchants to effectively ensure that a card user is the rightful holder, and lost or stolen cards can easily be used by an unauthorized party. Moreover, while a releasee who

²⁶ *E.g.*, ReleasePay, [Promotional Flier](#).

²⁷ *E.g.*, Jean Ann Fox & Patrick Woodall, [Cashed Out: Consumers Pay Steep Premium to “Bank” at Check Cashing Outlets](#), Consumer Federation of America (Nov. 2006), at 6 (survey conducted in 2006 reported average cost to cash a government-issued check (other than Social Security) at retail check cashing stores was 2.78% of the face amount); Walmart, [MoneyCenter – Check Cashing webpage](#) (cashing a check up to \$1,000 at Walmart incurs a maximum fee of \$3).

²⁸ *See e.g.*, Helmut Stix, “[The Impact of ATM Transactions and Cashless Payments on Cash Demand in Austria](#),” *Monetary Policy and the Economy* (2004, 1st qtr), 90, 99 (“[T]he use of ATMs is associated with higher frequencies of withdrawal and thus with lower cash holdings.”); *see generally* Bd. of Governors of the Fed. Reserve System, [Report to Congress on Government-Administered, General-Use Prepaid Cards](#) (Jul. 2014), at 1-2 (“Although the prepaid cards provided under government-administered programs usually offer cardholders one or more free automated teller machine (ATM) cash withdrawals per month, ATM withdrawal fees constitute 58 percent of all card-holder fee revenue that issuers collected in 2013.”)

²⁹ *See* “Prestige Prepaid MasterCard Cardholder FAQ,” *Regan v. Stored Value Cards* (*see supra*, note 13), Class Action Complaint (ECF No. 1), Exhibit B, at 14.

³⁰ *E.g.*, Golden Decl., *supra* note 17 ¶ 3 (release cards “offer released persons immediate access to their money in a medium that is . . . more secure than cash”); ReleasePay, *supra* at 26.

³¹ Golden Decl., *supra* note 17, Exh. 1; *Mickelson v. County of Ramsey* (*see supra*, note 13), Declaration of Erik Mickelson (ECF No. 70), Exh. 1.

receives cash can decide to carry only a portion of his cash on his person, a cardholder cannot similarly reduce the risk of loss of a prepaid card—if he carries the card and loses it, then the entire balance is at risk.³²

As for jails and prisons themselves, vendors typically promise “reduce[d] accounting department costs and resources.”³³ It is unclear how significant such cost reductions are, since facilities still bear the ultimate responsibility for maintaining inmate trust accounts and determining how much money a person is owed upon his or her release.³⁴ In reality, the true “benefit” that facilities receive is the ability to shift follow-up customer service issues to a contractor that was not selected by the customer/cardholder, and which therefore has no economic incentive to provide quality service to cardholders.³⁵ In addition, many facilities have structured their contracts with release card vendors so that all costs of the service are borne entirely by consumers, instead of the contracting agency.³⁶ The federal Bureau of Prisons has awarded a release card contract (covering the sizeable federal prison system) to JPMorgan Chase on a non-competitive basis.³⁷ Such procurement methods do not promote competition or incentivize awarding contracts based on value to the cardholder, but instead reward those vendors that most effectively shift financial liabilities from the facility to the cardholder.

D. Incarcerated People Are Particularly In Need of the Protections of the EFTA

The primary purpose of the Electronic Fund Transfer Act (“EFTA”) “is the provision of individual consumer rights.”³⁸ As lower income people—most of whom have experienced (by virtue of their incarceration) a disruption in their

³² See generally, Fumiko Hayashi & Emily Cuddy, “[General Purpose Reloadable Prepaid Cards: Penetration, Use, Fees, and Fraud Risks](#),” Fed. Reserve Bank of Kansas City Working Paper No. RWP 14-01 (Feb. 2014), at 36-39 (discussing fraud risks and prepaid cards). Notably, MasterCard’s protections for cardholder liability in the event of unauthorized charges do not apply until the cardholder’s “identity is registered by or on behalf of the Issuer in connection with such issuance and/or sale.” MasterCard U.S. Rule § 6.3. In the context of release cards, it is not clear whether such “registration” occurs in the facility (upon card issuance) or if the cardholder must register after release by establishing an online account at the vendor’s website. If the latter, then there is reason for concern because people leaving prison or jail are more likely than the population at large to lack reliable and convenient internet access.

³³ Golden Decl., *supra* note 17, ¶ 3.

³⁴ See Ramsey County Contract and Benton County Contract (*supra*, note 16), both at § 13 (“Client [i.e., the correctional facility] agrees that it shall . . . assume all liability for any Client related job functions that lead to discrepancies/deficiencies associated with any funding, Card loss, improper storage, etc. expressly attributed to the loading, inventorying and distribution of the Cards to the Client inmates.”).

³⁵ See e.g. JPay, [Former release card promotional webpage](#) (“The release card . . . effectively outsources any post-release service issues from the agency to JPay”).

³⁶ E.g., Ramsey County Contract and Benton County Contract (*supra*, note 16), both at § 6 (“All fees shall be assessed to the card holder/inmate.”).

³⁷ Daniel Wagner, “[Megabanks have prison financial services market locked up](#),” Center for Public Integrity (Oct. 2, 2014). The lack of competitive bidding appears to be based on the provisions of 12 U.S.C. § 90.

³⁸ 15 U.S.C. § 1693(b).

ability to earn a living—people leaving prison and jail are likely to need timely access to their funds, and thus are particularly susceptible to abusive provisions contained in adhesive contracts. If someone is released from a facility that mandates the use of release cards, then that person is also forced into a financial relationship with an unfamiliar financial entity whose customers (correctional facilities) are not its account holders (releasees).

Consumers who leave prison or jail are acutely in need of the fundamental protections of Regulation E. For example, release cards are frequently used to pay accumulated wages that a person has earned while incarcerated. Yet vendors appear to have exploited Regulation E's definition of "payroll card account"³⁹ by arguing that even though wages were accumulated incrementally over time, the one-time payout upon the wage-earner's release from custody vitiates the regulatory protections applicable to payroll cards. Accordingly, PPI hereby requests that the Bureau issue an official interpretation stating that the prohibition on compulsory issuance of payroll cards⁴⁰ applies any time a release card contains earned wages.

II. The Bureau Should Address Release Cards As Part of the Current Rulemaking

In light of the widespread unfair practices in the release card industry, the Bureau should take this opportunity to apply Regulation E to all release cards.

A. The Bureau Should Classify Release Cards as Government Benefit Cards

The Bureau has proposed a revised § 1005.15 that provides more detailed protections to recipients of government benefits.⁴¹ Although proposed § 1005.15(a)(2) defines "government benefit account" in broad terms, the Bureau should expressly affirm that this definition applies to release cards.

Neither existing Regulation E nor the proposed revisions define "government benefit," and because release cards often hold money that a person earned, received as a gift, or possessed upon their incarceration, one could argue that the funds on such cards are not government benefits. Nonetheless, release cards are used exclusively for the purpose of making government-to-consumer payments and the rationale for protecting recipients of government benefits applies with particular force to people who are leaving correctional facilities.

³⁹ 12 C.F.R. § 1005.2(b)(2) (defining a payroll card account as an account to which "electronic fund transfers of the consumer's wages . . . are made *on a recurring basis*" (emphasis added)).

⁴⁰ See Proposed § 1005.18(b)(2)(i)(A), Notice, *supra* note 1, at 77299.

⁴¹ Notice, *supra* note 1, at 77140-77145.

Accordingly, PPI respectfully suggests that the Bureau make the following changes⁴² to the proposed § 1005.15(a):

(2) Definitions. For purposes of this section, the following definitions apply:

(i) ~~term “account”~~ “Account” or “government benefit account” means an account established by a government agency for distributing government benefits to a consumer electronically, such as through automated teller machines or point-of-sale terminals, but does not include an account for distributing needs-tested benefits in a program established under state or local law or administered by a state or local agency.

(ii) “Government benefit” is deemed to include payment of funds by or on behalf of a government agency to a consumer in connection with the consumer’s release from a prison, jail, detention center, or other correctional facility, regardless of the original source of such funds.

Such language would clarify the applicability of Regulation E to release cards and would provide much-needed consumer protections for people who are released from prison or jail. For over a decade, the federal government has recognized that “*all* consumers using EFT services should receive substantially the same protection under the EFTA and Regulation E, absent a showing that compliance costs outweigh the need for consumer protections.”⁴³ In the case of release cards, there is absolutely no evidence that Regulation E compliance would impose significant costs, and the need for consumer protection is particularly strong—a person leaving a correctional facility should not be compelled to use a complex and costly financial product to access funds in which he or she holds an unconditional ownership interest.

B. The Bureau Should Adopt Other Proposals to Strengthen Regulation E’s Prepaid Card Provisions

PPI understands that other commenters have, or will soon, propose additional modifications to the Regulation E amendments contained in the Notice. PPI supports the following proposals and asks that such provisions apply to release cards:

- Balance inquiries should be free and convenient. Consumers will not be empowered to responsibly use prepaid cards until they are able to easily verify current account balances. Although Regulation E generally requires account statements, both the current and proposed versions of Regulation E relax these protections in the context of

⁴² Insertions and deletions are shown as compared to the version of § 1005.15 that was published in the Notice. Insertions are denoted by underlining and deletions are denoted by ~~striketrough~~.

⁴³ 59 Fed. Reg. 10680 (Mar. 7, 1994) (emphasis added) (Federal Reserve’s announcement of final rule applying Regulation E to government benefit payments).

government benefit cards.⁴⁴ Although it is understandable that the Bureau may want to allow additional flexibility for government agencies, PPI believes that the Bureau should remain consumer-focused. Specifically, consumers should be able to access their account balance for free, by a method of the consumer's own choosing—either by ATM inquiry, telephone, internet, or by receiving regular paper statements.

- Mandatory arbitration and class-action bans should be prohibited. As noted previously,⁴⁵ people leaving correctional facilities have little or no meaningful choice when they are issued release cards. The prevalent use of arbitration provisions in take-it-or-leave-it cardholder agreements is troublesome. If vendors violate applicable laws or contractual requirements, then they should be held accountable in court (absent truly voluntary consumer consent to arbitration). The Bureau should use its authority under 12 U.S.C. § 5518(b) to prohibit mandatory arbitration provisions in prepaid card contracts.
- Certain types of fees should be categorically prohibited. Most prominently, fees for customer service should be banned, as this is a cost of doing business that should not be imposed on cardholders who need help deciphering the maze of confusing terms and conditions that so often accompany prepaid cards. Additionally, declined transaction fees appear to be a simple case of rent-seeking, as it is unclear how vendors or issuers incur costs to decline a transaction authorization.
- Cardholder funds should be held in insured accounts. The proposed amendments require a warning if a prepaid card is not protected by deposit insurance.⁴⁶ If a release-card vendor becomes insolvent and cardholder funds are not in an insured account, the impacts for cardholders could be catastrophic.⁴⁷ A reference to deposit insurance buried in voluminous disclosures is unlikely to provide meaningful consumer protection. PPI supports proposals to require that all prepaid cards fund be held in an insured deposit account.
- Fee schedules and cardholder agreements should be publicly available. As noted previously,⁴⁸ one of the largest release-card vendors in the country does not make cardholder agreements publicly available. This lack of transparency makes it difficult (if not impossible) for cardholders (as well as cardholders' caregivers and attorneys) to understand their contractual rights. Although the proposed rule requires public posting account agreements,⁴⁹ PPI supports proposals to require that agreements be searchable by the name of the entity (or entities) that brand the card and provide customer support.

⁴⁴ 12 C.F.R. § 1005.15(c); Proposed § 1005.15(d)(1), Notice, *supra* note 1, at 77298.

⁴⁵ *Supra*, text accompanying notes 24-25.

⁴⁶ Proposed § 1005.18(b)(2)(i)(B)(13), Notice, *supra* note 1, at 77300.

⁴⁷ *See generally*, James Steven Rogers, *Unification of Payments Law and the Problem of Insolvency Risk in Payment Systems*, 83 Chi. Kent L. Rev. 689, 715-718 (2008) (discussing insolvency of non-bank payment providers).

⁴⁸ *Supra* note 19.

⁴⁹ Proposed § 1005.19, Notice, *supra* note 1, at 77304.

III. The Bureau Should Convene a New Rulemaking Proceeding to Further Address Consumer Protection Issues Related to Correctional Facility Trust Accounts

Because incarcerated people have no meaningful consumer choice and are particularly susceptible to victimization by abusive business practices, the Bureau should conduct a more comprehensive review of financial services in correctional facilities. As an initial step, the Bureau should exercise its authority under the EFTA⁵⁰ to directly regulate release card fees. Specifically, the Bureau should prohibit fees for inactivity, swipe transactions, declined transactions, customer service inquiries, balance inquiries, and non-ATM cash withdrawals. The Bureau should also cap all other permissible fees at amounts that resemble vendors' actual costs.

The Bureau should also address larger issues beyond release cards. There is a growing industry of payment service providers who specialize in correctional facility trust account management.⁵¹ In 2011, the Multi-State Corrections Procurement Alliance issued a request for proposals (the "MCPA RFP")⁵² seeking bids from companies for management of inmate trust accounts. Two contracts were awarded (to Keefe Group and Jpay). The contents of the MCPA RFP and the proposals received by the successful bidders indicate that there are many questionable practices in the correctional-facility financial services industry. Robust oversight by the Bureau is warranted.

Among the troublesome practices in the correctional facility financial services industry are:

- Correctional facilities claim to be reducing their own costs by outsourcing management of trust accounts. Yet both Keefe Group and Jpay agree to provide contracting facilities with a "commission" (kickback) for each deposit received into a trust account.⁵³ These fees, paid by families and friends sending money to loved ones in prison, provide a revenue stream to the same agencies who claim to be cutting expenses through outsourcing.
- Even though service providers appear to be engaging in money transmission, some have suggested that "few" companies in this niche industry comply with state money transmitter regulations.⁵⁴
- Vendors boast that they can provide automated electronic processing of credit and debit transactions to and from trust accounts,⁵⁵ but never even mention compliance with EFTA and Regulation E.
- Vendors may not comply with unclaimed property laws.⁵⁶

⁵⁰ 15 U.S.C. § 1693l-1(d)(1).

⁵¹ See generally, Daniel Wagner, "[Prison bankers cash in on captive customers](#)," Center for Public Integrity (Sept. 30, 2014).

⁵² Available at <http://www.webcitation.org/6WUcrjHwy>.

⁵³ [Keefe Group Cost Proposal](#) at 8, 16; [Jpay Cost Proposal](#) § 3.10.

⁵⁴ [Jpay Technical Proposal](#), at 21.

⁵⁵ E.g., *id.*, at 18-27.

⁵⁶ See *supra*, note 22.

March 18, 2015

Page 12 of 12

- Regulation E's consumer protections are premised on financial institutions providing account holders with periodic statements,⁵⁷ but incarcerated account holders appear to only be able access their account history from shared kiosks in public areas (which may be subject to usage restrictions and/or fees), thus limiting the consumer's ability to verify accurate account activity.

The growth in outsourcing means that end-user customers of correctional facility banking systems (i.e., incarcerated people and their friends and families) are forced to do business with financial middlemen that are incentivized to charge non-cost-based fees. Even worse, the middlemen frequently extract revenue through fees, and then split that fee revenue with the correctional facilities that award the exclusive contracts. This situation will never result in fair treatment of consumers without the oversight of the Bureau.

IV. Conclusion

For the reasons stated herein, PPI asks that the Bureau modify the proposed amendments to Regulation E as detailed in Section II, and conduct a further rulemaking proceeding to address the widespread problems in the correctional facility financial services market.

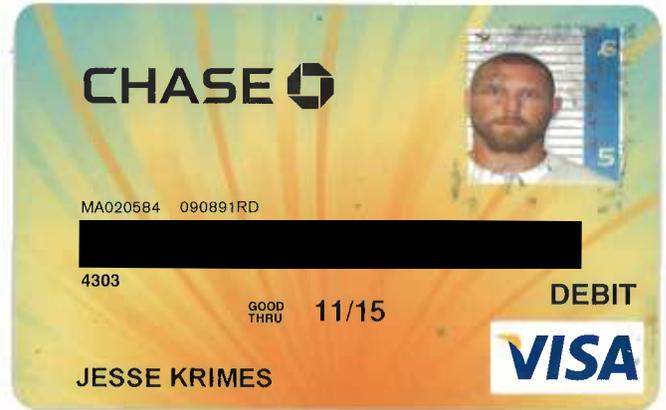
Respectfully submitted,



Stephen Rahe, Esq.
Pro Bono Legal Analyst

⁵⁷ See generally, 12 C.F.R. § 1005.9(b).

EXHIBIT C



CHASE



MA020584 090891RD

4303

GOOD THRU 11/15

DEBIT

JESSE KRIMES



1043413 HC (12/11) cpl-co

24 Hour Customer Service call 1-877-789-5895 or visit our website at www.myaccount.chase.com**



AUTHORIZED SIGNATURE NOT VALID UNLESS SIGNED

Subject to Terms and Conditions of use. This card is issued by JPMorgan Chase Bank, N.A. pursuant to a license from Visa U.S.A. Inc. FDIC insured.

**When prompted for social security number, enter your BOP register number followed by a zero.

NON-RELOADABLE

V4227

CHASE 

EXHIBIT D

Use your Card when you need to,
 24 hours a day, 7 days a week.
 You can access cash at more than
 one million Automated Teller Machines
 (ATMs) worldwide.

Your card can be used at Visa locations or any
 merchant or ATM that displays one of these logos:



Carefully read the enclosed materials to
 assist you in using your new prepaid card.



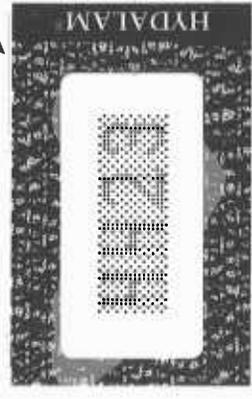
REMEMBER:

- Sign your Card immediately and keep it in a safe place.
- Never tell your Personal Identification Number (PIN) to anyone and don't write your PIN on your Card or anything that you keep with your Card.
- Your Card is not a credit card; it is a prepaid card. You may only spend as much money as you have in your account.
- You can check your account information online at www.myaccount.chase.com.
- At ATMs, you must select "Checking" to access your prepaid card account.
- You can make purchases and get cash back at merchant locations that accept Visa prepaid cards.

CCC10873F

**Your Personal Identification
 Number (PIN) is:**
 (Su número de identificación
 personal (PIN))

See back for removal instructions



CCC10872

CARD FEE SCHEDULE

| TRANSACTION TYPE | FEE |
|--|---|
| ATM Withdrawal - On Us ¹ | FREE |
| ATM Withdrawal - Domestic | 1 free per deposit; \$2.00 each thereafter |
| ATM Withdrawal - International | \$3.00 |
| ATM Balance Inquiry | \$0.45 |
| Over-the-Counter (OTC) or Teller-assisted Withdrawal | \$10.00 |
| Unlimited Point-of-Sale Access (POS) at all Visa Prepaid Card Retail Locations | FREE |
| Declined Point-of-Sale (POS) Transaction | \$0.25 |
| Foreign Exchange Fee (for all international ATM withdrawals or POS transactions) | 3.50% |
| Inactivity Charge (after 90 consecutive days of no cardholder activity) | \$1.50/month |
| Card Replacement - First per calendar year | FREE |
| Card Replacement Fee - Standard | \$7.50 |
| Card Replacement Fee - Expedited (includes shipping) | \$24.50 |

¹ ATM Owned by JPMorgan Chase or its Partner Networks
 © 2012 JPMorgan Chase Bank. All rights reserved. Member FDIC.

EXHIBIT E



How big banks turn prisons into profit centers



Thomas Hawk/Flickr

by **Stan Alcorn** (</people/stan-alcorn>)

Wednesday, January 28, 2015 - 05:00

Greg Cavaluzzi spent four years in federal prison, eating cold oatmeal and white bread for breakfast and bologna for lunch and dinner. So the first thing he wanted to do when he was released was to eat "something normal." When his parents picked him up from [Fort Dix \(http://www.bop.gov/locations/institutions/ftd/\)](http://www.bop.gov/locations/institutions/ftd/) in New Jersey, he took them to Wendy's.

"We didn't really talk," he says. "We ate. We were just so happy to be next to each other."

He ordered two bacon, egg and cheese sandwiches, and paid for the meal with a JP Morgan Chase debit card featuring a photo of him in his prison-issued khakis, a backdrop measuring his height in the background. The cards are standard in the federal prison system for giving discharged inmates money sent by friends and family or earned at in-prison jobs.

Cavaluzzi's meal cost about \$10. Or as Cavaluzzi puts it: "Everything. It was everything. I was used to making \$10 a month."

He made that money as a librarian in prison, where wages start at 11 cents an hour. But those hard-earned dollars disappeared faster than he expected, and when he called Chase, he found out the reason was fees.

"It just seemed a little..." Cavaluzzi trails off. "It was sketchy."

The fees on prison-issued debit cards were agreed to in a 2011 contract with a branch of the Department of the Treasury, which provided the schedule of fees below.

| The Only Chase Fees for Using Your Card | |
|---|--|
| Out-of-network ATM Cash Withdrawal (Daily limit: \$800) | \$2.00 each after 1 free per deposit (surcharges may also apply) |
| International ATM Withdrawal | \$3.00 each |
| ATM Balance Inquiry | \$0.45 each |
| Teller-assisted Cash Withdrawal | \$10.00 each |
| Declined POS Transaction | \$0.25 each |
| Card Replacement — standard | \$7.50 each after 1 free per year |
| Card Replacement — expedited | \$24.50 per card |
| Inactive Account (after 90 days without use) | \$1.50 per month |
| Foreign Exchange Fee | 3.5% of transaction |

It costs 45 cents to check your balance at an ATM, \$1.50 if your account is inactive for 90 days, \$2 to withdraw money at a non-Chase ATM, and \$7.50 to replace the card a second time within a year.

The absolute numbers aren't radically high, but experts say even small penalties can be both more significant – and more insidious – for newly released prisoners, who tend to have less money and banking experience, and face many other barriers to reintegrating into society.

"It's bus fare to a job, it's a meal, it's a room for a night," says Karin Martin, an associate professor at the John Jay College of Criminal Justice in New York. She researches debt and fees in the criminal justice system.

"There's this split mentality – on the one hand, we are saying we would like to re-integrate people, and on the other hand, we are having lots of policies that undermine their ability to reintegrate," she says.

Still, contracting with private companies that charge inmates for their services is hardly exceptional.

"The Bureau of Prisons contracts out all kinds of goods and service type things," says Jack Donson, who was a case manager in the federal prison system for more than two decades. "The institution has food vendors, vending machine vendors, halfway houses."

In all of these cases, companies have a (literally) captive market, and prisoners frequently complain about being overcharged. Though there is no competition for the business of prison inmates, there is typically competition for the contracts – as there are for most such contracts with the federal government – for sound economic reasons.

"When it comes to products or service that are somewhat standard, easy to describe, where the deliverables are clear and reasonably measurable, then competitive bidding is by far the most efficient method of procurement," says Steve Tadelis, a UC Berkeley associate professor of business and public policy who has studied government contracts.

A good example of this kind of standardized good or service is a pencil.

"If you're a government agency and you want to procure pencils, well there are gazillion producers of pencils," says Tadelis. An open competitive bidding process asks all pencil producers to make an offer and allows that competition to drive down the pencil price.

But a [Center for Public Integrity investigation \(http://www.publicintegrity.org/2014/10/02/15812/megabanks-have-prison-financial-services-market-locked\)](http://www.publicintegrity.org/2014/10/02/15812/megabanks-have-prison-financial-services-market-locked) found that the contract with JP Morgan Chase – as well as a contract between the Department of Treasury and the Bank of America for financial services inside of prisons – were not subject to an open, competitive bidding process.

"When I hear 'no bid contract,' forget prison environment, that does surprise me a little bit," Donson says.

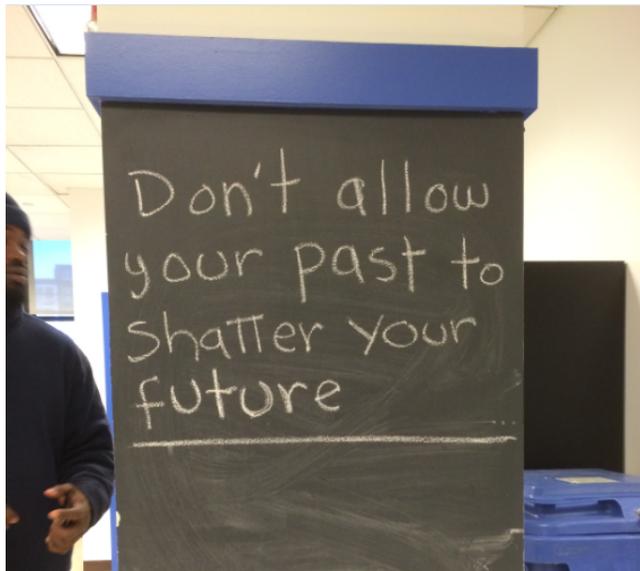
From an economist's view, Tadelis says, it could make sense to skirt competitive bidding, but only if the goods or services are complicated, evolving or difficult to describe.

"From what I've read and heard about these issues with the bank accounts and debit cards, I think it's pretty clear this looks a lot more like a pencil than a fighter jet or a complex IT system," Tadelis says.

Treasury's Office of the Inspector General is now investigating the contracts with JP Morgan Chase and the Bank of America and is expected to issue a report later this year.

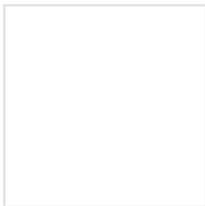
Gregg Cavaluzzi now works at the [Fortune Society \(http://fortunesociety.org/\)](http://fortunesociety.org/), helping to find jobs for other newly released prisoners.

"Until these banks find a way to make money on the rehabilitation of people, and not the incarceration," he warns, "this will continue."



Featured in: [Marketplace Morning Report for Wednesday, January 28, 2015](http://www.marketplace.org/shows/marketplace-morning-report/marketplace-morning-report-wednesday-january-28-2015)
(/shows/marketplace-morning-report/marketplace-morning-report-wednesday-january-28-2015)

About the author



Stan Alcorn is a multimedia journalist in New York City. He has reported for NPR and WNYC, where he has focused on business and the New York tech scene.

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JS 44 (Rev. 12/12)

CIVIL COVER SHEET

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| | |
|---|---|
| <p>I. (a) PLAINTIFFS Jesse Krimes</p> <p>(b) County of Residence of First Listed Plaintiff Philadelphia <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) David J. Stanoch, Esquire, Ruben Honik, Esquire and Kenneth J. Grunfeld, Esquire, Golomb & Honik, P.C., 1515 Market Street, Suite 1100, Philadelphia, PA 19101</p> | <p>DEFENDANTS JPMorgan Chase Bank, N.A.</p> <p>County of Residence of First Listed Defendant Franklin <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p> |
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| <p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input checked="" type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p> | <p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in one Box for Plaintiff and One Box for Defendant)</i></p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table> | | PTF | DEF | | PTF | DEF | Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 | Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 | Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
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IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES | | |
|---|--|---|--|--|--|--|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | <p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <p>PERSONAL INJURY</p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input checked="" type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes | |
| <p>REAL PROPERTY</p> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | <p>CIVIL RIGHTS</p> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education | <p>PRISONER PETITIONS</p> <p>Habeas Corpus:</p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <p>Other:</p> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | <p>LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act | <p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark | <p>SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) | <p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 |

V. ORIGIN *(Place an "X" in One Box Only)*

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District *(specify)* 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
 28 U.S.C Section 1332

Brief description of cause:
 Conversion and fraud concerning funds on debit card

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000.00 CHECK YES only if demanded in complaint. JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY *(See instructions):* JUDGE DOCKET NUMBER

DATE 09/11/2015 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 2231 South 17th Street, Philadelphia, PA 19145

Address of Defendant: 3415 Vision Drive, Columbus, OH 43219

Place of Accident, Incident or Transaction: Pennsylvania

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock? (Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes [X] No []

Does this case involve multidistrict litigation possibilities? Yes [] No [X]

RELATED CASE, IF ANY:

Case Number: Judge Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

- 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes [] No [X]
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes [] No [X]
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes [] No [X]
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes [] No [X]

CIVIL: (Place [X] in ONE CATEGORY ONLY)

A. Federal Question Cases:

- 1. [] Indemnity Contract, Marine Contract, and All Other Contracts
2. [] FELA
3. [] Jones Act-Personal Injury
4. [] Antitrust
5. [] Patent
6. [] Labor-Management Relations
7. [] Civil Rights
8. [] Habeas Corpus
9. [] Securities Act(s) Cases
10. [] Social Security Review Cases
11. [] All other Federal Question Cases (Please specify)

B. Diversity Jurisdiction Cases:

- 1. [] Insurance Contract and Other Contracts
2. [] Airplane Personal Injury
3. [] Assault, Defamation
4. [] Marine Personal Injury
5. [] Motor Vehicle Personal Injury
6. [] Other Personal Injury (Please specify)
7. [] Products Liability
8. [] Products Liability — Asbestos
9. [X] All other Diversity Cases (Please specify) Personal Property Damage

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, David J. Stanoch, counsel of record do hereby certify:

- [] Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
[] Relief other than monetary damages is sought.

DATE: 09/11/2015

[Signature] Attorney-at-Law

91342

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 9/11/2015

[Signature] Attorney-at-Law

91342

Attorney I.D.#

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

Jesse Krimes

CIVIL ACTION

v.

JP Morgan Chase Bank, N.A.

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (✓)

9/11/15
Date

[Signature]
Attorney-at-law

Plaintiff
Attorney for

(215) 985-9177

(215) 985-4169

dstanoch@golombhonik.com

Telephone

FAX Number

E-Mail Address

**Civil Justice Expense and Delay Reduction Plan
Section 1:03 - Assignment to a Management Track**

- (a) The clerk of court will assign cases to tracks (a) through (d) based on the initial pleading.
- (b) In all cases not appropriate for assignment by the clerk of court to tracks (a) through (d), the plaintiff shall submit to the clerk of court and serve with the complaint on all defendants a case management track designation form specifying that the plaintiff believes the case requires Standard Management or Special Management. In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.
- (c) The court may, on its own initiative or upon the request of any party, change the track assignment of any case at any time.
- (d) Nothing in this Plan is intended to abrogate or limit a judicial officer's authority in any case pending before that judicial officer, to direct pretrial and trial proceedings that are more stringent than those of the Plan and that are designed to accomplish cost and delay reduction.
- (e) Nothing in this Plan is intended to supersede Local Civil Rules 40.1 and 72.1, or the procedure for random assignment of Habeas Corpus and Social Security cases referred to magistrate judges of the court.

**SPECIAL MANAGEMENT CASE ASSIGNMENTS
(See §1.02 (e) Management Track Definitions of the
Civil Justice Expense and Delay Reduction Plan)**

Special Management cases will usually include that class of cases commonly referred to as "complex litigation" as that term has been used in the Manuals for Complex Litigation. The first manual was prepared in 1969 and the Manual for Complex Litigation Second, MCL 2d was prepared in 1985. This term is intended to include cases that present unusual problems and require extraordinary treatment. See §0.1 of the first manual. Cases may require special or intense management by the court due to one or more of the following factors: (1) large number of parties; (2) large number of claims or defenses; (3) complex factual issues; (4) large volume of evidence; (5) problems locating or preserving evidence; (6) extensive discovery; (7) exceptionally long time needed to prepare for disposition; (8) decision needed within an exceptionally short time; and (9) need to decide preliminary issues before final disposition. It may include two or more related cases. Complex litigation typically includes such cases as antitrust cases; cases involving a large number of parties or an unincorporated association of large membership; cases involving requests for injunctive relief affecting the operation of large business entities; patent cases; copyright and trademark cases; common disaster cases such as those arising from aircraft crashes or marine disasters; actions brought by individual stockholders; stockholder's derivative and stockholder's representative actions; class actions or potential class actions; and other civil (and criminal) cases involving unusual multiplicity or complexity of factual issues. See §0.22 of the first Manual for Complex Litigation and Manual for Complex Litigation Second, Chapter 33.