

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

M. KIRKMAN and LUIS RUIZ, *individually  
and on behalf of those similarly situated,*

Plaintiffs,

v.

INVESTORS BANCORP, INC. d/b/a  
INVESTORS BANK,

Defendant.

No: 2:20-cv-14574-WJM-JBC

**[PROPOSED] ORDER GRANTING  
PRELIMINARY APPROVAL OF  
SETTLEMENT AGREEMENT**

AND NOW, this 5<sup>th</sup> day of June, 2023, upon consideration of

Named Plaintiffs' Motion for Preliminary Approval of Class and Collective Settlement and  
Provisional Certification of Rule 23 Classes and FLSA Collective, which is unopposed, the  
*and for the reasons stated on the record, JBC*

Court grants Named Plaintiffs' Motion and ORDERS as follows:

1. Named Plaintiffs in the above-captioned litigation and Defendant Investors Bank (the "Parties") have participated in settlement negotiations with the assistance of Judge Joel Schneider (Ret.) and executed a Settlement Agreement ("Settlement Agreement" or "Agreement") that was filed with the Court on February 21, 2023. Pursuant to the Agreement, Named Plaintiffs moved for entry of an order granting preliminary approval of the Settlement. The Court hereby incorporates the terms of the Agreement for the purposes of this Preliminary Approval Order, including the Definitions set forth in the Agreement. Having reviewed the Agreement and considered the submissions, arguments, and authorities in support of preliminary approval of the Settlement, the Court finds as follows.

2. The Parties' Agreement is preliminarily approved as fair, reasonable, and adequate pursuant to Fed. R. Civ. P. 23(e), and as a fair and reasonable resolution of a *bona fide* dispute under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (the "FLSA").

3. On a preliminary basis, taking into account (a) the value and certainty of the benefits to be provided by the Settlement to Class Members; (b) the defenses asserted by Defendant; (c) the risks to Named Plaintiffs and the Class that Defendant would successfully defend against class and/or collective certification and/or against the merits of the claims alleged in this case; and (d) the length of time that would be required for Class Members to litigate to an uncertain final judgment through one or more trials and appeals, the Court finds that the settlement appears sufficiently fair, reasonable and adequate to authorize dissemination of notice to the Class as set forth in the Agreement.

4. Moreover, the Court finds that the settlement falls within the range of reasonableness because the settlement has key indicia of fairness, in that (a) the Parties reached the settlement only after they were adequately informed through relevant discovery; (b) the extensive negotiations were contentious, arm's-length, and facilitated by Judge Schneider; and (c) the proponents of the settlement are experienced in similar litigation. Accordingly, for all these reasons, the settlement is hereby preliminarily approved.

5. Pursuant to Fed. R. Civ. P. 23(a) and (b)(3), the Court provisionally certifies for settlement purposes only the following Rule 23 classes and conditionally finds that Named Plaintiffs Kirkman and Ruiz are adequate representative of the New Jersey and New York classes, respectively:

New Jersey class: all individuals who, at some point between October 16, 2017 and October 18, 2021, worked for Defendant in New Jersey in one of the following positions: Teller, Assistant Branch Manager-I NE, Assistant Branch Manager-II NE, Asst Customer Service Associate Supervisor, Customer Service Associate Supervisor, Customer Service Associate-I,

Customer Service Associate-II, Floater Customer Service Associate Supervisor, Part-Time Customer Service Associate-I, Part-Time Customer Service Associate-II, Part-Time Personal Banker-II, Part-Time Personal Banker-III, Personal Banker-I, Personal Banker-II, Personal Banker-III, and/or Universal Banker;

New York class: all individuals who, at some point between June 1, 2016 and October 18, 2021, worked for Defendant in New York in one of the following positions: Teller, Assistant Branch Manager-I NE, Assistant Branch Manager-II NE, Asst Customer Service Associate Supervisor, Customer Service Associate Supervisor, Customer Service Associate-I, Customer Service Associate-II, Floater Customer Service Associate Supervisor, Part-Time Customer Service Associate-I, Part-Time Customer Service Associate-II, Part-Time Personal Banker-II, Part-Time Personal Banker-III, Personal Banker-I, Personal Banker-II, Personal Banker-III, and/or Universal Banker.

6. Pursuant to 29 U.S.C. § 216(b), the Court conditionally certifies for settlement purposes only the FLSA collective, which includes:

all individuals who worked for Defendant in New Jersey at some point between October 16, 2017 and October 18, 2021 or in New York at some point between June 1, 2016 and October 18, 2021 in one of the following positions: Teller, Assistant Branch Manager-I NE, Assistant Branch Manager-II NE, Asst Customer Service Associate Supervisor, Customer Service Associate Supervisor, Customer Service Associate-I, Customer

Service Associate-II, Floater Customer Service Associate Supervisor, Part-Time Customer Service Associate-I, Part-Time Customer Service Associate-II, Part-Time Personal Banker-II, Part-Time Personal Banker-III, Personal Banker-I, Personal Banker-II, Personal Banker-III, and/or Universal Banker.

7. Specifically, with respect to conditionally certifying the FLSA collective and provisionally certifying the Rule 23 classes, the Court considered: (a) information, arguments, and authorities provided by Named Plaintiffs in their brief in support of the motion for entry of an order granting preliminary approval to the Settlement; (b) the terms of the Agreement, including, but not limited to, the definition of the Rule 23 classes and collective and the benefits to be provided to the members; and (c) with respect to the Class, the Settlement's elimination of any potential manageability issue that may otherwise have existed if the case continued to be litigated.

8. With respect to the Rule 23 classes, the Court provisionally finds for settlement purposes only at this time that the prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied. The Court provisionally finds, in the specific context of this settlement, that the following requirements are met with respect to the Rule 23 classes: (a) the number of class members is so numerous that joinder of all Class Members is impracticable; (b) there are questions of law and fact common to the Class Members; (c) Named Plaintiffs' claims are typical of the claims of the Class Members they seek to represent for purposes of the settlement; (d) Named Plaintiffs and Class Counsel have fairly and adequately represented the interests of the Class and will continue to do so; (e) questions of law and fact common to the Class Members predominate over any questions affecting any

individual Class Member; and (f) a class action provides a fair and efficient method for settling the controversy under the criteria set forth in Rule 23. The Court also concludes that, because the case is being settled rather than litigated, the Court need not consider manageability issues that might otherwise be presented by the trial of a class action involving the issues in the case.

9. Marra Korkman and Luis Ruiz as class representatives, and JND Legal Administrators as Class Administrator  
The Court provisionally appoints Swartz Swidler, LLC as Class Counsel.

10. Each time period and provision of the Agreement is deemed incorporated in this Order as if expressly set forth here and has the full force and effect of an Order of this Court.

11. The Court approves the forms the Proposed Notice of Settlement of the Class Action Lawsuit and Fairness Hearing (“the Notice”) attached as Exhibits A to the Agreement. The Court finds that the proposed methods of notice set forth in the Agreement satisfy the requirements of due process, the Federal Rules of Civil Procedure, and constitute the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons entitled thereto. The Court specifically finds that the language that will be included in the legend on back of the Settlement Award checks constitutes a consent to join the FLSA collective for settlement purposes only, pursuant to 29 U.S.C. § 216(b), and to release the FLSA Released Claims. Such language also is sufficient to establish a bona fide dispute under the FLSA between the Class Member and Defendant.

12. All proceedings in this case, including Defendant’s deadline for filing a responsive pleading to Named Plaintiffs’ First Amended Complaint, are stayed pending the Court’s decision whether to grant final approval of the settlement, except as may be necessary to implement the settlement or comply with the terms of the Agreement.

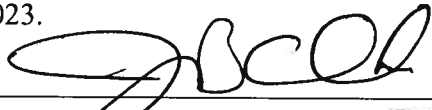
13. If the Agreement is revoked, terminated, or not consummated for any reason whatsoever or if this Court (or an appellate court on appeal) does not grant final approval of the

settlement, the provisional certification of FLSA collective and Rule 23 classes shall be void, and Defendant shall retain all defenses, and shall also retain the right to oppose any and all collective and class certification motions for any reason.

14. The Fairness Hearing is hereby set for October 19, 2023 at 2  
~~a.m./p.m.~~, in Courtroom 2A at Via Telephonic Hearing.

15. Only Class Members who have not excluded themselves from the settlement and have filed and served timely and valid objections to the settlement pursuant to the terms of the Agreement shall be entitled to be heard at the Fairness Hearing. Any Class Member who does not timely file and serve a valid objection in writing to the settlement, entry of a Final Approval Order, or Class Counsel's application for fees and costs and for the service awards proposed for Named Plaintiffs, in accordance with the procedures set forth in the Notice, shall be deemed to have waived any such objection.

IT IS SO ORDERED this 5<sup>th</sup> day of June, 2023.

  
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HON. JAMES B. CLARK III, USMJ