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18 SUPERIOR COURT OF CALIFORNIA  
19 COUNTY OF ALAMEDA

20 DAVID SHRIEVE, et al., On Behalf of ) Case No.: RG04155097  
21 Themselves and All Others Similarly Situated, )  
22 and On Behalf of the General Public, ) UNLIMITED JURISDICTION  
23 )  
24 Plaintiffs, ) **STIPULATION RE DISMISSAL**  
25 v. )  
26 )  
27 VISA U.S.A. INC., et al., ) Judge: Hon. Cecilia Castellanos  
28 Defendants. ) Dept.: 18  
29 )  
30 ) Trial Date: None Set

1 Plaintiffs David Shrieve, Tara Rado, Anthony Ralphs, Kayta George, David Ultan,  
2 Raymond Castro and Sylvia Kieta, and defendants Visa U.S.A. Inc., Visa International  
3 Service Association (collectively “Visa”) and MasterCard International Incorporated  
4 (“MasterCard”) (collectively “Defendants”), collectively the “Parties”, by and through their  
5 undersigned counsel, do herewith submit this Stipulation re Dismissal (the “Dismissal  
6 Stipulation”).

7 WHEREAS, on May 10, 2004 plaintiffs filed the first complaint in this action against  
8 Visa and MasterCard, and on April 27, 2005 plaintiffs filed the Third Amended Class  
9 Action Complaint (the “Complaint”), the current operative complaint in this action;<sup>1</sup>

10 WHEREAS, the Complaint alleges claims under California Business and Professions  
11 Code §§ 17200 *et seq.*, based on assertions that Defendants charged a 1% fee with respect to  
12 transactions denominated in a foreign currency effected by using a Visa- or MasterCard-  
13 branded debit card, and that the alleged fee was not adequately disclosed;

14 WHEREAS, plaintiffs David Shrieve, Tara Rado, Anthony Ralphs, Kayta George,  
15 and David Ultan seek to represent the following putative class:

16 (1) a class of all U.S. cardholders of Visa-branded debit cards who  
17 used their debit card to purchase goods or services or to make an ATM  
18 withdrawal denominated in a foreign currency and were charged a 1%  
19 foreign transaction fee from May 10, 2000 through March 31, 2005  
20 (“Visa Class”) and (2) a class of all California cardholders of  
21 MasterCard-branded debit cards who used their debit cards to purchase  
22 goods or services or to make an ATM withdrawal denominated in a  
23 foreign currency and were charged a 1% foreign transaction fee from  
24 May 10, 2000 through March 31, 2005 (“MasterCard Class”).  
25 Excluded from the Classes are the Court, its immediate family  
26 members and its staff, defendants Visa and MasterCard and their  
27 officers, affiliates, directors, employees and the immediate family  
28 members of their officers, directors and employees.

25 WHEREAS, plaintiffs have moved for class certification, but that motion, though  
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27 <sup>1</sup> Other defined terms are set forth in Exhibits A and 1 hereto and elsewhere in this  
28 stipulation.

1 fully briefed, has not yet been heard or ruled upon by the Court;

2 WHEREAS, In re Currency Conversion Fee Antitrust Litigation, MDL No. 1409  
3 (S.D.N.Y.) (the “MDL Action”) is a federal multidistrict litigation including claims against  
4 Defendants and others concerning, inter alia, the same alleged foreign transaction fee as is  
5 at issue here;

6 WHEREAS, on July 20, 2006, the parties in the MDL Action executed a Stipulation  
7 and Agreement of Settlement (including its exhibits, the “MDL Settlement Agreement”), an  
8 executed copy of which is attached hereto as Exhibit 1, under which plaintiffs agree to  
9 move for, *inter alia*, certification of nationwide MDL Settlement Classes;

10 WHEREAS, the plaintiffs in this action are members of the proposed MDL  
11 Settlement Classes, and named plaintiffs David Shrieve, Tara Rado, Anthony Ralphs, Kayta  
12 George, and David Ultan are named plaintiffs in the proposed Third Amended Complaint in  
13 the MDL Action, which plaintiffs have agreed to seek leave to file pursuant to the MDL  
14 Settlement Agreement;

15 WHEREAS, upon entry of the Preliminary Approval Order by the MDL Court,  
16 plaintiffs will be ordered stayed and enjoined by the MDL Court from pursuing their claims  
17 in this action pending Final Settlement Approval, and, upon Final Settlement Approval,  
18 their claims will be ordered finally and fully dismissed, compromised, settled and released;

19 WHEREAS, within five court days of Final Settlement Approval plaintiffs will  
20 dismiss this case with prejudice in accordance with California Rule of Court 1860 (or such  
21 other applicable, rules, statutes, and law as may then exist), and use their best efforts to  
22 effectuate that dismissal.

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NOW, THEREFORE, THE PARTIES STIPULATE AS FOLLOWS:

This putative class action is dismissed in its entirety with prejudice as to all Defendants, each party to bear its own costs.

It Is So Stipulated:

\_\_\_\_\_, 2006

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By \_\_\_\_\_

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Anthony Ralphs, Kayta George, David Ultan,  
Raymond Castro and Sylvia Kieta

1 **Exhibit A to The Dismissal Stipulation**

2 **Definitions**

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4 The following capitalized words and terms shall have the meanings specified below  
5 for purposes of this Stipulation re Dismissal only.

6 1. The “MDL Action” means those actions consolidated pursuant to the Court’s December 13,  
7 2001 Order in MDL No. 1409 or by any subsequent orders, and not remanded to state court. For  
8 avoidance of doubt, the MDL Action does not include the following cases: Ross et al. v. American  
9 Express Co. et al., No. 04-CV-05723 (S.D.N.Y.) (WHP); and Ross et al. v. Bank of America, N.A.  
10 (USA) et al., No. 05-CV-7116 (S.D.N.Y.) (WHP).

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12 2. “MDL Court” means the United States District Court for the Southern District of New York,  
13 the Honorable William H. Pauley III, presiding.

14 3. “Final Judgment and Order of Dismissal” means the entry by the MDL Court of an order  
15 and final judgment in all material respects in the form attached as Exhibit F to the MDL Settlement  
16 Agreement. For avoidance of doubt, and without limitation, each of the items listed in Section  
17 8(a)(iii) through (xi) shall be considered material to all Parties, and Section 8(a)(i) shall be  
18 considered material to Defendants in the MDL Action.

19  
20 4. “Final Settlement Approval” means the occurrence of all of the following events without  
21 prior termination of the MDL Settlement Agreement;

- 22  
23 a) entry of the Final Judgment and Order of Dismissal in all material  
24 respects in the form of Exhibit F to the MDL Settlement Agreement; and  
25 b) expiration of the time for further judicial review, or the time to seek  
26 permission for further judicial review, of the MDL Court’s approval of the  
27 MDL Settlement Agreement and the settlement contemplated hereby, and the  
28 MDL Court’s entry of the Final Judgment and Order of Dismissal, without

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the filing of a request for further judicial review or an effort to seek permission for further judicial review, or, if such further judicial review or effort to seek permission for such further judicial review is sought, (i) such further judicial review or effort to seek permission for such further judicial review has been dismissed and the time to seek any further judicial review has expired, or (ii) approval of the MDL Settlement Agreement and the settlement contemplated thereby, and the Final Judgment and Order of Dismissal, have been affirmed in their entirety by the court of last resort from which further judicial review has been sought and such affirmance has become no longer subject to the possibility of further judicial review. For avoidance of doubt, Final Settlement Approval may occur notwithstanding the actual or potential filing of any request for further judicial review that concerns: (a) only an award of attorneys' fees and expenses by the MDL Court; (b) the issue of the allocation of the Net Settlement Fund in the MDL Settlement Agreement among Authorized Claimants thereunder; and (c) any request by Settlement Classes Counsel for an award by the MDL Court to the Representative Plaintiffs.

5. "Preliminary Approval" and "Preliminary Approval Order" means the entry by the MDL Court of an order preliminarily approving the MDL Settlement Agreement in all material respects in the form attached as Exhibit E to the MDL Settlement Agreement. For avoidance of doubt, each of the items listed therein in Section 6(b) of the MDL Settlement Agreement shall be considered material.