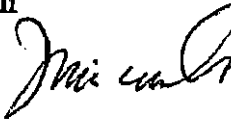


## MEMORANDUM

**TO:** Judge William H. Pauley, III  
**FROM:** Francis E. McGovern   
**DATE:** August 5, 2009  
**SUBJECT:** Second Supplemental Special Master Report  
*In re MDL No. 1409*

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The purpose of this supplemental report is to respond to various comments that have been made regarding the distribution of the settlement funds in *In re MDL No. 1409*.

The claim form provided on page 1 as follows: "Please note that if the volume of claims is unexpectedly high, it may be necessary to adjust refund amounts." That eventuality has occurred and, in accordance with the Stipulation and Agreement of Settlement filed July 20, 2006, there must be a pro ration of settlement amounts. The *In re MDL No. 1409* claim filing rate has been more than twice the filing rate of the most comparable class action settlement thereby requiring application of the pro ration rules contained in the settlement agreement.

The choice of which option to select on the claim form resided with the filing claimant. Option 2 claims will be paid the same or more than Option 1 claims. Refund Option 2 provides: "Request a *Total Estimation Refund* based on typical spending during travel and your answers to a few questions about your own travel outside of the U.S. This Option is recommended if you traveled outside of the U.S. for more than one week or had foreign transactions of more than \$2,500 using your eligible cards during the 1996 to 2006 period. Refunds will be a maximum of 1% of estimated foreign transactions." The Option 2 claim option was designed for "typical" circumstances, not for "atypical" circumstances and refunds are limited to 1% of foreign transactions. Refund Option 3, however, provided that "[t]his option is recommended if you had extensive foreign travel or foreign transactions and are willing to provide year-by-year information. Refunds will be a maximum of 1% to 3% of foreign transactions."

Estimates of both median and mean spending for Option 2 claimants were provided and are available on the settlement website as Exhibit 2 to Plaintiffs' Notice of Filing of Status Report Concerning the De-Duping of Claims and the Settlement Administration Process. The relevant reference is contained in the first paragraph of page 8: "Because the calculation of averages is sensitive to extreme values, and because Option 2 estimates were intended to reflect "typical" travel, mean daily spending amounts were adjusted to median daily spending amounts."

## Second Supplemental Special Master Report

The July 15, 2008, Memorandum from B. Thomas Florence to Francis McGovern, entitled Currency Conversion Fee Settlement, shows that Option 2 travel incorporates both long-term international travel and short-term international travel, reflecting a "typical" mix of international travel. A subset of travelers who are not "typical" were provided the choice of Option 3. All surveys of travel expenses included years from 1996 through 2006 and were, if necessary, translated by competent and fluent speakers of the relevant language.

Finally, it would be inappropriate for me to address the travel/agency claim issue. Subsequent to my July 1, 2009, Supplemental Special Master Report, I have been engaged as a mediator in a matter involving Priceline, which is unrelated to any aspect of this Multi-District Litigation. While there is no overlap between this Multi-District Litigation and the mediation, I decline to offer any comments on the travel/agency issue out of an abundance of caution.