

**UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT**

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 15th day of March, two thousand twenty-three,

Before: Dennis Jacobs,
Pierre N. Leval,
Michael H. Park,
Circuit Judges.

Fikes Wholesale, Inc.,

Plaintiff - Appellant,

Plaintiffs in civil action Photos Etc. Corp. v. Visa U.S.A., Inc. 05-cv-5071 JG-JO, CHS Inc., Leons Transmission Service, Inc., Traditions, Ltd., Plaintiffs in civil action Parkway Corp. v. Visa U.S.A., Inc. 05-cv-5077 JG-JO, Plaintiffs in civil action Discount Optics, Inc., et al. v. Visa U.S.A., Inc., et al. 05-cv-5870 JG-JO, Payless Shoe Source, Inc., Capital Audio Electronics, Inc.,

Plaintiffs - Appellees,

Plaintiffs in civil action Jetro Holding, Inc. et al v. Visa U.S.A., Inc. et al 05-cv-4520 JG-JO, Plaintiffs in civil action National Association of Convenience Stores et al v. Visa U.S.A., Inc. et al 05-cv-4521 JG-JO, Plaintiffs in civil action Supervalu Inc. v. Visa U.S.A. Inc. et al 05-cv-4650 JG-JO, Plaintiffs in civil action Seaway Gas & Petroleum, Inc. v. Visa U.S.A., Inc. et al 05-cv-4728-JG-JO, Plaintiffs in civil action Raley's v. Visa U.S.A. Inc. et al 05-cv- 4799 JG-JO, Plaintiffs in civil action East Goshen Pharmacy, Inc. v. Visa U.S.A., Inc. 05-cv-5073 JG-JO, Plaintiffs in civil action National Grocers Association et al v. Visa U.S.A., Inc. et al 05-cv- 5207 JG-JO, Plaintiffs in civil action American Booksellers Association v. Visa U.S.A., Inc. et al 05-cv-5319 JG-JO, Plaintiffs in civil action Rookies, Inc. v. Visa U.S.A., Inc. 05-CV-5069 JG-JO, Plaintiffs in civil action Jasperson v. Visa U.S.A., Inc. 05-cv-5070 JG-JO, Plaintiffs in Civil action Animal Land, Inc. v. Visa U.S.A., Inc 05-cv-5074 JG-JO, Plaintiffs in civil action Bonte Wafflerie, LLC v. Visa U.S.A., Inc. 05-cv-

JUDGMENT

Docket Nos. 20-339(L), 20-340(CON), 20-341(CON), 20-342(CON), 20-343 (CON), 20-344(CON)

5083 JG-JO, Plaintiffs in civil action Broken Ground, Inc. v. Visa U.S.A., Inc. 05-cv-5082 JG-JO, Plaintiffs in civil action Baltimore Avenue Foods, LLC v. Visa U.S.A., Inc. 05-cv-5080 JG-JO, Plaintiffs in civil action Fairmont Orthopedics & Sports Medicine, PA v. Visa U.S.A., Inc. 05-cv-5076 JG JO, Plaintiffs in civil action Tabu Salon & Spa, Inc. v. Visa U.S.A., Inc. 05-cv-5072 JG-JO, Plaintiffs in civil action Lakeshore Interiors v. Visa U.S.A., Inc. 05-cv-5081JG JO, Plaintiffs in civil action NuCity Publications, Inc. v. Visa U.S.A., Inc. 05-cv-5075 JG-JO, Plaintiffs in civil action Hyman v. VISA International Service Association, Inc. 05-cv-5866 JG-JO, Plaintiffs in civil action Lee et al v. Visa U.S.A. Inc. et al 05-cv-3800 JG-JO, Plaintiffs in civil action Resnick Amsterdam & Leshner P.C. v. Visa U.S.A., Inc. et al 05-cv-3924 JG-JO, Plaintiffs in civil action Hy-Vee, Inc. v. Visa U.S.A., Inc. et al 05-cv-3925-JG-JO, Plaintiffs in civil action Meijer, Inc. et al v. Visa U.S.A. Inc. et al 05-cv-4131-JG-JO, Plaintiffs in civil action Lepkowski v. Mastercard International Incorporated et al 05-cv-4974 JG-JO, Plaintiffs in civil action Kroger Co. v. Visa U.S.A., Inc. 05-cv-5078 JG-JO, Plaintiffs in civil action Fitlife Health Systems of Arcadia, Inc. v. Mastercard International Incorporated et al 05-cv-5153 JG-JO, Plaintiffs in civil action Harris Stationers, Inc., et al. v. Visa International Service Association, et al. 05-cv-5868 JG-JO, Plaintiffs in civil action Dr. Roy Hyman, et al v. Visa International Service Association, Inc., et al . 05-cv-5866 JG-JO, Plaintiffs in civil action Performance Labs, Inc. v. American Express Travel Related Services Co., Inc., et al. 05-cv-5869 JG-JO, Plaintiffs in civil action Leeber Cohen, M.D. v. Visa U.S.A., Inc., et al. 05-cv-5878 JG-JO, Plaintiffs in civil action G.E.S. Bakery, Inc. v. Visa U.S.A., Inc., et al. 05-cv-5879 JG-JO, Plaintiffs in civil action Connecticut Food Association, Inc., et al. v. Visa U.S.A., Inc., et al. 05-cv-5880 JG-JO, Plaintiffs in Twisted Spoke v. Visa U.S.A., Inc., et al. 05-cv-5881 JG-JO, Plaintiffs in civil action Lombardo Bros., Inc. v. Visa U.S.A., Inc. 05-5882 JG-JO, Plaintiffs in civil action Abdallah Bishara, etc. v. Visa U.S.A., Inc. 05-cv-5883 JG-JO, Plaintiffs in civil action 518 Restaurant Corp. v. American Express Travel Related Services Co., Inc., et al. 05-cv-5884 JG-JO, Plaintiffs in civil action JGSA, Inc. v. Visa U.S.A., Inc., et al. 05-cv-5885 JG-JO, Plaintiffs in civil action The Kroger Co., et al. v. MasterCard Inc., et al., 06-cv-0039 JG-JO, Plaintiffs in civil action Rite Aid Corporation et al. v. Visa U.S.A., Inc. et al. 05-cv-5352 JG-JO, Plaintiffs in civil action Fringe, Inc. v. Visa, U.S.A., Inc et al 05-cv-4194 JG-JO, Plaintiffs in civil action Bi-Lo, LLC. et al v. Visa

U.S.A., Inc. et al 06-cv-2532 JG-JO, Plaintiffs in civil action Bi-Lo, LLC. et al v. Mastercard Incorporated et al 06-cv-2534 JG-JO, Plaintiffs in civil action 06-cv-5583, Esdacy, INC. v. Visa USA, INC. et al, QVC, Inc., GMRI, Inc., NATSO, Incorporated, Plaintiffs in civil action BKS. v. Visa U.S.A., Inc. et al 09-cv-2264-JG-JO, Plaintiffs in civil action Gulfside Casino Partnership. v. Visa U.S.A., Inc. et al 09-cv-03225 JG-JO, Keith Superstores, BKS, INC., BKS of LA, Inc. d/b/a KEITH SUPERSTORES, and KEITHCO PETROLEUM, INC., Keithco Petroleum, Inc., BKS, INC., BKS of LA, Inc. d/b/a KEITH SUPERSTORES, and KEITHCO PETROLEUM, INC., National Community Pharmacists Association, National Cooperative Grocers Association, Coborn's Incorporated, D'Agostino Supermarkets, Inc., National Restaurant Association, Affiliated Foods Midwest, Gielen Enterprises, Inc., Rice Palace, Inc., Tobacco Plus, Inc., CVS Pharmacy, Inc., Plaintiffs in Delta Airlines Inc et all v. Visa Inc et al, 1:13-cv-04766-JG-JO, Cox Communications, Inc., Cox Enterprises, Inc., Cox Media Group, Inc., G6 Hospitality LLC, Live Nation Entertainment, Inc., Manheim Inc., Motel 6 Operating LP, E-Z Mart Stores, Inc., Jacksons Food Stores, Inc./PacWest Energy LLC, Kum & Go, L.C., Sheetz, Inc., Susser Holdings Corporation, The Pantry, Inc., Plaintiffs in Target Corporation, et al. v. Visa Inc., et al., 13-cv-03477, DSW Inc., Jetblue Airways Corporation, Plaintiffs in Civil Action 7-Eleven Inc., et al. v. Visa Inc. et al, 1:13-cv-05746-JG-JO, Minnesota Twins LLC, Crystal Rock LLC, Plaintiffs in Civil Action Target Corporation, et al. v. Visa Inc. et al., 13-cv-4442, Plaintiffs in civil action Publix Supermarkets, Inc. v. Visa U.S.A. Inc. et al 05-cv-4677 - JG-JO, Plaintiffs in civil action LDC, Inc. v. Visa U.S.A., Inc., et al 05-cv-5871 JG-JO, Robersons Fine Jewelry, Inc., Sunoco, Inc. (RM), Einstein Noah Restaurant Group, Inc., Furniture Row BC, Inc., Google, Inc., Google Payment Corporation, Bass Pro Group, LLC, American Sportsman Holdings Co., Bass Pro Outdoor World, LLC, BPIP, LLC, BPS Direct, LLC, Big Cedar, LLC, Fryingpan River Ranch, LLC,

Plaintiffs,

v.

HSBC Bank USA, N.A., Capital One Bank, Capital One, F.S.B., Capital One Financial Corporation, Wells Fargo & Company, Juniper Financial Corporation, National City Bank of Kentucky, National City Corporation, Mastercard Incorporated, HSBC Finance Corporation, HSBC North

America Holdings Inc., Citibank, N.A., Citigroup Inc., Chase Bank USA, N.A., JPMorgan Chase & Co., Fifth Third Bancorp, Bank of America, N.A., First National Bank of Omaha, Barclays Financial Corp., Chase Paymentech Solutions, LLC, Visa International Service Association, Visa U.S.A. Inc., Bank of America Corporation, Texas Independent Bancshares, Inc., Wells Fargo Merchant Services, LLC, Visa Inc., Capital One Bank, (USA), N.A., JP Morgan Chase Bank, N.A., Barclays Bank PLC, Barclays Bank Delaware, MBNA America Bank, N.A., HSBC Finance Corporation, HSBC Holdings PLC, HSBC North America Holdings, Inc, PNC Financial Services Group, Inc., SunTrust Bank, Suntrust Banks Inc, Wells Fargo Bank, N.A., Wachovia Corporation, Wachovia Bank, National Association, BA Merchant Services LLC, FKA National Processing, Inc., FIA Card Services, N.A., Mastercard International Incorporated,

Defendants - Appellees,

Defendants in civil action Jetro Holding, Inc. et al v. Visa U.S.A., Inc. et al 05-cv-4520 JG-JO, Defendants in civil action National Association of Convenience Stores et al v. Visa U.S.A., Inc. et al 05-cv-4521 JG-JO, Defendants in civil action Supervalu Inc. v. Visa U.S.A. Inc. et al 05-cv-4650 JG-JO, Defendants in civil action Publix Supermarkets, Inc. v. Visa U.S.A. Inc. et al 05-cv-4677-JG-JO, Defendants in civil action Seaway Gas & Petroleum, Inc. v. Visa U.S.A., Inc. et al 05--cv-4728 JG-JO, Defendants in civil action Raley's v. Visa U.S.A. Inc. et al 05-cv-4799- JG-JO, Defendants in civil action East Goshen Pharmacy, Inc. v. Visa U.S.A., Inc 05-cv-5073-JG-JO, Defendants in civil action National Grocers Association et al v. Visa U.S.A., Inc. et al 05-cv- 5207 JG -JO, Defendants in civil action American Booksellers Association v. Visa U.S.A., Inc. et al 05-cv-5319 JG -JO, Defendants in civil action Rookies, Inc. v. Visa U.S.A., Inc. 05-cv-5069-JG-JO, Defendants in civil action Jasperson v. Visa U.S.A., Inc. 05-cv-5070-JG-JO, Defendants in civil action Animal Land, Inc. v. Visa U.S.A., Inc. 05-cv-5074-JG-JO, Defendants in civil action Bonte Wafflerie, LLC v. Visa U.S.A., Inc. 05-cv-5083 JG-JO, Defendants in civil action Broken Ground, Inc. v. Visa U.S.A., Inc. 05-cv-5082 JG-JO, Defendants in civil action Baltimore Avenue Foods, LLC v. Visa U.S.A., Inc. 05-cv-5080 JG-JO, Defendants in civil action Fairmont Orthopedics & Sports Medicine, PA v. Visa U.S.A., Inc. 05-cv-5076-JG-JO, Defendants in civil action Tabu Salon

& Spa, Inc. v. Visa U.S.A., Inc. 05-cv-5072 -JG-JO, Defendants in civil action Lakeshore Interiors v. Visa U.S.A., Inc. 05-cv-5081 JG-JO, Defendants in civil action Parkway Corp. v. Visa U.S.A., Inc. 05-cv-5077-JG-JO, Defendants in civil action Hyman v. VISA International Service Association, Inc. 05-cv-5866 JG -JO, Defendants in civil action Lee et al v. Visa U.S.A. Inc. et al 05-cv-03800, Defendants in civil action Resnick Amsterdam & Leshner P.C. v. Visa U.S. A, Inc. et al, 05-cv-3924 JG-JO, Defendants in civil action Hy-Vee, Inc. v. Visa U.S.A., Inc. et al 05-cv-03925 JG-JO, Defendants in civil action Meijer, Inc. et al v. Visa U.S.A. Inc. et al 05-cv-4131 JG-JO, Defendants in civil action Lepkowski v. Mastercard International Incorporated et al 05-cv-4974-JG-JO, Defendants in civil action Photos Etc. Corp. v. Visa U.S.A., Inc. 05-cv-5071-JG-JO, Defendants in civil action Kroger Co. v. Visa U.S.A., Inc. 05-cv-5078 JG-JO, Defendants in civil case Fitlife Health Systems of Arcadia, Inc. v. Mastercard International Incorporated et a 05-cv-5153 JG -JO, Defendants in civil action Rite Aid Corporation et al. v. Visa U.S.A., Inc. et al. 05-cv-5352 JG-JO, Defendants in civil action The Kroger Co., et al. v. MasterCard Inc., et al., 06-cv-0039 JG-JO, Defendants in civil action Harris Stationers, Inc., et al. v. Visa International Service Association, et al. 05-cv-5868 JG-JO, Defendants in civil action Dr. Roy Hyman, et al. v. Visa International Service Association, Inc., et al. 05-cv-5866, Defendants in civil action Performace Labs, Inc. v. American Express Travel Related Services Co., Inc., et al 05-cv-5869 JG-JO, Defendants in civil action Discount Optics, Inc., et al. v. Visa U.S.A., Inc., et al. 05-cv-5870 JG-JO, Defendants in civil action LDC, Inc. v. Visa U.S.A., Inc. et al. 05-cv-5871 JG-JO, Defendants in civil action G.E.S. Bakery, Inc. v. Visa U.S.A., Inc., et al. 05-cv-5879 JG-JO, Defendants in civil action Leeber Cohen, M.D. v. Visa U.S.A., Inc., et al. 05-cv-5878 JG-JO, Defendants in civil action Connecticut Food Association, Inc., et al. v. Visa U.S.A., Inc., et al 05-cv-5880 JG-JO, Defendants in civil action Twisted Spoke v. Visa U.S.A., Inc., et al. 05-cv-5881 JG-JO, Defendants in civil action Lombardo Bros., Inc. v. Visa U.S.A., Inc. 05-cv-5882 JG-JO, Defendants in civil action Abdallah Bishara, etc. v. Visa U.S.A., Inc. 05-cv-5883 JG-JO, Defendants in civil action 518 Restaurant Corp. v. American Express Travel Related Services Co., et al. 05-cv-5884 JG-JO, Defendants in civil action JGSA, Inc. v. Visa U.S.A., Inc., et al 05-cv-5885, Defendants in civil action Fringe, Inc. v. Visa, U.S.A., Inc. et al 05-cv-4194 JG-JO, Defendants in civil action Bi-Lo, LLC. et al v. Visa U.S.A., Inc. et al 06-cv-

2532 JG-JO, Defendants in civil action Bi-Lo, LLC. et al v. Visa U.S.A., Inc. et al 06-cv-2534 JG-JO, Defendants in civil action 06-cv-5583, Esdacy, INC. v. Visa USA, INC. et al, Washington Mutual, Inc., Defendants in civil action BKS. v. Visa U.S.A., Inc. et al 09-cv-2264-JG-JO, Wachovia Corporation, Wachovia Bank, National Association, Defendants in civil action Gulfside Casino Partnership. v. Visa U.S.A., Inc. et al 09-cv-03225 JG-JO, Landers Harley-Davidson Little Rock, Sears Holdings Management Corporation, Discover Financial Services, Newport European Motorcars, Ltd. Newport Beach, California, Newport European Motorcars, Ltd. Newport Beach, California, Dennis D Gibson, Unlimited Vacations and Cruises Inc., Top Gun Wrecker, Orange County Bldg Materials, Bishop, DBA Hat & Gown, Enterprise Holdings, Inc., Ragland Bros. Retail Cos., Inc., ABP Corporation, NJ Applebee's (Paramus), River Valley Market, LLC, Durango Natural Foods, The Real Good Fashion Store, Inc., Paymentech, LLC, LAJ, Inc., DBA Grapevine Wines an Spirits, Lane Courkamp, Premier Enterprises Group, Class Action Recovery Service, Discover, Refund Recovery Services, LLC, Electronic Payment Systems, LLC, Daviss Donuts and Deli, Jonbro, Visa Europe Limited, Visa Europe Services Inc., Chase Manhattan Bank USA, N.A., Citibank (South Dakota), N.A., BA Merchant Services LLC, FKA National Processing, Inc., FIA Card Services, N.A., Bass Pro Shops White River Conference and Education Center, LLC, SunTrust Bank Holding Company,

Defendants,

v.

Jack Rabbit LLC, Cahaba Heights Service Center, Inc., DBA Cahaba Heights Chevron, R & M Objectors, Falls Auto Gallery, DBA Falls Car Collection, Gnarlywood LLC, Quincy Woodrights, LLC, Kevan McLaughlin, Unlimited Vacations and Cruises Inc., Pets USA LLC, Slidell Oil Company, LLC, National Association of Shell Marketers, Inc., Petroleum Marketers Association of America, Midwest Petroleum Company, Society of Independent Gasoline Marketers of America,


Objectors - Appellants.

The appeals in the above captioned case from orders of the United States District Court for the Eastern District of New York were argued on the district court's record and the parties' briefs. Upon consideration thereof,

IT IS HEREBY ORDERED, ADJUDGED and DECREED that the district court's orders are AFFIRMED in all respects to the extent they constituted a final judgment, with the exception that the district court is directed to reduce the service award to class representatives to the extent that its size was increased by time spent in lobbying efforts that would not increase the recovery of damages.

For the Court:

Catherine O'Hagan Wolfe,
Clerk of Court

 Catherine O'Hagan Wolfe