

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

**IN RE: CAPITAL ONE FINANCIAL
CORPORATION, AFFILIATE
MARKETING LITIGATION**

**Civil Action No. 1:25-cv-023
(AJT/WBP)**

THIS DOCUMENT RELATES TO:

ALL ACTIONS

PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

Plaintiffs respectfully move the Court for final approval of the Settlement reached in the captioned litigation. Plaintiffs are simultaneously filing a supporting memorandum of law and its supporting exhibits. For the reasons set forth in that memorandum, Plaintiffs respectfully request that the Court enter the Proposed Final Approval Order and Proposed Final Judgment submitted along with the Memorandum in Support of this Motion filed herewith. For ease of reference, the capitalized terms in this motion and the accompanying memorandum have the meaning set forth in the Settlement Agreement, ECF No. 353-1 .

DATED: May 6, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 6, 2026, I caused the foregoing to be filed with the Clerk of the Court using the CM/ECF system, which will then send notification of such filing (NEF) to all counsel of record.

By: /s/ Steven T. Webster
Steven T. Webster

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

*In re Capital One Financial Corporation,
Affiliate Marketing Litigation*

Case No. 1:25-cv-00023-AJT-WBP

[PROPOSED] FINAL APPROVAL ORDER

This matter came before the Court for hearing on June 10, 2026, pursuant to the Court’s Preliminary Approval Order dated December 18, 2025, ECF No. 355, and on the motion (“Motion”) for Final Approval of the Class Action Settlement Agreement and Release, dated May 6, 2026, entered into by the Parties (the “Settlement Agreement”), ECF No. 353-1, as well as Plaintiffs’ Motion for Attorney’s Fees and for Settlement Class Representative Service Awards, ECF No. 356.

Due and adequate notice having been given to the Settlement Class Members of the proposed Settlement and the pending motions, as directed by the Court’s Preliminary Approval Order, and upon consideration of all papers filed and proceedings had herein, and good cause appearing, **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** as follows:

1. Capitalized terms not otherwise defined herein have the meanings set forth in the Settlement Agreement.
2. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1332(d), and has personal jurisdiction over the Parties and the Settlement Class Members. Venue is proper in this District.
3. The “Settlement Class” for purposes of this Final Approval Order means:

All persons (including entities) in the United States who participated in an affiliate commission program with an online merchant that also partnered with Capital One Shopping during the Class Period, and who were involved in a transaction in which Capital One Shopping was also involved. Excluded from the Settlement Class are the entities listed in Exhibit H to the Settlement Agreement.

4. The Court finds that the notice provisions set forth under the Class Action Fairness Act, 28 U.S.C. § 1715, were complied with in this matter.

5. The Court finds that the Notice program for disseminating notice to the Settlement Class, provided for in the Settlement Agreement and previously approved and directed by the Court, has been implemented by the Settlement Administrator and the Parties. The Court finds that such Notice program, including the approved forms of notice: (a) constituted the best notice that is practicable under the circumstances; (b) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the nature of the Action, the definition of the Settlement Class certified, the class claims and issues, the opportunity to enter an appearance through an attorney if the member so desires, the opportunity, the time, and the manner for requesting exclusion from the Settlement Class, and the binding effect of a class judgment; (c) constituted due, adequate, and sufficient notice to all persons and entities entitled to notice; and (d) met all applicable requirements of Federal Rule of Civil Procedure 23, due process under the U.S. Constitution, and any other applicable law.

6. The Court APPROVES Notice and Settlement Administration Costs in the amount of [amount to be provided before final approval hearing], with such costs to be paid by Capital One pursuant to Section 2.4 of the Settlement Agreement.

7. The Court hereby finds that all Settlement Class Members and all persons who fall within the definition of the Settlement Class have been adequately provided with an opportunity to exclude themselves from the Settlement Class by submitting a request for exclusion in

conformance with the terms of the Settlement Agreement and this Court's Preliminary Approval Order. The Court finds that no requests for exclusion were submitted in conformance with the terms of the Settlement Agreement and this Court's Preliminary Approval Order. All persons who fall within the definition of the Settlement Class are Settlement Class Members and part of the Settlement Class, and shall be bound by this Final Approval Order and corresponding Judgment and the Settlement Agreement.

8. The Court reaffirms that the Action is properly maintained as a class action, for settlement purposes only, pursuant to Federal Rules of Civil Procedure 23(b)(3).

9. The Court finds that, for settlement purposes only, the Settlement Class, as defined above, meets the requirements for class certification under Federal Rules of Civil Procedure 23(a) and 23(b)(3). Specifically, this Court finds that (1) the Settlement Class Members are sufficiently numerous such that joinder is impracticable; (2) there are questions of law and fact common to Settlement Class Members; (3) Settlement Class Representatives' claims are typical of those of the Settlement Class Members; (4) Settlement Class Representatives and Class Counsel have adequately represented, and will continue to adequately represent, the interests of the Settlement Class Members; and (5) for purposes of settlement only, the Settlement Class meets the predominance and superiority requirements of Rule 23(b)(3).

10. The Court reaffirms its appointment of Ahntourage Media LLC, Just Josh, Inc., Storm Productions LLC, TechSource Official, and ToastyBros, LLC as Settlement Class Representatives to represent the Settlement Class, and reaffirms its appointment of Settlement Class Counsel to represent the Settlement Class.

11. The Court finds that the Settlement Agreement warrants final approval pursuant to Rule 23(e)(2) because the Court finds the Settlement Agreement is fair, reasonable, and adequate

and is in the best interest of the Settlement Class, after weighing the relevant considerations. First, the Court finds that the Settlement Class Representatives and Settlement Class Counsel have adequately represented the Settlement Class, and will continue to do so through Settlement implementation. Second, the proposed Settlement Agreement was reached as a result of arms-length negotiations through an experienced mediator, the Honorable Jay Gandhi (Ret.), and comes after adequate investigation of the facts and legal issues and the filing of an Amended Consolidated Class Action Complaint by the Settlement Class Representatives, a daylong mediation session, and extended arm's-length negotiations thereafter. Third, the Court finds that the relief proposed to be provided for the Settlement Class is fair, reasonable, and adequate, taking into account: (i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of the proposed method of distributing relief to the Settlement Class, including the method of processing Settlement Class Members' claims; and (iii) the terms of the requested Attorney's Fees and Costs Award. Fourth, the Court finds that the Settlement Agreement treats Settlement Class Members equitably relative to each other. As set forth more fully in the Settlement Agreement, each Settlement Class Member that submitted a timely and valid Claim Form will be sent either Proof Payments equivalent to any amount of commissions for transactions that qualify, or an Alternative Payment.

12. In granting final approval of the Settlement Agreement, the Court has also considered the factors that courts in this Circuit consider in evaluating proposed class settlements—which overlap considerably with the factors to be considered under Rule 23(e)(2)—including “(1) the posture of the case at the time the settlement was proposed; (2) the extent of discovery that had been conducted; (3) the circumstances surrounding the negotiations; and (4) the experience of counsel in the area of the class action litigation,” as well as “(1) the relative strength of the plaintiffs’ case on the merits; (2) the existence of any difficulties of proof or strong defenses

the plaintiffs are likely to encounter if the case goes to trial; (3) the anticipated duration and expense of additional litigation; (4) the solvency of the defendant and the likelihood of recovery on a litigated judgment; and (5) the degree of opposition to the settlement.” *In re Lumber Liquidators Chinese-Manufactured Flooring Prods. Mktg., Sales Practs. & Prods. Liab. Litig.*, 952 F.3d 471, 484 (4th Cir. 2020) (citing *In re Jiffy Lube Sec. Litig.*, 927 F.2d 155, 159 (4th Cir. 1991) (cleaned up).

13. [Discussion of factors, as appropriate]

14. The Motion is hereby GRANTED, and the Settlement Agreement and its terms are hereby found to be and APPROVED as fair, reasonable, and adequate and in the best interest of the Settlement Class. The Parties and Settlement Administrator are directed to consummate and implement the Settlement Agreement in accordance with its terms, including distributing Proof Payments and Alternative Payments to eligible Settlement Class Members, distributing the Settlement Class Representative Service Awards (discussed below), and paying the Notice and Settlement Administration Costs.

15. The Action, including each of the individual complaints ultimately consolidated into the Action, are hereby dismissed with prejudice and without costs to any Party, other than as specified in the Settlement Agreement, this Final Approval Order and corresponding Judgment, and any order(s) by this Court regarding Settlement Class Counsel’s Motion for Attorney’s Fees and Settlement Class Representative Service Awards.

16. In consideration of the benefits provided under the Settlement Agreement, and for other good and valuable consideration set forth in the Settlement Agreement, each of the Settlement Class Members and Releasing Parties shall, by operation of this Final Approval Order and Judgment, have fully, finally, and forever released, relinquished, acquitted, and discharged all

Released Claims against each of the Released Parties in accordance with Section 3.6 of the Settlement Agreement, the terms of which section are incorporated herein by reference. The terms of the Settlement Agreement, which are incorporated by reference into this Order, shall have *res judicata* and other preclusive effects as to the Released Claims as against the Released Parties. The Released Parties may file the Settlement Agreement and/or this Order in any other litigation to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good-faith settlement, judgment bar or reduction, or any similar defense or counterclaim.

17. All Settlement Class Members and Releasing Parties (including any persons purporting to act on their behalf) have covenanted not to sue any Released Party with respect to any Released Claim and shall be permanently barred and enjoined from instituting, commencing, prosecuting, continuing, or asserting any Released Claim against any Released Party, directly or indirectly (including in any action purportedly brought on behalf of the general public of the United States or of a particular state, district, or territory therein). This permanent bar and injunction is necessary to protect and effectuate the Settlement Agreement and this Order, and this Court's authority to effectuate the Settlement, and is ordered in aid of this Court's jurisdiction and to protect its judgments. Notwithstanding the foregoing, nothing in this Order and judgment shall preclude an action to enforce the terms of the Settlement Agreement.

18. Pursuant to the terms of the Settlement Agreement, Settlement Class Representatives, Settlement Class Counsel, Capital One, and Capital One's Counsel have, and shall be deemed to have, released each other from any and all Claims relating in any way to any Party or counsel's conduct in the Action, including but not limited to any Claims arising out of the institution, prosecution, assertion, or resolution of the Action, including Claims for attorney's fees, costs of suit, or sanctions of any kind except as otherwise expressly set forth in Sections 3.4 and

3.5 of the Settlement Agreement.

19. This Final Approval Order and corresponding Judgment is the final, appealable judgment in the Action as to all Released Claims. The time to appeal from this Final Approval Order and Judgment shall commence upon its entry.

20. Without affecting the finality of this Final Approval Order and Judgment in any way, this Court retains jurisdiction over (a) implementation of the Settlement Agreement and the terms of the Settlement Agreement; (b) Settlement Class Counsel's Motion for Attorney's Fees and Settlement Class Representative Service Awards ; (c) distribution of the settlement payments, Settlement Class Counsel's Attorney's Fees and Costs Award, and any Settlement Class Representative Service Awards; and (d) all other proceedings arising out of or related to the implementation, interpretation, validity, administration, consummation, and enforcement of the terms of the Settlement Agreement, including enforcement of the Releases provided for in the Settlement Agreement.

21. In the event that the Effective Date does not occur, this Final Approval Order and Judgment shall be rendered null and void and shall be vacated, nunc pro tunc, except insofar as expressly provided to the contrary in the Settlement Agreement, and without prejudice to the *status quo ante* rights of Settlement Class Representatives, Settlement Class Members, and Capital One.

22. This Final Approval Order and Judgment, the Preliminary Approval Order, the Settlement Agreement, and all negotiations, statements, agreements, and proceedings relating to the Settlement Agreement, and any matters arising in connection with settlement negotiations, proceedings, or agreements shall not constitute, be described as, construed as, offered or received against Capital One or the other Released Parties as evidence or an admission of: (a) the truth of any fact alleged by Settlement Class Representatives in the Action; (b) any liability, negligence,

fault, or wrongdoing of Capital One or the Released Parties; or (c) that this Action or any other action may be properly certified as a class action for litigation, non-settlement purposes.

23. The Motion for Attorney's Fees and Settlement Class Representative Service Awards is also hereby GRANTED. The Court APPROVES: (a) payment of Settlement Class Counsel's Attorney's Fees and Costs Award in the total amount of \$[_____] (consisting of \$[_____] in attorney's fees, plus \$[_____] in reimbursement of litigation expenses); and (b) payment of service awards in the amount of \$[_____] each to Settlement Class Representatives Ahntourage Media LLC, Just Josh, Inc., Storm Productions LLC, TechSource Official, and ToastyBros, LLC to compensate them for their commitment and effort on behalf of the Settlement Class pursuant to Section 3.3 of the Settlement Agreement.

24. The Court finds that the fees and litigation expenses requested by Settlement Class Counsel are reasonable and appropriate under applicable standards and justified by the circumstances of this case.

25. *[Discussion of factors, as appropriate]*

26. With respect to the requested Settlement Class Representative Service Awards for Settlement Class Representatives, the Court finds that such awards are appropriate, and that the amount requested is within the range regularly awarded by Fourth Circuit courts and justified by the circumstances in this case. *See, e.g., McCune v. Faneuil Inc.*, 2024 WL 3811411, at *5 (E.D. Va. Aug. 13, 2024) (collecting cases).

27. The Court also notes that [] Settlement Class Member[s] objected to the Settlement or to the requested Attorney's Fees and Costs Award or Settlement Class Representative Service Awards—the requested amounts of which were included in the class notice.

28. [*Discussion of objections, as necessary.*]

29. Pursuant to Rule 54, the Court finds that there is no just reason for delay and expressly directs this Final Approval Order and Judgment and immediate entry by the Clerk of the Court.

IT IS SO ORDERED.

DATED: _____.

Hon. Anthony J. Trenga
United States District Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

*In re Capital One Financial Corporation,
Affiliate Marketing Litigation*

Case No. 1:25-cv-00023-AJT-WBP

[PROPOSED] JUDGMENT

This matter came before the Court for hearing on June 10, 2026, pursuant to the Court’s Preliminary Approval Order dated December 18, 2025, ECF No. 355, and on the Motion (“Motion”) for Final Approval of the Class Action Settlement Agreement and Release, dated May 6, 2026, entered into by the Parties (the “Settlement Agreement”), ECF No. 353-1, as well as Plaintiffs’ Motion for Attorney’s Fees and for Settlement Class Representative Service Awards, ECF No. 356.

For the reasons set forth in the accompanying Final Approval Order, **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** as follows:

1. Settlement Class Representatives’ Motion for Final Approval of the Class Action Settlement Agreement and Release, dated May 6, 2026, entered into by the Parties (the “Settlement Agreement”), is hereby GRANTED. The parties are ORDERED to comply with the terms of the Settlement Agreement.

2. Settlement Class Representatives’ Motion for Attorney’s Fees and Settlement Class Representative Service Awards is hereby GRANTED. Pursuant to Section 3.4 of the Settlement Agreement, Capital One shall pay Settlement Class Counsel an Attorney’s Fees and Costs Award in the amount of \$_____. Pursuant to Section 3.3 of the Settlement Agreement, Capital One

shall pay Settlement Class Representatives a Settlement Class Representative Service Award, each in the amount of \$_____.

3. The Action, including each of the individual complaints ultimately consolidated into the Action, are hereby DISMISSED WITH PREJUDICE.

4. Without affecting the finality of this Final Approval Order and Judgment in any way, this Court retains jurisdiction over (a) implementation of the Settlement Agreement and the terms of the Settlement Agreement; (b) Settlement Class Counsel's Motion for Attorney's Fees and Settlement Class Representative Service Awards ; (c) distribution of the settlement payments, Settlement Class Counsel's Attorneys' Fees and Costs Award, and any Settlement Class Representative Service Awards; and (d) all other proceedings arising out of or related to the implementation, interpretation, validity, administration, consummation, and enforcement of the terms of the Settlement Agreement, including enforcement of the Releases provided for in the Settlement Agreement.

5. This is a final and appealable judgment.

IT IS SO ORDERED.

DATED: _____.

Hon. Anthony J. Trenga
United States District Judge