

EXHIBIT E

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 1:09-MD-02036-JLK

**IN RE: CHECKING ACCOUNT
OVERDRAFT LITIGATION**

MDL No. 2036

**THIS DOCUMENT RELATES TO:
FOURTH TRANCHE ACTION**

Simmons v. Comerica Bank,

N.D. Tex. No. 10-326

S.D. Tex. No. 10-22958

**DECLARATION OF ARTHUR OLSEN IN SUPPORT OF FINAL APPROVAL
OF CLASS ACTION SETTLEMENT WITH COMERICA BANK**

I, Arthur Olsen, declare as follows:

Summary of My General Qualifications

1. I have nearly 20 years of professional information technology experience, specializing in the areas of database development, database administration and database support. I have received extensive training related to Oracle Corporation (“Oracle”) database software in the areas of relational database design, architecture and administration, as well as SQL and PL/SQL, application tuning, database tuning and advanced database concepts. I was also trained by Microsoft Corporation (“Microsoft”) in database architecture and administration, database tuning and TSQL.

2. For three years, I worked as a database engineer for Microsoft where my responsibilities primarily involved database design and administration. Among other duties at Microsoft, I participated in the design, implementation and support of an extensive data warehousing solution for Microsoft's licensing division, and managed and supported numerous databases throughout the company. I received multiple awards and recognitions from Microsoft for my database-related work at the company.

3. In addition to my experience working for Microsoft, I worked for six years at Hewlett-Packard Company ("Hewlett-Packard") as a database engineer. Among other responsibilities at Hewlett-Packard, I served as the primary database administrator for both Oracle and SQL Server systems that supported multiple divisions. My responsibilities at Hewlett-Packard also included serving as lead analyst in charge of compiling, analyzing and processing data from various internal database systems throughout the company for use in litigation support.

4. In addition to my work for Microsoft and Hewlett-Packard, I have provided database services to a number of other large corporations, including Cisco Systems, Inc. My responsibilities in that regard have included utilizing database systems for financial reporting services. I have also managed the development of data integration solutions for small to mid-size companies, and developed a solution for integrating an automated process for the calculation of inventory reserves with Oracle Financials.

5. My qualifications and background are set forth in more detail in my consultant profile, which is attached hereto as Exhibit A.

6. In addition to my general qualifications set forth above and in the attached consultant profile, I have specific experience that is directly relevant to my assignments in

this litigation. I was retained by plaintiffs as a consultant and expert in the case *Gutierrez v. Wells Fargo Bank, N.A.*, Case No. 07-05923WHA (N.D. Cal.) (“*Gutierrez*”), a class action brought on behalf of Wells Fargo California customers challenging Wells Fargo’s high-to-low re-sequencing practices. Similar to my assignment here, in *Gutierrez* I was asked to review and analyze the historical transactional data maintained by Wells Fargo, and to provide my opinion regarding the feasibility of using such data to recreate alternative posting orders for the customers’ transactions (i.e., where the same transactions are sequenced in a different order than the order in which the bank actually posted them) for the purpose of comparing the number of overdraft charges Wells Fargo assessed each customer pursuant to its actual posting order with the number of overdraft charges Wells Fargo would have assessed had the alternative posting order been used. Having determined that it was, in fact, feasible to do so on an automated basis using the available data, I was ultimately asked to perform calculations using class-wide data to: (a) identify the Wells Fargo California customers who were assessed additional overdraft fees due to Wells Fargo’s high-to-low posting order (as compared with certain alternative posting orders) during the class period in that case (November 15, 2004 through June 30, 2008); and (b) calculate the amount of the additional overdraft charges each such customer was charged during that time period.

7. After I completed my comprehensive analysis and it was provided to Wells Fargo in advance of trial, Wells Fargo sought to exclude my analysis from trial, submitting competing expert testimony and raising various challenges to my qualifications and the methodology that I used to perform my analysis. Judge William H. Alsup, who presided over *Gutierrez*, rejected Wells Fargo’s attacks on my methodology and found that, given

my background and experience, I was “clearly qualified to perform” the tasks I was asked to perform.

8. I presented my comprehensive analysis at the *Gutierrez* bench trial on April 29, 2010. I was subjected to cross-examination by Wells Fargo’s counsel during the trial. Moreover, Wells Fargo presented competing testimony from its own experts who attempted to challenge my methodology and the reliability of my results. After trial, Wells Fargo submitted proposed findings to the Court. In its proposed findings, Wells Fargo again sought to discredit my analysis and the methodology that I used.

9. On August 10, 2010, Judge Alsup issued his findings after the *Gutierrez* bench trial. Judge Alsup found that I did “a professional and careful job in laying out the impacts of various alternative posting protocols,” and adopted one of my analyses as the basis for his \$203 million class restitution award.

10. In addition to my work in the *Gutierrez* case, I have performed similar work in this multidistrict litigation during the past two years. Among other things, I have analyzed the historical transactional data maintained by a number of other defendant banks to determine the feasibility of identifying the customers affected by those banks’ debit card sequencing practices and the amount of such harm, have conducted damages analysis, and submitted numerous declarations in those cases supporting motions for class certification and/or settlements.

Scope of My Assignments in This Litigation

11. Class counsel retained me to perform data extraction, data analysis and damage calculations in connection with the litigation, settlement negotiations, and

effectuation of the class action settlement (“Settlement”) with defendant Comerica Bank (“Comerica”).

12. The scope of my assignments were to: (1) determine whether it was possible, using historical customer data maintained by Comerica, to identify on a class-wide basis Comerica consumer accounts affected by high-to-low debit card sequencing and to calculate each such account’s corresponding harm; (2) analyze sample transactional customer data and aggregate overdraft fee data and provide estimated damage calculations; (3) review and analyze historical customer transactional data that Comerica maintained for the litigation class periods by (a) identifying those Comerica consumer accounts that were assessed additional overdraft fees as a result of the practice of posting debit card transactions in the order of high-to-low in dollar amount instead of in chronological order, and (b) calculating the amount of corresponding harm each such consumer account incurred as a result of such practice; and (4) confirm that my prior analysis for purposes of the litigation class periods of (a) identifying Comerica consumer accounts that were assessed additional overdraft fees as a result of the practice of posting debit card transactions in the order of high-to-low in dollar amount instead of in chronological order, and (b) calculating the amount of corresponding harm each such consumer account incurred as a result of such practice, is the same for purposes of effectuating the Settlement.

Use of Historical Data to Determine Affected Accounts on a Class-Wide Basis

13. In October 2011, I was asked by class counsel to embark on the assignment described above (i.e., identify Comerica consumer accounts that paid additional overdraft fees as a result of high-to-low debit-card transaction sequencing and calculate each such account’s corresponding impact). After conferring with class counsel, I received and

reviewed several preliminary documents that were produced by Comerica. The information therein was analyzed in detail in preparation for the deposition of Comerica's James Baubie, taken on October 25, 2011.

14. On October 25, 2011, I attended the deposition of Mr. Baubie concerning Comerica's transaction processing systems, transactional databases and other sources of historical transactional information, and other issues relevant to my assignments in this litigation. I later reviewed the transcript of Mr. Baubie's deposition testimony as well.

15. In December 2011, I received and reviewed sample transactional data provided by Comerica regarding the transactions and accounts of certain named Plaintiffs in this litigation. In addition, I received and reviewed documents provided by Comerica that identified and described the various transaction codes, (i.e. the type of transactions that are described by each transaction code), included in the data sources that Comerica provided.

16. Based on Mr. Baubie's testimony and a detailed analysis of the sample data and information, I determined that Comerica maintained data sufficient to perform a class-wide analysis to identify which accounts were charged additional overdraft fees as a result of high-to-low debit card sequencing and calculate each such account's corresponding impact. In January 2012, I submitted a declaration in support of Plaintiffs' motion for class certification summarizing these findings.

17. It is my understanding that the Court granted Plaintiffs' motion for class certification based, in part, on my opinions that Comerica maintained data sufficient to perform a class-wide analysis to identify which accounts were charged additional overdraft

fees as a result of high-to-low debit card sequencing and calculate each such account's corresponding impact.

Analysis of Sample Data and Aggregate Data To Estimate Potential Damages

18. Between April and May 2012, at class counsel's direction, I performed an analysis of summary data received from Comerica regarding overdraft fees it charged to consumer accounts between April 2004 and August 2010 ("Aggregate Data"), as well as seven random months (between March 2007 and May 2010) of transactional data for all Comerica consumer accounts ("Sample Data"). This analysis was performed on-site at the Comerica facility in Auburn Hills, Michigan.

19. The Aggregate Data included monthly totals for each of the following:
- a. Total number of Comerica consumer accounts with at least one overdraft fee;
 - b. Total number of overdraft fees charged to Comerica consumer accounts;
 - c. Total amount of overdraft fees charged to Comerica consumer accounts, (2007 through 2010);
 - d. Total number of reversals of overdraft fees charged to Comerica consumer accounts, (2004 through 2006);
 - e. Total amount of reversals of overdraft fees charged to Comerica consumer accounts, (2007 through 2010); and
 - f. Total amount of overdraft fees charged to Comerica consumer accounts that were charged off by the bank, (2008 through 2010).

20. The Sample Data had the following characteristics:
- a. Transactions for all consumer accounts for seven sample months between March 2007 and May 2010;
 - b. The following data fields were included for each transaction:
 - i. Account number;
 - ii. Transaction code;
 - iii. Posting date;
 - iv. Transaction amount;
 - v. Transaction description;
 - vi. Daily ledger balance;
 - vii. Daily collected balance, (ledger balance less any deposit holds;

viii. Date and time of authorization for a majority of the debit card transactions.

21. I analyzed the Aggregate Data and Sample Data, and provided class counsel with a series of potential damage scenarios for use in connection with mediation.

Analysis of Data for Purposes of the Litigation

22. As detailed below, between March 2013 and May 2013, my associate Ed Hamilton (who works under my direct supervision) and I performed the class-wide analysis of the Comerica data at their facility in Auburn Hills, Michigan. Through that analysis, I was able to determine that the data maintained by Comerica was sufficient to make the required calculations and, thereafter, I performed the full analysis in order to identify the accounts that were charged additional overdraft fees as a result of high-to-low debit card sequencing, as well as the corresponding amount of that harm.

23. From March 2013 through May 2013, we were provided access at the Comerica facility in Auburn Hills, Michigan, to the class-wide data that was used in order to perform the full analysis. This data was pulled by Comerica employees and/or consultants, and was then made available to us on a dedicated server.

24. The Comerica demand deposit accounting system is an online system that is designed for day-to-day processing, and not for the storage of large amounts of data. As a result, historical data that the bank considers relevant is periodically copied into their data archival system prior to being purged from the online system. So even though the data used in this analysis originated in the online system, it was all extracted from the data archival system into text-based reports. Once Comerica completed the extraction of all of the data necessary for the full analysis, that data was provided and contained the following reports:

a. The transaction detail reports contained all of the transactions and balances for all consumer accounts. This information was broken out by state, and covered the class periods as detailed in section 30 of the Settlement Agreement.

b. The authorization detail reports contained a record of all authorization requests made to the bank by a customer attempting to initiate a transaction utilizing a debit card.

c. The charge off and recover reports contained a detailed breakdown of all of the amounts written off by the bank as being uncollectable for each account, including the portion attributed to overdraft fees. It also contained a detailed breakdown of amounts that were subsequently recovered by the bank, including the portion of the recoveries attributed to overdraft fees.

25. Comerica's reports included the following relevant information for all of the customer transactions, including the overdraft transactions:

a. The posting date of the transaction;

b. The dollar amount of the transaction;

c. A "transaction code," which identified the type of transaction;

d. A transaction description; and

e. The date and time of authorization for a majority of the debit card transactions.

26. In addition, the reports included the daily ledger balance and daily collected balance, (ledger balance net of deposit holds)

27. With the available data from these sources, I was able to: (a) identify the specific customers who were affected by Comerica's high-to-low debit card posting

practice during the various class periods, as compared to the alternative posting order where debit card transactions are posted in chronological order; and (b) calculate the amount of such harm to each such customer.

28. My analysis consisted of the following steps:

a. The transaction detail was reviewed, and based upon the transaction code, overdraft fees were identified. This allowed me to identify all instances where a customer was assessed multiple overdraft fees on a given day.

b. For each instance where a customer was assessed multiple overdraft fees on a given day, using software code that I developed, I programmatically re-sorted the transactions to match the alternative posting order that I was provided, and calculated the number of overdraft fees that would have been assessed under the alternative posting order. Specifically, for the alternative posting order, I sorted all debit card transactions chronologically, (as opposed to the original order of high-to-low), then all other debits left in the original order of high-to-low.

c. Next, I calculated the differential between the overdraft fees that would have been assessed to each customer under the alternative posting order and the overdraft fees that Comerica actually assessed under its actual posting order. I then added up the differentials for all of the customers to calculate the gross damages.

29. Through this analysis, I was able to identify the customers who would have had fewer overdrafts under the alternative posting order and the amount of the impact during the class period.

30. To measure accurately the damages for each customer, I applied methodologies to adjust the gross amount to account for “reversals” (where Comerica

reverses the assessed overdraft fee); and (b) “uncollectables” (where the customer closes the account with a negative balance and Comerica does not collect the assessed overdraft fee).

31. For reversals, the data that I was provided contained the amount and reversal posting date (*i.e.*, when the reversed amount was credited to the account) for overdraft fee reversals. The Comerica data did not indicate which overdraft fee reversals were tied to which assessed overdraft fees, making it impossible to determine precisely the impact of reversals on the additional fees charged as a result of Comerica’s posting order. I thus used the “30 day” method to adjust for fee reversals.

32. Under the 30-day method, all overdraft fee reversals that occurred in the 30 days after any “differential” (*i.e.*, after any instance where the customer would have had fewer overdraft charges under the alternative posting order) were used to offset such “differential.” If the overdraft fee reversals equaled or exceeded the “differential,” then the customer was not considered to have been affected by high-to-low posting of debit card transactions. If the overdraft fee reversals were less than the “differential,” then the “differential” was reduced by the amount of the reversals.

33. For uncollectables, I was told to assume that if an account was closed after a write-off for a negative balance, it was to be considered uncollectable. In such instances, I reduced the customer’s total damage by the amount of such negative balance attributable to uncollected overdraft fees, net of subsequent recoveries. If the remaining damage after this adjustment was less than or equal to zero, then the customer’s damage was reported as zero.

34. Based on my analysis of the Comerica data produced to us, I identified a total of 194,917 accounts that were affected by Comerica's high-to-low debit card sequencing, of which 164,090 accounts had damages after deducting uncollectable amounts charged off or written off during the following litigation class periods: (i) 2/18/04 through 8/15/10 for Arizona and Michigan; (ii) 2/18/05 through 2/18/10 for Florida; and (iii) 2/18/06 through 8/15/10 for California and Texas. I determined that the 194,917 accounts sustained damages totaling \$41,324,779.73, and the 164,090 accounts sustained damages totaling \$36,848,199.49 after deducting reversals and uncollectable amounts. At class counsel's request, I conducted an alternative analysis using the same data and identified the number of accounts and determined the corresponding damages sustained by Comerica account holders during the following periods: (i) 2/18/09 through 8/15/10 for Arizona, California, Florida and Michigan; and (ii) 2/18/08 through 8/15/10 for Texas. Based on that alternative analysis, I identified 65,354 accounts and determined that such accounts sustained damages totaling \$11,019,978 during these shorter periods, after deducting reversals and uncollectable amounts.

35. I memorialized the foregoing analysis and findings in an expert report dated May 23, 2013, that I understand was provided to Comerica's counsel.

Confirmation of Analysis of Data to Effectuate the Settlement

36. Several months following completion of my expert report, I was advised by settlement class counsel that the parties had reached an agreement to resolve the litigation through the Settlement. At that time, I was asked by settlement class counsel to confirm that my prior analysis for purposes of the litigation class period of (a) identifying Comerica consumer accounts that were assessed additional overdraft fees as a result of the practice

of posting debit card transactions in the order of high-to-low in dollar amount instead of in chronological order, and (b) calculating the amount of corresponding harm each such consumer account incurred as a result of such practice, is the same for purposes of effectuating the Settlement.

37. To provide such confirmation, I compared the various class periods and the formula detailed in paragraphs 30 and 91 of the Settlement Agreement, respectively, to my expert report to be sure they are the same as those used in conducting my analysis for purposes of the litigation. I confirmed that the (a) Comerica consumer accounts I previously identified that were assessed additional overdraft fees as a result of the practice of posting debit card transactions in the order of high-to-low in dollar amount instead of in chronological order, and (b) the amounts I previously calculated of corresponding harm that each such consumer account incurred as a result of such practice, are the same.

38. Accordingly, for purposes of effectuating the Settlement, I confirmed that a total of 194,917 accounts were affected by Comerica's high-to-low debit card sequencing, of which 164,090 accounts had damages after deducting uncollectable amounts charged off or written off by Comerica, pursuant to paragraph 91 of the Settlement Agreement. I also confirmed that, during the class periods set forth in paragraph 30 of the Settlement Agreement, the 194,917 accounts sustained damages totaling \$41,324,779.73, and that 164,090 sustained damages totaling \$36,848,199.49 after deducting reversals and uncollectable amounts, pursuant to paragraph 91 of the Settlement Agreement.

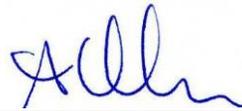
39. I understand that the Settlement Administrator mailed individual class notices to substantially all of the persons named on the 194,917 accounts that I identified.

I also understand that if the Settlement becomes effective, payments will be made to the 164,090 eligible account holders pursuant to the Settlement Agreement.

40. In total, Ed Hamilton and I spent in excess of 800 hours working with the Comerica data. This includes work performed in support of class certification, the analysis of the sample data, the analysis of the class-wide data and the confirmation analysis of data to effectuate the Settlement.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 18th day of February, 2014, at Seattle, WA.



ARTHUR OLSEN

Exhibit A – Arthur Olsen Consultant Profile

IT CONSULTANT PROFILE: ARTHUR OLSEN

BACKGROUND

Specializing in the areas of database development, administration, and support, Mr. Olsen has over 15 years of professional IT experience. He has a strong background in both Oracle and Microsoft database technologies, with a focus in developing web-based applications. Additionally, he has had valuable experience in analyzing and processing large amounts of data for use in litigation support.

SKILLS

- ◆ Extensive training and experience creating functional designs and logical data models.
- ◆ Proficient in the wide range of database development and administration technologies including: Windows 2000, 2003, and 2008 administration; Microsoft SQL Server 2000, 2005 & 2008; Microsoft TSQL; Oracle RDBMS 9.x, 10.x, and 11.x; Oracle PL/SQL; and Microsoft clustering software for Windows.
- ◆ Relevant experience designing, implementing and maintaining large scale database solutions on Oracle and SQL Server, including both online transaction based systems and data warehouses.
- ◆ Reporting specialist with experience developing custom reporting solutions based on financial systems such as Microsoft Great Plains / Dynamics and Oracle Financials, as well as custom applications.
- ◆ Considerable experience compiling, analyzing and processing data in support of corporate litigation.

AWARDS

- ◆ Award for Operation Excellence | Microsoft
Recognized for outstanding contribution to the design and implementation of the data warehousing solution for the Microsoft Licensing division.

CERTIFICATIONS

- ◆ Oracle Certified Professional
- ◆ Certified Oracle Database Administrator

EXPERIENCE

Database Engineer: Reporting Specialist | under contract at various clients

- ◆ Processed and analyzed data in support of class action litigation, (*Veronica Gutierrez et. al. v. Wells Fargo Bank, N.A.*, N.D. Cal. Case No. 07-05923 WHA), that resulted in \$203 million class restitution award.
- ◆ Developed a custom Chart of Accounts management solution that integrates with Microsoft Great Plains for small to mid-size companies.
- ◆ Designed and implemented several custom financial reporting solutions, including one for a Fortune 500 company, based on Microsoft Business Intelligence, MOSS, and Excel Services.
- ◆ Architected a solution for a large corporation that integrated with Oracle Financials and automated the process of calculating inventory reserves.

Database Administrator, Developer & Litigation Support Specialist | under contract at Hewlett Packard, Cupertino, CA

- ◆ Primary Database Administrator responsible for both Oracle and SQL Server support for three divisions, including 20+ applications spread out over a total of 30+ development, test and production servers.
- ◆ Lead analyst responsible for compiling, analyzing and processing data from various systems throughout HP for use in litigation support.
- ◆ Participated as the principal authority in the composition and implementation of SQL Server database standards across the three divisions, including security models, backup and recovery plans, DTS programming standards, and general database naming conventions.
- ◆ Performed extensive SQL development on various systems, consisting primarily of stored procedures and DTS packages.
- ◆ Created data models for several key internal systems and their related data repositories.
- ◆ Implemented an Oracle replication model consisting of a source system in California and several remote manufacturing sites located all over the world.

Database Engineer | Microsoft Licensing, Inc., Reno, NV

- ◆ Participated in the design, implementation and support of an extensive data warehousing solution for Microsoft's licensing division. System included nearly twenty data sources and several thousand end users, including select customers who accessed the system remotely via the Internet.
- ◆ Developed numerous DTS packages to pull delta information from various source systems, process and denormalize data and push it to one of several data repositories.
- ◆ Created and documented plans for database maintenance, backup and recovery, and high availability.

Database Engineer | under contract at Microsoft Corporation, Redmond, WA

- ◆ Lone Oracle database administrator and general Oracle resource for all teams associated with an enterprise level online end user billing system, including: Management, Development, Testing, Production Support and Infrastructure.
- ◆ Primary owner of a 24 x 7 production database that resided on a DEC Alpha failover cluster with over 800 Gigabytes of raw storage.
- ◆ Monitored and analyzed all Oracle databases for tuning and troubleshooting purposes using Oracle Enterprise Manager, Oracle Intelligent Agent and custom monitoring applications.
- ◆ Coordinated and implemented backup and recovery strategies for databases, including both offline and online backups, database exports and database replication.
- ◆ Created custom scripts that were used by the cluster during failover scenarios.
- ◆ Designed replication model using Oracle replication to satisfy extensive reporting requirements.
- ◆ Ensured system security through the use of NT authentication, roles and privileges, and user activity audit.
- ◆ Tuned SQL statements as written by members of the development team. Developed PL/SQL triggers, stored procedures, SQL scripts and NT scripts as needed to enhance applications and to correct problems as discovered.
- ◆ Acted as liaison between Microsoft and Oracle for all technical issues related to the databases, and between Microsoft and Digital for all technical issues related specifically to the Alpha cluster.

EDUCATION

- ◆ Microsoft Internal Training – Redmond, WA | March 2000
Instructor led SQL Server training, including courses on Database Architecture and Administration, Database Tuning, and Microsoft's TSQL
- ◆ ARIS Education Center – Bellevue, WA | June 1996
Oracle DBA Program, including courses on Relational Database Design, Database Architecture and Administration, SQL and PL/SQL, Application Tuning, Database Tuning, and Advanced Database Concepts
- ◆ University of Washington – Seattle, WA | June 1989
BA in Business Administration with a concentration in Finance.