

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, et al.,

v.

AMERICAN EXPRESS CO., et al.

Case No. 10-CV-04496-NGG-RER

IN RE: AMERICAN EXPRESS ANTI-
STEERING RULES ANTITRUST
LITIGATION (II)

Master File No. 11-MD-02221-NGG-
RER

This Document Relates To: ALL ACTIONS

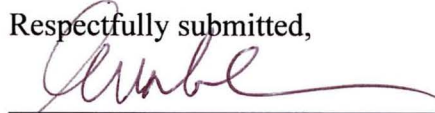
NOTICE OF MOTION TO CONSOLIDATE FOR THE PURPOSE OF TRIAL

PLEASE TAKE NOTICE that, upon the Memorandum of Law in Support of Defendants' Motion To Consolidate for the Purpose of Trial, dated September 26, 2013, the accompanying Declaration of Justine V. Beyda, dated September 26, 2013, with accompanying exhibits, and all prior pleadings and proceedings herein, Defendants American Express Company and American Express Travel Related Services Company, Inc. hereby move this Court, before the Honorable Nicholas G. Garaufis, at the United States Courthouse for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York, 11201, for an order pursuant to Rule 42(a) of the Federal Rules of Civil Procedure consolidating the claims of the Individual Merchant Plaintiffs in Case No. 11-MD-02221 with the claims of the Government Plaintiffs in Case No. 10-cv-04496 for the purpose of trial.

PLEASE TAKE FURTHER NOTICE that a proposed form of Order is submitted herewith.

September 26, 2013

Respectfully submitted,



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VIA ECF AND ELECTRONIC MAIL

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**[PROPOSED] ORDER CONSOLIDATING CASES NO. 11-MD-02221 AND 10-CV-04496
FOR TRIAL**

WHEREAS, putative class actions have been filed in this Court and other courts around the country, challenging certain provisions contained in the agreements between the American Express Defendants (“Amex”) and its merchants (the “NDPs”), including the cases bearing the following civil action numbers: 06-cv-02974 (S.D.N.Y.), 07-cv-01303 (S.D.N.Y.), 10-cv-05369 (E.D.N.Y.), 10-cv-05200 (E.D.N.Y.), 10-cv-00790 (W.D. Wis.) and 11-cv-00306 (C.D. Cal.) (collectively, the “Class Cases”);

WHEREAS, actions by individual merchant plaintiffs (the “Individual Merchant Plaintiffs”) challenging the NDPs have been filed in this Court bearing the following civil action numbers: 08-cv-02315, 08-cv-02316, 08-cv-02317, 08-cv-02380, 08-cv-02406, 11-cv-00337 and 11-cv-00338 (collectively, the “Individual Merchant Plaintiff Cases”);

WHEREAS, all of the Class Cases and Individual Merchant Plaintiff Cases have been transferred and centralized before this Court by Orders dated February 7, 2011 (Dkt. No. 1), and March 2, 2011 (Dkt. No. 14), bearing the following civil action number: 11-MD-02221;

WHEREAS, the United States and 17 remaining plaintiff states (the “Government Plaintiffs”) have filed an action in this Court challenging the NDPs, which bears the following civil action number: 10-cv-04996; and

WHEREAS, the claims of the putative class plaintiffs in MDL 2221 are subject to a pending motion to compel arbitration and, therefore, are not subject to this Order.

NOW, THEREFORE, this Court having considered the Motion To Consolidate for the Purpose of Trial, filed by Amex on September 26, 2013;

IT IS HEREBY ORDERED that the claims of the Government Plaintiffs in United States of America, et al. v. American Express Co. et al., No. 10-cv-04996 and the claims of the Individual Merchant Plaintiffs in In re American Express Anti-Steering Rules Antitrust Litigation (II), No. 11-MD-02221, are hereby consolidated for the purpose of trial.

Dated: Brooklyn, New York

_____, 2014

Honorable Nicholas G. Garaufis
United States District Judge