UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

PAULA SPARKMAN, on behalf of herself and all others similarly situated,

Plaintiff,

v.

COMERICA BANK, et al.,

Defendants.

No. 2:24-cv-01206-DJC-DMC

ORDER

On December 8, 2025, the Court signed an order granting Plaintiff's Motion for Summary Judgment and denying Defendants' Motion for Summary Judgment. (*See* ECF No. 128.) Defendants filed a notice of appeal the following day. (ECF No. 130.) Plaintiff subsequently filed a Motion under Federal Rule of Civil Procedure 60(a) requesting that the Court to clarify the restitution amount stated in the Court's Order. (Mot. (ECF No. 135).) Plaintiff's Motion also requests that the Court award prejudgment interest under Federal Rule of Civil Procedure 59(e). (*Id.*) Defendants have opposed this Motion. (Opp'n (ECF No. 140).)

The Court grants Plaintiff's request to clarify the restitution amount. Under Rule 60(a), "[t]he court may correct a clerical mistake or a mistake arising from oversight or

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

omission whenever one is found in a judgment, order, or other part of the record." While, "[a]s a general rule, the Court is divested of jurisdiction after an appeal is filed[,]" the Court may still correct clerical errors under Rule 60(a) after a notice of appeal where "the correction does not represent a change of position, but rather simply clarifies the court's intended action[.]" *Morris v. Morgan Stanley & Co.*, 942 F.2d 648, 654 (1991).

In the body of the Order, the Court explicitly found "that restitution of $7,789,835.00 paid to Plaintiff and Class Members will restore them to the amount wrongfully acquired and that this amount is supported by the evidence." (ECF No. 128 at 30 (emphasis added).) However, in the Conclusion section of the Order, the Court stated that "Plaintiff, on behalf of the class, is awarded $7,619,059.00 in restitution for IVR fees charged to Class Members between July 20, 2020 and February 21, 2025." (*Id.* at 31 (emphasis added).) The inclusion of the "$7,619,059.00" amount in the Conclusion was purely the result of clerical error due to the similarity of the two numbers. Given the amount included in the conclusion of the Order was the result of a clear clerical error, and correction of that error does not represent a change of position, the Court grants Plaintiff's request. *See Morris*, 942 F.2d at 654. The Court clarifies that Number 2 in the Conclusion of its Order (ECF No. 128) should read: "Plaintiff, on behalf of the class, is awarded $7,789,835.00 in restitution for IVR fees charged to Class Members between July 20, 2020 and February 21, 2025."

The Court lacks jurisdiction to address Plaintiff's request to alter or amend judgment under Rule 59(e). While the Court's Order did not discuss Plaintiff's argument for prejudgment interest, as stated above, "a district court is divested of jurisdiction once a notice of appeal has been filed." *Morris.*, 942 F.2d at 654. As Defendants had already filed a notice of appeal at the time Plaintiff's Motion was filed, thus the Court lacks jurisdiction to alter or amend judgment as Plaintiff requests.

Plaintiff's Motion under Rule 59(e) is thus denied without prejudice to renewal when the Court has jurisdiction to address Plaintiff's request.

Accordingly, IT IS HEREBY ORDERED that Plaintiff's Motion (ECF No. 135) is GRANTED IN PART as to the Plaintiff's request under Rule 60(a). The Court's Order on Summary Judgment (ECF No. 128) is corrected so that that Number 2 in the Conclusion reads: "Plaintiff, on behalf of the class, is awarded $7,789,835.00 in restitution for IVR fees charged to Class Members between July 20, 2020 and February 21, 2025." Plaintiff's Motion (ECF No. 135) is DENIED IN PART without prejudice as to Plaintiff's request under Rule 59(e).

IT IS SO ORDERED.

Dated: **January 9, 2026**

Hon. Daniel J. Calabretta
UNITED STATES DISTRICT JUDGE