

THE HON. MARSHA J. PECHMAN

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

Case No. C11-133 MJP

In re COINSTAR INC. SECURITIES
LITIGATION

**AMENDED ORDER AWARDING
LEAD COUNSEL ATTORNEYS' FEES
AND LITIGATION EXPENSES**

This Document Relates To:
The Securities Class Action

1 THIS MATTER having come before the Court on August 10th, 2012 for a hearing to
2 determine, among other things, whether and in what amount to award Lead Counsel in the
3 above-captioned consolidated securities class action (the “Action”) fees and litigation expenses
4 relating to its representation of the Class. The Court having considered all matters submitted to
5 it at the hearing and otherwise; and it appearing that a notice of the hearing, substantially in the
6 form approved by the Court (the “Notice”), was mailed to all reasonably identified Persons
7 who purchased the common stock of Coinstar Inc. from October 29, 2010 to February 3, 2011,
8 inclusive; and that a summary notice of the hearing (the “Summary Notice”), substantially in
9 the form approved by the Court, was published in *Investor’s Business Daily* and transmitted
10 over PR Newswire; and the Court having considered and determined the fairness and
11 reasonableness of the award of attorneys’ fees and litigation expenses requested;

12 NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that:

13 1. The Court has jurisdiction over the subject matter of this Action and over all
14 parties to the Action, including all Class Members and the Claims Administrator.

15 2. All capitalized terms used in this order have the meanings as set forth and
16 defined in the Stipulation and Agreement of Settlement (the “Stipulation”), dated as of
17 February 13, 2012.

18 3. Notice of Lead Counsel’s motion for attorneys’ fees and payment of litigation
19 expenses was given to all Class Members who could be identified with reasonable effort. The
20 form and method of notifying the Class of the motion for attorneys’ fees and expenses met the
21 requirements of Rules 23 and 54 of the Federal Rules of Civil Procedure, Section 21(D)(a)(7)
22 of the Securities Act of 1934, 15 U.S.C. §78u-4(a)(7), as amended by the Private Securities
23 Litigation Reform Act of 1995 (the “PSLRA”), due process, and any other applicable law,
24 constituted the best notice practicable under the circumstances, and constituted due and
25 sufficient notice to all persons and entities entitled to it.

26 4. Lead Counsel is awarded attorneys’ fees in the amount of \$1,380,000, plus
27 interest at the same rate earned by the Settlement Fund (*i.e.*, 23 % of the Settlement Fund,
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1 which includes interest earned thereon) and payment of litigation expenses in the amount of
2 \$84,140, plus interest at the same rate earned by the Settlement Fund, which sums the Court
3 finds to be fair and reasonable.

4 5. The Ninth Circuit set 25% as the benchmark award for attorneys' fees in
5 common fund cases. See Paul, Johnson, Alston & Hunt v. Gaulty, 886 F.2d 268, 273 (9th Cir.
6 1989). However, courts may adjust the benchmark upward or downward to account for any
7 unusual circumstances." Id. In making adjustments, courts consider the results achieved, the
8 risk of the litigation, benefits beyond the cash settlement, the market rate, and burden on
9 counsel. Here, the Court finds adjusting the benchmark downward by 2 percent is warranted
10 considering the relatively modest settlement of \$6,000,000 and the litigation's short duration.

11 6. The Court is aware the Plaintiff's lodestar cross-check yielded attorneys' fees
12 significantly greater than \$1,380,000; however, Plaintiff's lodestar calculations are based on
13 hourly rates in New York. The lodestar method requires fees "be calculated according to the
14 prevailing market rates in the relevant community." Blum v. Stenson, 465 U.S. 886, 895
15 (1984). While Plaintiff's counsel suggests "the relevant community" is defined as other
16 national securities firms, the Court disagrees. In the Ninth Circuit, the relevant community is
17 generally defined as "the forum in which the district court sits." Barjon v. Dalton, 132 F.3d
18 496, 500 (9th Cir. 1997). Since the hourly rates of attorneys in the Western District of
19 Washington are significantly lower, the Court finds the downward adjustment appropriate.

20 7. The award of attorneys' fees and litigation expenses may be paid to Lead
21 Counsel from the Settlement Fund immediately upon entry of this Order, subject to the terms,
22 conditions, and obligations of the Stipulation, which terms, conditions, and obligations are
23 incorporated into this order.

24 8. In making this award of attorneys' fees and litigation expenses to be paid from
25 the Settlement Fund, the Court has considered and found that:

1 (a) The Settlement has created a fund of \$6 million in cash and that
2 numerous Class Members who submit acceptable Proofs of Claim will benefit from the
3 Settlement created by the efforts of Lead Counsel;

4 (b) The requested attorneys' fees and payment of litigation expenses have
5 been reviewed and approved as fair and reasonable by Lead Plaintiff, a sophisticated
6 institutional investor that was directly involved in the prosecution and resolution of the Action
7 and who has a substantial interest in ensuring that any fees paid to Lead Counsel are duly
8 earned and not excessive;

9 (c) Notice was disseminated to putative Class Members stating that Lead
10 Counsel was moving for attorneys' fees in an amount not to exceed 30% of the Settlement
11 Amount, plus interest, and payment of expenses incurred in connection with the prosecution of
12 this Action in an amount not to exceed \$250,000, plus interest, and no Class Member has filed
13 an objection to the fees and expenses requested by Lead Counsel;

14 (d) Lead Counsel conducted the Action and achieved the Settlement with
15 skillful and diligent advocacy;

16 (e) The Action involves complex factual and legal issues and, in the absence
17 of settlement, would involve lengthy proceedings whose resolution would be uncertain; and

18 (f) The amount of attorneys' fees awarded and litigation expenses paid from
19 the Settlement Fund are fair and reasonable and consistent with awards in similar cases.

20 9. Any appeal or challenge affecting this Court's approval of any attorneys' fee
21 and expense application in the Action shall in no way disturb or affect the finality of the
22 Judgment entered with respect to the Settlement.

23 10. Exclusive jurisdiction is retained over the subject matter of this Action and over
24 all parties to the Action, including the administration and distribution of the Net Settlement
25 Fund to Class Members.

26 11. In the event that the Settlement is terminated or does not become Final or the
27 Effective Date does not occur in accordance with the terms of the Stipulation, this order shall
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1 be rendered null and void to the extent provided by the Stipulation and shall be vacated in
2 accordance with the Stipulation.

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Dated this 10th day of August, 2012



Marsha J. Pechman
Chief United States District Judge