

# Judge Says \$2.78M Verdict Against MasterCard Stands

By B. Colby Hamilton

MasterCard's bill has come due, U.S. District Judge Lorna Schofield ruled earlier this week. She dismissed the financial services provider's Rule 50 motion to reverse a jury's decision returning \$2.78 million to a card processor based in the Kingdom of Jordan, ICC, finding that the jury was well within the reasonableness standard.

MasterCard had drawn down the funds from a letter of credit, which were put up by ICC as collateral against potential future unpaid funds to merchants. The move came just days before MasterCard terminated services with ICC. The funds, employees said at the time, were intended to repay merchants left in the lurch after the split. However, during trial it was revealed none of the funds went to ICC's merchants.

MasterCard attempted at trial to show that it was possible that ICC had outstanding payments. However, the record showed that ICC, through policy and practice, could be reasonably understood to have paid down whatever outstanding balance it had by the time of the split between the companies.

"The evidence is overwhelming that MasterCard had no idea how much, if anything, was owed to merchants," Schofield wrote.

In fact, employees involved in the process wrote during the time that the drawdown could potentially be used as "leverage" against ICC to "open up its books" at some future point in time.

"A reasonable jury could infer that MasterCard was attempting to exert pressure on ICC by drawing down on the Letter of Credit, despite knowing that \$2.78 million was not due and payable to merchants," the judge wrote.

Given the reasonable conclusion that MasterCard had operated in a knowingly false way, Schofield found she could not "disturb the jury's damages calculation," which the financial services company also challenged.

Hoguet Newman Regal & Kenney name attorney Fredric Newman, who led his firm's representation of ICC, responded to the order saying, "We are pleased that the court found 'overwhelming evidence' that MasterCard intentionally and knowingly made a false statement to access ICC's money."

Ballard Spahr partner Jay Fastow, who led MasterCard's team, could not be reached for comment.

B. Colby Hamilton is a New York-based financial and white-collar litigation reporter for the New York Law Journal and Law.com. Contact Colby at [chamilton@alm.com](mailto:chamilton@alm.com). On Twitter: [@bcolbyhamilton](https://twitter.com/bcolbyhamilton)