

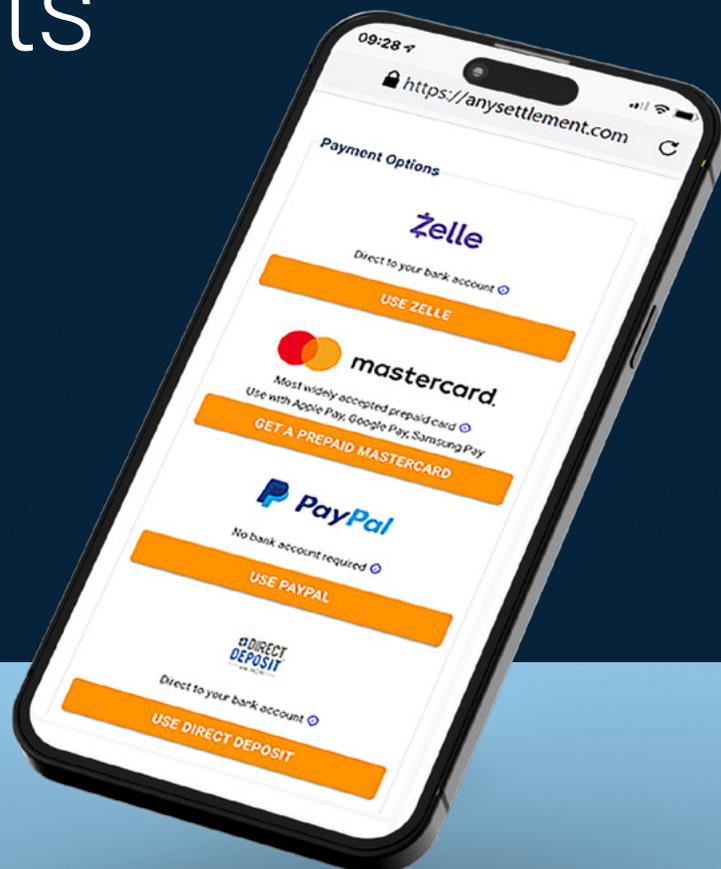


Western Alliance
Bank®



2023 ANNUAL REPORT

Digital Payments in Class Actions and Mass Torts



Welcome to the Inaugural Report on Digital Payments in Class Actions and Mass Torts.

Digital Payments Are Far More Effective Than Paper Checks

05

The Digitization of Settlement Payments Is Accelerating

06

Payees Increasingly Prefer Digital Payments

08

Most Popular Digital Payment Methods

09

Courts and Law Firms Are Embracing Digital Payments

10

Additional Advantages of Digital Payments That Would
Benefit From Further Study

20

Digital Disbursements' large market share in class action and mass tort distributions allows its data to serve as a reasonable proxy for the industry.

Foreword

Welcome to the inaugural report on Digital Payments in Class Actions and Mass Torts produced by Digital Disbursements and its parent, Western Alliance Bank.

The data for this retrospective report primarily comes from 267 class action and mass tort distributions awarded to Digital Disbursements by 22 different settlement administrators between 2019 and 2022, making this what we believe to be the largest study to date on the distribution of settlement payments in the legal industry. Digital Disbursements' large market share allows its data to serve as a reasonable proxy for the industry.

We believe that key stakeholders can benefit from an analysis of the active transition away from check-only distributions to settlements that offer a menu of different payment options (i.e., a pay menu). In this report, we examine important statistics relating to the digitization of settlement payments, and we identify a number of areas that would benefit from further study. We are committed to the ongoing analysis of digital payments in class actions and mass torts, and we anticipate that our next report will cover approximately 500 settlements awarded to Digital Disbursements – roughly double the number in the current report.

We want to acknowledge the important work performed by the Federal Trade Commission, which has followed developments in class action cases for more than a decade and published a groundbreaking payment and notice report in September 2019 analyzing data from 149 cases handled by seven different settlement administrators.

We hope you enjoy reading the report as much as we enjoyed preparing it. We, of course, welcome your feedback and suggestions for data to include in next year's report.



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Digital Payments Improve the Deliverability of Class Action and Mass Tort Settlement Payments

The success rate when payees are offered a broad pay menu with a variety of digital options is extremely high, and the number of digital payments is increasing rapidly.

Digital Payments Are Far More Effective Than Paper Checks

Comparison of Payment Success Rates For Paper Checks and Digital Payments

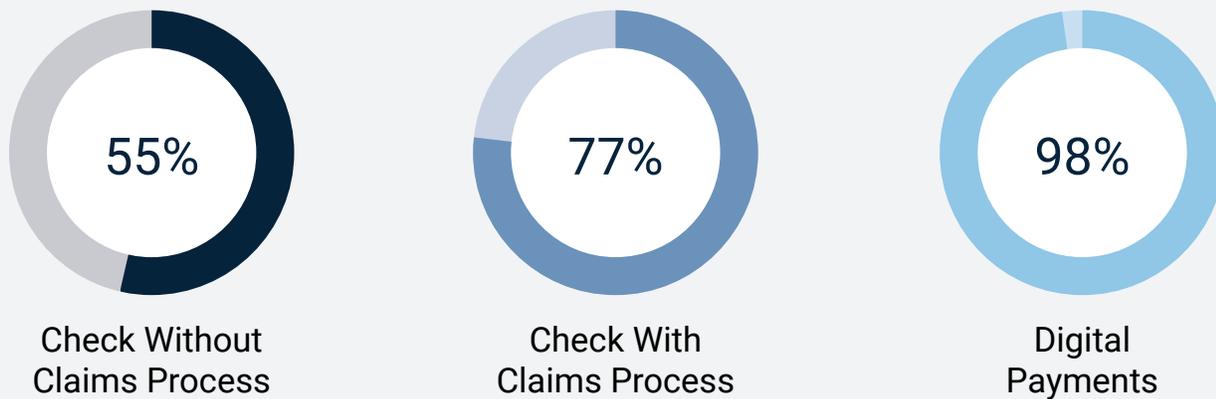


Figure 1: Comparison of Payment Success Rates for Paper Checks and Digital Payments

Rule 23 of the Federal Rules of Civil Procedure mandates that courts consider **“the effectiveness of any proposed method of distributing relief to the class”** in determining whether a proposed settlement is fair, adequate, and reasonable.¹

Until just a few years ago, payments in virtually all class action and mass tort settlements went out by mail in the form of a paper check. The claims administrator faced the burdensome and expensive tasks of printing, mailing, and tracking tens of thousands (or hundreds of thousands) of checks, and then stale-dating and/or reissuing a significant portion of the checks that went uncashed. Payees, for their part, needed a mailing address to receive checks and a way to cash them, which excluded those without fixed residences or bank accounts.

A comparison of findings from the two largest reports on class action settlement payments demonstrates that digital payments are far more effective than paper checks. The Federal Trade Commission’s comprehensive empirical study of consumer class action settlements in 2019 revealed a weighted average check cash rate of only 77% in cases with a claims process and only 55% in cases without a claims process.²

When Digital Disbursements offers a broad payment menu, the success rate for digital payments is 98%.³ This efficacy rate remained consistent from the prior year, even as the number of digital payments has grown.

¹ Rule 23(e)(2)(C)(ii) (emphasis added).

² Federal Trade Commission. September 2019, “Consumers and Class Actions. A Retrospective and Analysis of Settlement Campaigns.” https://www.ftc.gov/system/files/documents/reports/consumers-class-actions-retrospective-analysis-settlement-campaigns/class_action_fairness_report_0.pdf

³ Digital Disbursements, Western Alliance Bank. Overall success rate for digital payments completed by Digital Disbursements in 2021 and 2022.

The Digitization of Settlement Payments Is Accelerating

Growth in Settlements Using Digital Payments

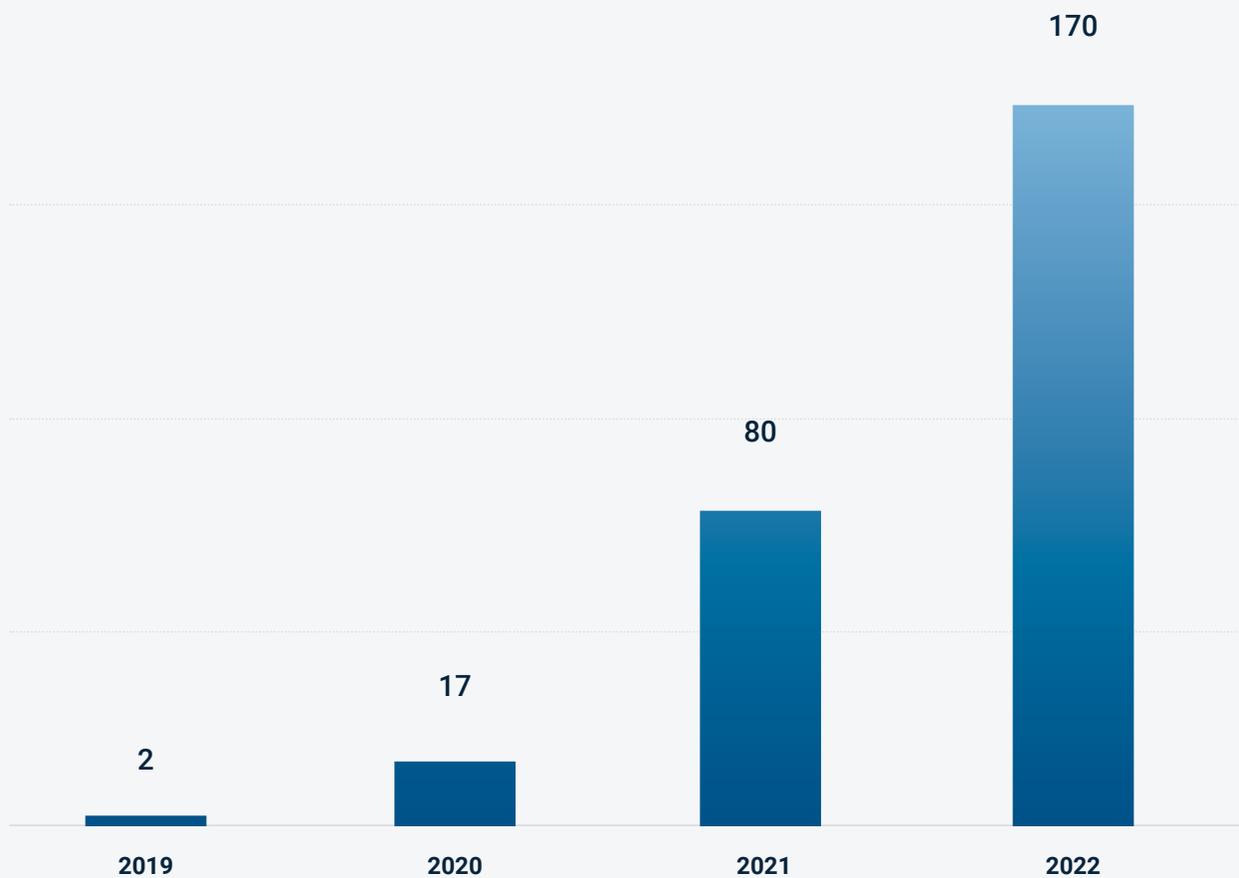


Figure 2: Awarded Distributions with Digital Payments, 2019-2022

An increasing number of judges, lawyers, and settlement administrators recognize the advantages of allowing payees to choose from a pay menu that includes digital options and a paper check. During the past three years, our data shows enormous

growth in the number of class action and mass tort distributions managed by Digital Disbursements (with enough market share to serve as a proxy for the industry) that include digital payment options (from just two programs in 2019 to 170 programs in 2022).

Growth in Digital Payment Selections

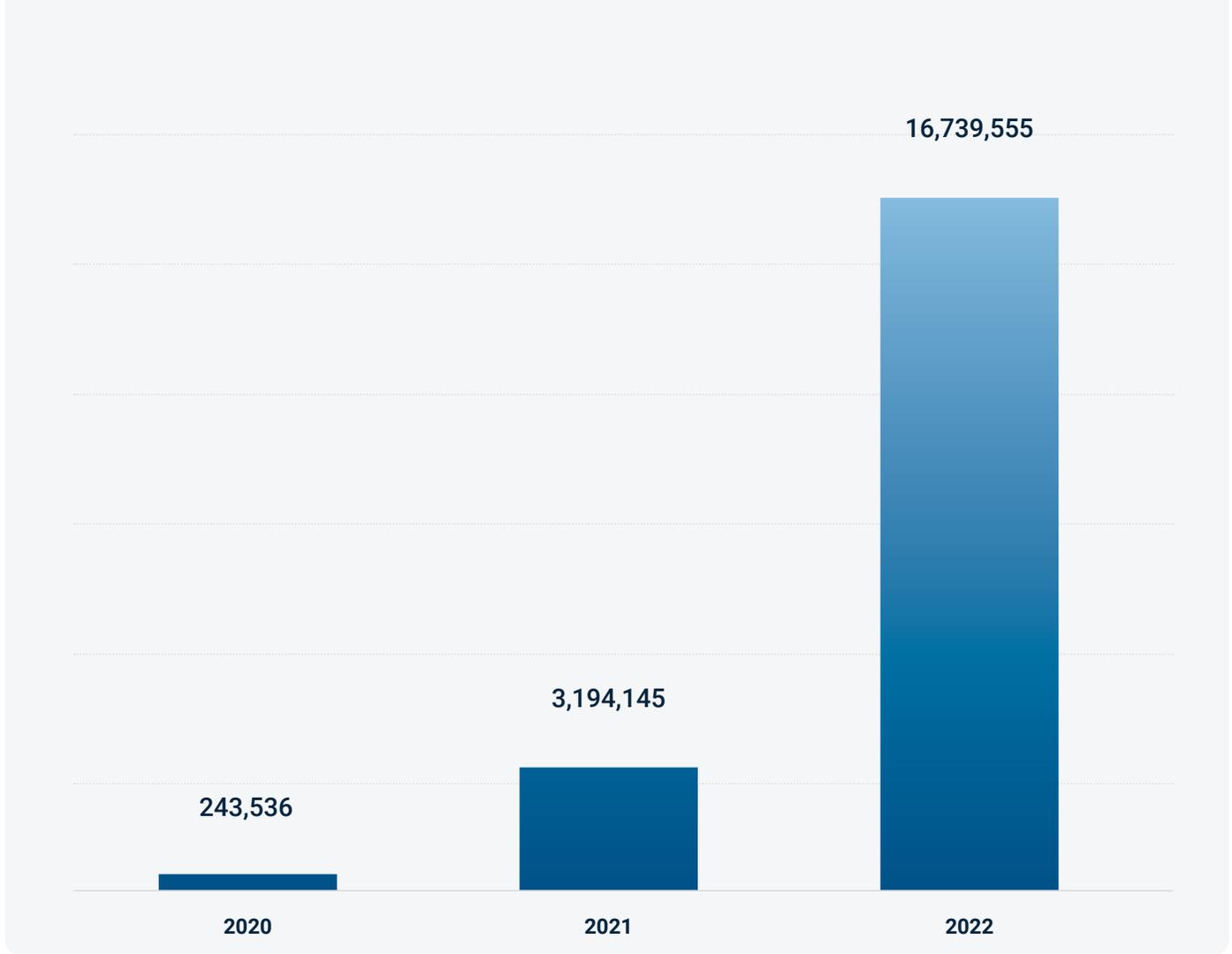


Figure 3: Digital Payment Selections, 2020-2022

Looking simply at the number of settlements understates the extent to which digital payments have become the norm. The number of times digital payments are selected is growing at a faster rate

than the number of cases in which digital payments are offered. From 2020 to 2022, the number of cases grew by a factor of 10, while the number of payment selections grew by a factor of more than 68.

Payees Increasingly Prefer Digital Payments

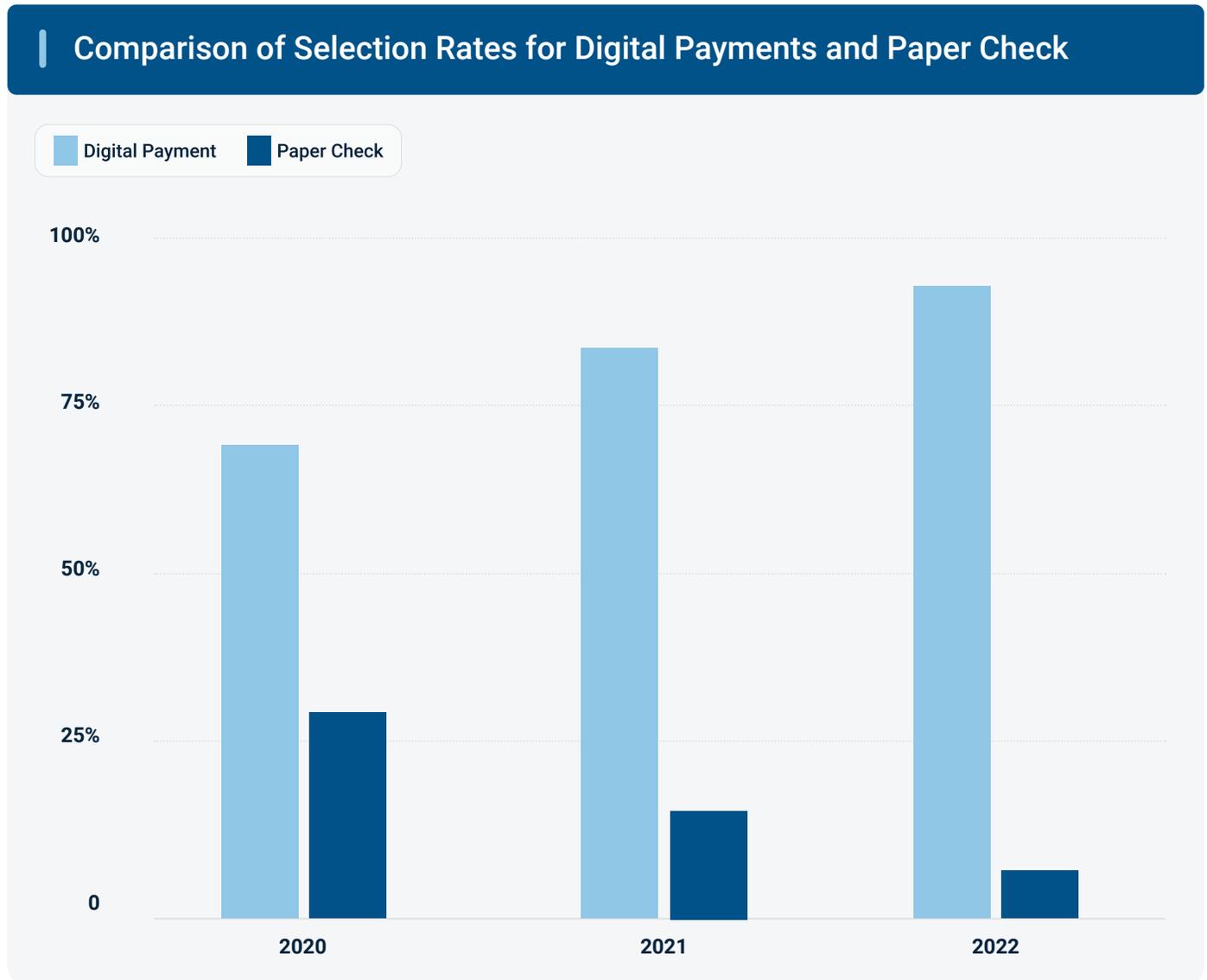


Figure 4: Comparison of Selection Rates for Digital Payments and Paper Check, 2020-2022

It is undeniable that the industry is trending towards the digitization of settlement payments and away from check-only distributions. The availability of a broad pay menu that includes both paper checks and popular digital options has become the preferred approach for payees and settlement administrators alike.

In 2022, 91% of class members and mass tort victims who were presented with a pay menu elected to receive a digital payment. This reflects a significant increase from 72% in 2020 and 83% in 2021.

Most Popular Digital Payment Methods

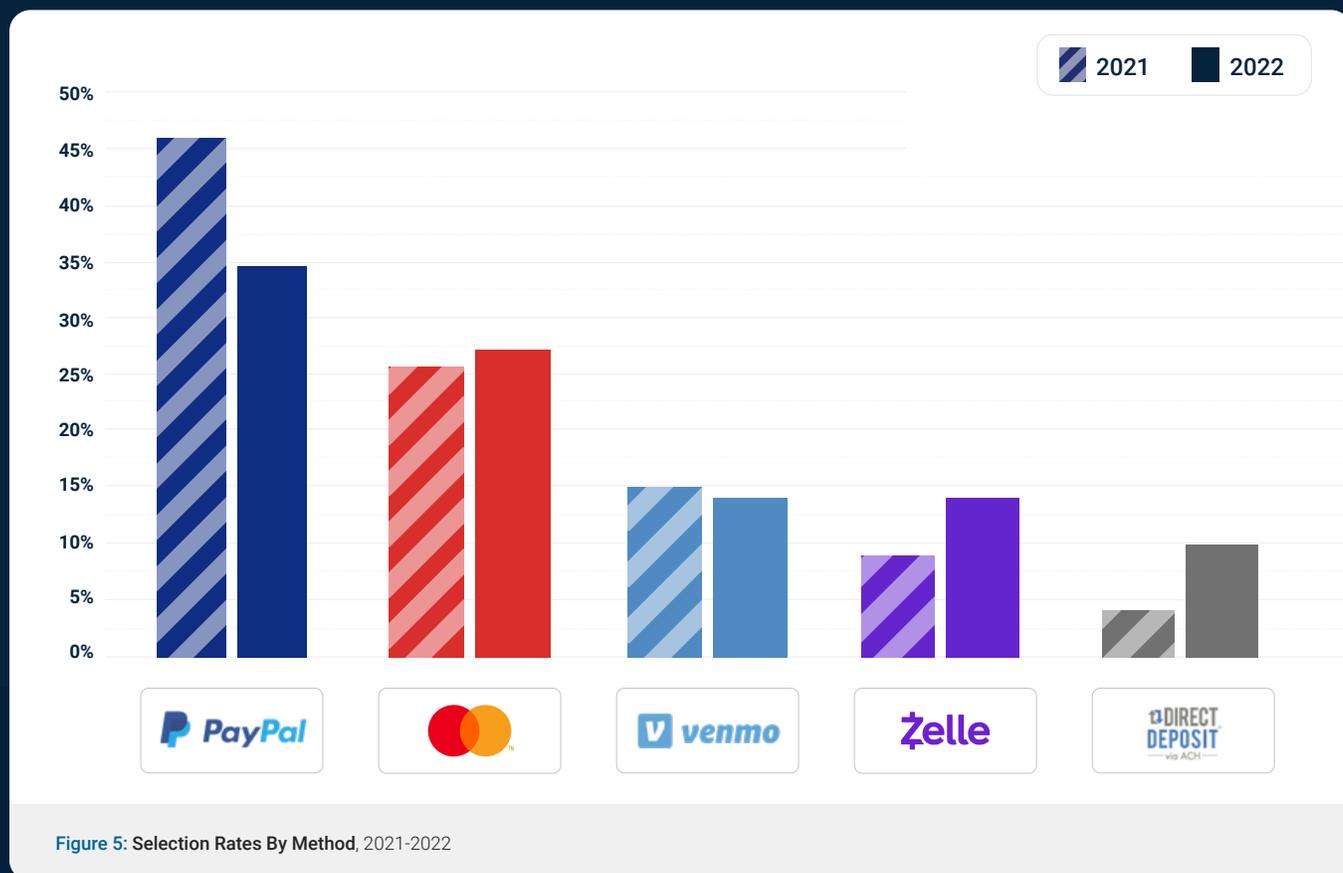


Figure 5: Selection Rates By Method, 2021-2022

PayPal, Mastercard, Venmo, and Zelle remain the most popular digital payment options.

Zelle is frequently mentioned by judges, lawyers, and settlement administrators as a preferred option because it enables a direct deposit into a payee's bank account without the necessity of collecting an account or routing number. Unfortunately, not everyone has a bank account and many who do are not enrolled with Zelle. Similarly, PayPal and Venmo are popular and convenient digital wallets, but not

everyone has one of these accounts. Prepaid cards are popular among many payees, including the unbanked and payees who like to add prepaid card funds to Apple Pay, Google Pay, or Samsung Pay.

Given that no single payment method is right for everyone, the best practice is to offer a broad pay menu that includes popular digital options and paper check.

Courts and Law Firms Are Embracing Digital Payments

The rise in use of digital payments is not limited to any particular federal or state court or to any particular law firm of any size. The following rankings provide a look at the courts and firms with the most significant use of digital payments (by number of settlements, number of payments, and total amount of payments), as processed by Digital Disbursements (again, serving as a proxy for the industry).

Top 10 Federal and State Courts

By Number of Settlements With Digital Payments (2019-2022)

Rank	Court	Cases
1	Northern District of California	30
2	Central District of California	14
3	Circuit Court of Cook County, Illinois	12
4	Northern District of Illinois	10
5	Southern District of New York	9
5	San Diego County Superior Court, California	9
7	Los Angeles County Superior Court, California	6
7	Circuit Court of Phelps County, Missouri	6
9	District of New Jersey	5
10	Northern District of Texas	4
10	Eastern District of New York	4

Figure 6: Court Rankings, By Number of Settlements with Digital Payments, 2019-2022

Top 10 Federal and State Courts

By Number of Successful Digital Payments (2019-2022)

Rank	Court
1	Northern District of California
2	Northern District of Illinois
3	District Court of Minnesota
4	Central District of California
5	Southern District of California
6	Los Angeles County Superior Court, California
7	Southern District of New York
8	District of Columbia
9	District of Utah
10	Circuit Court of Phelps County, Missouri

Figure 7: Court Rankings, By Number of Successful Digital Payments, 2019-2022

Top 10 Federal and State Courts

By Total Dollar Amount of Digital Payments (2019-2022)

Rank	Court
1	Northern District of California
2	Northern District of Illinois
3	Southern District of New York
4	Western District of Washington
5	Los Angeles County Superior Court, California
6	San Mateo County Superior Court, California
7	District of Utah
8	Northern District of Texas
9	Central District of California
10	Eastern District of Virginia

Figure 8: Court Rankings, By Total Dollar Amount of Digital Payments, 2019-2022

Top 10 Plaintiff-Side Law Firms

By Number of Settlements With Digital Payments (2019-2022)

Rank	Plaintiff Law Firm	Settlements
1	Milberg Coleman Bryson Phillips Grossman, PLLC	16
2	Morgan & Morgan	15
3	Edelson PC	13
4	Bursor & Fisher, P.A.	11
5	Arnold Law Firm	7
6	The Sultzer Law Group P.C.	6
6	Ahdoot & Wolfson, PC	6
6	Lichten & Liss-Riordan, P.C.	6
6	Steelman Gaunt Crowley	6
10	Dostart Hannink LLP	5
10	Tycko & Zavareei LLP	5

Figure 9: Plaintiff-Side Law Firm Rankings, By Number of Settlements With Digital Payments, 2019-2022

Top 10 Plaintiff-Side Law Firms

By Number of Successful Digital Payments (2019-2022)

Rank	Plaintiff Law Firm
1	FeganScott
2	Lynch Carpenter
3	Bird Marella
4	Lieff Cabraser Heimann & Bernstein, LLP
4	Burns Charest LLP
4	Herrera Kennedy LLP
7	The Law Office of Jack Fitzgerald, P.C.
8	Jackson & Foster
9	Bursor & Fisher, P.A.
10	Tycko & Zavareei LLP

Figure 10: Plaintiff-Side Law Firm Rankings, By Number Of Successful Digital Payments, 2019-2022

Top 10 Plaintiff-Side Law Firms

By Total Dollar Amount of Digital Payments (2019-2022)

Rank	Plaintiff Law Firm
1	Bird Marella
2	FeganScott
3	Lynch Carpenter
4	Edelson PC
5	Lieff Cabraser Heimann & Bernstein, LLP
5	Burns Charest LLP
5	Herrera Kennedy LLP
8	The Law Office of Jack Fitzgerald, P.C.
9	Jackson & Foster
10	Bursor & Fisher, P.A.

Figure 11: Plaintiff-Side Law Firm Rankings, By Total Dollar Amount of Digital Payments, 2019-2022

Top 10 Defendant-Side Law Firms

By Number of Settlements With Digital Payments (2019-2022)

Rank	Defendant Law Firm	Cases
1	Lewis Brisbois Bisgaard & Smith LLP	12
2	Littler Mendelson P.C.	9
3	Gibson, Dunn & Crutcher LLP	8
4	Perkins Coie LLP	7
4	Cooley LLP	7
6	Sidley Austin LLP	6
6	Baker & Hostetler LLP	6
6	Covington & Burling LLP	6
9	Venable LLP	5
10	Gordon Rees Scully Mansukhani, LLP	4
10	Kirkland & Ellis LLP	4
10	Jenner & Block LLP	4

Figure 12: Defendant-Side Law Firm Rankings, By Number of Settlements With Digital Payments, 2019-2022

Top 10 Defendant-Side Law Firms

By Number of Successful Digital Payments (2019-2022)

Rank	Defendant Law Firm
1	Cooley LLP
2	Wilson Sonsini Goodrich & Rosati
3	Jenner & Block LLP
4	Perkins Coie LLP
5	Gibson, Dunn & Crutcher LLP
6	Littler Mendelson, P.C.
7	Faegre Drinker Biddle & Reath LLP
8	Covington & Burling LLP
9	Proskauer Rose LLP
10	Fenwick & West
10	WilmerHale

Figure 13: Defendant-Side Law Firm Rankings, By Number of Successful Digital Payments, 2019-2022

Top 10 Defendant-Side Law Firms

By Total Dollar Amount of Digital Payments (2019-2022)

Rank	Defendant Law Firm
1	Cooley LLP
2	Wilson Sonsini Goodrich & Rosati
3	Gibson, Dunn & Crutcher LLP
4	Covington & Burling LLP
5	Littler Mendelson, P.C.
6	Boies Schiller Flexner LLP
7	Mayer Brown
8	Vorys, Sater, Seymour and Pease LLP
9	Shearman & Sterling
10	Paul Hastings, LLP

Figure 14: Defendant-Side Law Firm Rankings, By Total Dollar Amount of Digital Payments, 2019-2022

Additional Advantages of Digital Payments That Would Benefit From Further Study

The data from this report is incontrovertible: Digital payments are far more effective than paper checks, and class members/mass tort victims, judges, lawyers, and settlement administrators are increasingly embracing the use of a pay menu that includes popular digital payment options and paper check by mail. Based on the many advantages of digital payments, we expect this trend to continue. It is our goal to take a deeper dive into these issues (including those listed below) in future reports.

Criteria	Pay Menu	Paper Check	Recap of Current Information
Success Rates	High	Low	As explained on page 5, studies have shown that the average success rate for digital payments is 98% and the average check cash rate is between 55% - 77%.
Cost Per Payment	Low	High	The cost to send a digital payment (to a U.S. payee) is significantly less than the cost to print and mail a paper check.
Security	High	Low	On February 27, 2023, the United States Financial Crimes Enforcement Network issued an alert regarding the nationwide surge in check fraud schemes targeting the U.S. mail. ⁴
Tracking	Same Day	Potentially Months	Digital payments enable nearly instantaneous tracking.
Speed	Fast	Slow	Most digital methods are delivered the same day as initiated.
Payee Convenience	High	Low	No digital payees are required to visit a bank.
Unbanked	Friendly	Unfriendly	Approximately 5.9 million Americans are unbanked. ⁵ Check-only distributions require the unbanked to pay extremely high fees for check cashing services.
Environmental	Low Impact	High Impact	Paper check distributions generate significant paper waste and carbon emissions.

Figure 15: Areas for Further Study

⁴ Financial Crimes Enforcement Network. Feb. 27, 2023. "FinCEN Alert on Nationwide Surge in Mail Theft-Related Check Fraud Schemes Targeting the U.S. Mail." <https://www.fincen.gov/sites/default/files/shared/FinCEN%20Alert%20Mail%20Theft-Related%20Check%20Fraud%20FINAL%20508.pdf>

⁵ Federal Deposit Insurance Corporation. Updated July 24, 2023. "2021 FDIC National Survey of Unbanked and Underbanked Households." <https://www.fdic.gov/analysis/household-survey/index.html>



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About Western Alliance Bank Juris Banking Group

Western Alliance Bank's Juris Banking Group is a national banking group within Western Alliance Bank, Member FDIC. Our offerings include Settlement Services for class action, mass tort and bankruptcy attorneys, claims administrators and related businesses; Digital Disbursements to facilitate payments to claimants in these matters; and nationwide full-service banking solutions under the same umbrella. Our team combines legal industry expertise and a dedication to client service that delivers value and exceeds expectations. Western Alliance Bank Juris Banking Group is part of Western Alliance Bancorporation, which has more than \$65 billion in assets. Influential sources from American Banker to Bank Director again rank Western Alliance Bank among the top U.S. banks in 2023. With significant national capabilities, the Juris Banking Group delivers the reach, resources and deep industry knowledge that make a difference for customers.



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