

Exhibit A

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JEFFREY STEPHENSON, individually,
on behalf of himself and all others
similarly situated,

Plaintiff,

v.

NAVY FEDERAL CREDIT UNION,

Defendant.

Case No: '23CV1851 WQHKSC

CLASS ACTION COMPLAINT

[DEMAND FOR JURY TRIAL]

1
2 Plaintiff Jeffrey Stephenson (“Plaintiff”) brings this action on behalf of himself and
3 all others similarly situated against Defendant Navy Federal Credit Union (“NFCU” or
4 “Defendant”), and states:

5
6 **I. NATURE OF THE ACTION**

7 1. This putative class action concerns NFCU’s unlawful practice of failing to
8 conduct genuine, good faith investigations into consumers’ accounts when they make fraud
9 claims arising from unauthorized debit card transactions and failing to provide detailed
10 explanations when Defendant denies those claims.

11
12 2. Congress established the Electronic Funds Transfer Act (the “EFTA”), 15
13 U.S.C. §§ 1693, *et seq.* and Regulation E, 12 C.F.R. §§ 1005.1, *et seq.*, to guarantee strong
14 protections for consumers who engage in electronic fund transfers with debit cards. Among
15 the widespread protections afforded under these statutes, financial institutions like NFCU
16 are required to maintain thorough practices for error resolution, including to promptly
17 investigate fraud claims, to provide consumers with substantive written explanations of its
18 investigations and conclusions, to limit consumer liability for unauthorized transactions,
19 and, if ultimately denying those fraud claims, to bear the burden of proving that a
20 consumers’ disputed transactions were in fact authorized.

21
22 3. In the case of Plaintiff, however, NFCU blatantly flouted several of these
23 requirements to Plaintiff’s financial detriment. Immediately after Plaintiff learned that his
24 debit card was stolen, he alerted NFCU to the loss and submitted a fraud claim with
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1 supporting factual proof that nearly \$1,000 in unauthorized charges had occurred. After
2 only one day of a shoddy investigation, NFCU flatly denied Plaintiff's claim on the grounds
3 that "no error occurred" but failed to offer any detailed explanation of its investigation or
4 how it arrived at its conclusion—not just once, but on three separate occasions.
5

6 4. At bottom, NFCU's single-day, factually unsupported investigation of
7 Plaintiff's fraud claim falls woefully short of satisfying its obligations to accountholders
8 under the EFTA and Regulation E. Indeed, despite Plaintiff submitting detailed information
9 to prove he incurred unauthorized transactions, NFCU flatly refused to find any "error"
10 occurred and did so without providing any substantive explanation or justification. It was
11 Defendant's burden to prove that these disputed transactions were authorized—not
12 Plaintiff's—and its failure to do so is unlawful and unfair to Plaintiff and thousands of
13 other consumers who have to bear the consequences of stolen funds in unlimited sums.
14

15 5. NFCU's flagrant disregard of the EFTA's and Regulation E's requirements
16 subjects its accountholders like Plaintiff who similarly fell victim to debit card theft to
17 shoulder hundreds of dollars in fraudulent purchases that they did not authorize or have
18 any control over.
19

20 6. Moreover, NFCU's conduct also constitutes an express breach of its contract
21 with accountholders based on its promise there will be "zero liability" for accountholders
22 when they timely report fraudulent debit card transactions.
23

24 7. Plaintiff brings this action on behalf of himself and a proposed class of all
25 other similarly situated NFCU accountholders who notified Defendant that one or more
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1 charges on their account were unauthorized and were denied reimbursement on the grounds
2 that Defendant determined that no error occurred without any written explanation of
3 NFCU's investigation and findings.
4

5 8. Plaintiff alleges claims for violation of the EFTA, Regulation E, California's
6 Unfair Competition Law (the "UCL"), Cal. Bus. & Prof. Code §§ 17200, *et seq.*, and breach
7 of contract including the covenant of good faith and fair dealing, and prays for actual and
8 statutory damages, injunctive relief on behalf of the general public, among other ancillary
9 remedies as provided for under the law.
10

11 **II. PARTIES**

12
13 9. Plaintiff Jeffrey Stephenson is a citizen and resident of Bonita, California and
14 is a joint owner of a NFCU checking account with his 17-year-old son.
15

16 10. Defendant Navy Federal Credit Union is a national credit union with its
17 headquarters and principal place of business located in Vienna, Virginia. Among other
18 things, NFCU is engaged in the business of providing retail banking services to consumers,
19 including Plaintiff and the members of the putative class, which includes the issuance of
20 debit cards for use by its customers in conjunction with their checking accounts. NFCU
21 operates banking centers and thus, conducts business throughout the United States,
22 including within this district.
23
24

25 **III. JURISDICTION AND VENUE**

26 11. This Court has jurisdiction under 28 U.S.C. § 1331 and 15 U.S.C. § 1693m(g)
27 because Plaintiff's EFTA claim arises under federal law.
28

1 12. This Court has supplemental jurisdiction under 28 U.S.C. § 1367 to resolve
2 Plaintiff's statutory claim arising under California law.

3
4 13. This Court also has original jurisdiction over the action under the Class Action
5 Fairness Act ("CAFA") of 2005. Pursuant to 28 U.S.C. §§ 1332(d)(2) and (6), this Court
6 has original jurisdiction because the aggregate claims of the putative class members exceed
7 \$5 million, exclusive of interests and costs, and at least one member of the proposed class
8 is a citizen of a different state than NFCU.
9

10 14. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because NFCU
11 is subject to personal jurisdiction here and regularly conducts business in this district, and
12 because a substantial part of the events or omissions giving rise to the claims asserted
13 herein occurred in this district.
14

15
16 **IV. FACTUAL BACKGROUND AND GENERAL ALLEGATIONS**

17 **A. NFCU Flouts EFTA and Regulation E Requirements Regarding**
18 **Investigation and Error Resolution Procedures Arising from Fraudulent**
19 **and Unauthorized Debit Card Transactions**

20 15. Plaintiff Jeffrey Stephenson and his 17-year-old son are joint owners of an
21 NFCU checking account since approximately April 2020.

22 16. On or around February 22, 2023, Plaintiff and his son discovered that their
23 NFCU debit card was missing after noticing several unauthorized transactions had occurred
24 on their account.
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1 17. On February 23, 2023, Plaintiff promptly reported the card as stolen to NFCU
2 and submitted a claim of unauthorized debit card activity for a total of \$991.98 in fraudulent
3 purchases.
4

5 18. Plaintiff submitted to NFCU a detailed account as to why these unauthorized
6 transactions were fraudulent purchases. For example, Plaintiff disclosed that the purchase
7 history since the debit card was acquired over 400+ purchases ago demonstrates that there
8 were no purchases made at Walmart, yet 11 of the unauthorized transactions occurred at
9 Walmart all within the short period of 14 days.
10

11 19. On February 24, 2023—just *one day* after Plaintiff submitted his fraud
12 claim—NFCU sent a letter informing Plaintiff of its “final determination” of the fraud
13 claim in which it concluded that “no error has occurred.” *See* Ex. A, February 24, 2023
14 Letter (the “First Letter”). The First Letter further stated:
15
16

17 Our investigation was based on a review of your account activity, including,
18 but not limited to: transaction details, account history, and/or discrepancies
19 between the fraud claim and your account.
20 *Id.*
21

22 20. Having received no detailed explanation why his fraud claim was denied,
23 Plaintiff submitted additional information via NFCU’s website, including detailed written
24 responses to seven questions posed by NFCU. Plaintiff appealed Defendant’s decision
25 made in the First Letter.
26
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1 21. On March 10, 2023, NFCU sent Plaintiff another letter reporting the findings
2 of its second review of his fraud claim. Defendant again denied Plaintiff's claim without
3 any real explanation:
4

5 After carefully reviewing the information you provided, we have concluded
6 that no error occurred. Therefore, the original decision to deny the claim
7 stands. You are responsible for the full amount of the claim, \$991.98.

8 *See* Ex. B, March 10, 2023 Letter (the "Second Letter").

9 22. On or around March 31, 2023, Plaintiff met with a branch manager at NFCU
10 to gather more information about NFCU's denials, but no one could offer him any further
11 information about why his fraud claim was denied.
12

13 23. On April 3, 2023, Plaintiff was forced to submit a claim to the Consumer
14 Financial Protection Bureau (the "CFPB") as an additional avenue of relief to uncover how
15 NFCU reached its conclusion that no fraud occurred. NFCU responded to the CFPB on
16 June 2, 2023, affirming its conclusion that Plaintiff's fraud claim was denied and again
17 failing to offer any justification in support of its determination:
18

19 Based on the facts of our investigation, we determined that the claim remains
20 denied. All account owners remain responsible for the activity that was
21 conducted on the account.

22 *See* Ex. C, CFPB Complaint Status Report.
23

24 24. Based on NFCU's response, CFPB then closed Plaintiff's complaint.

25 25. Plaintiff similarly submitted a complaint to the Better Business Bureau (the
26 "BBB") and NFCU responded directly to Plaintiff on June 2, 2023, again standing behind
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1 the decisions reached on its first and second reviews and regurgitating the same response
2 devoid of any rationale or factual support:

3
4 Based on the facts of our investigation, we determined that the claim remains
5 denied. All account owners remain responsible for the activity that was
6 conducted on the account.

7 *See* Ex. D, June 2, 2023 Letter (the “Third Letter”).

8 26. Plaintiff additionally filed a police report.

9 27. By denying Plaintiff’s claim on the unsupported ground that “no error
10 occurred” after just one day of conducting a purported “investigation” and by failing to
11 provide a detailed explanation of its findings and justification for its denial, NFCU flouts
12 the EFTA and Regulation E’s investigation and error resolution requirements and
13 ultimately fails to satisfy its burden of proving that the unauthorized transactions as
14 reported by Plaintiff were in fact authorized.
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16

17 **B. NFCU Breaches Contract Promises that Fraudulent and Unauthorized**
18 **Debit Card Transactions Come with Zero Fraud Liability, or at a**
19 **Minimum, Limit Liability**

20 28. The Debit Card Disclosure in effect at the time of Plaintiff’s reported
21 transactions, attached as Exhibit E, explicitly promises that NFCU will investigate
22 “unauthorized transactions” in accordance with its “Billing Error Resolution” process.
23 Debit Card Disclosure at ¶ 16.
24

25 29. Critically, the Debit Card Disclosure makes a simple, straightforward “Zero
26 Liability” promise for debit card transactions: “...if you notify us of suspected fraud within
27 60 days of the statement date on which the fraudulent transactions first appear, *we will not*
28

1 *hold you responsible for confirmed fraudulent transactions.”* Debit Card Disclosure at ¶
2 15 (emphasis added).

3
4 30. NFCU, however, never provided “Zero Liability” for Plaintiff’s reported
5 unauthorized transactions, despite the fact that Plaintiff promptly notified NFCU that he
6 had suspected fraud and reported the debit card as stolen.

7
8 31. The Debit Card Disclosure further promises that “[i]f you notify us within 2
9 business days after you learn of the loss or theft of you [debit card] or PIN, your losses will
10 be no more than \$50 if someone used your [debit card] or PIN without your permission.”
11 Debit Card Disclosure at ¶ 14.

12
13 32. NFCU, however, never limited Plaintiff’s liability to \$50 despite the fact that
14 he promptly notified NFCU that he suspected fraud upon learning of the missing debit card
15 and unauthorized transactions.

16
17 33. These provisions, collectively, are and were reasonably understood by
18 Plaintiff to mean that NFCU would provide him with each of these fraud and dispute
19 protections for his reported unauthorized transactions.

20
21 34. By failing to provide Plaintiff zero liability for his reported unauthorized
22 transactions, or at a minimum to limit his liability to be no more than \$50, NFCU breaches
23 the express promises made in its Debit Card Disclosure and breaches the implied covenant
24 of good faith and fair dealing.

25
26 **V. CLASS ACTION ALLEGATIONS**
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1 35. Plaintiff brings this action on his own behalf and on behalf of all others
2 similarly situated. The proposed Class includes:

3
4 All holders of a Navy Federal checking account who, within the applicable
5 statute of limitations preceding the filing of this lawsuit up until the date of
6 class certification, notified Navy Federal that one or more charges on their
7 account were unauthorized and were denied reimbursement without any
8 written explanation of Navy Federal's investigation and findings ("Reg E
9 Class").

10 All holders of a Navy Federal checking account who, within the applicable
11 statute of limitations preceding the filing of this lawsuit up until the date of
12 class certification, had an unauthorized charge on their account and were
13 denied reimbursement by Navy Federal ("Breach of Contract Class").

14 36. Additionally, Plaintiff proposes California subclasses for each of the
15 foregoing classes ("California Subclasses").

16 37. Excluded from the Class is Defendant, its subsidiaries and affiliates, their
17 officers, directors and members of their immediate families and any entity in which
18 Defendant has a controlling interest, the legal representatives, heirs, successors or assigns
19 of any such excluded party, the judicial officer(s) to whom this action is assigned, and the
20 members of their immediate families.

21 38. Plaintiff reserves the right to modify or amend the definition of the proposed
22 Class and/or to add a subclass(es), if necessary, before this Court determines whether
23 certification is appropriate.

24 39. The proposed Class is numerous such that joinder is impracticable. Upon
25 information and belief, and subject to class discovery, the Class consists of thousands of
26 members or more, the identity of whom are within the exclusive knowledge of and can be
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1 ascertained only by resort to NFCU's records. The proposed Class is also sufficiently
2 ascertainable because NFCU has the administrative capability through its computer
3 systems and other business records to identify all members of the proposed Class, and such
4 specific information is not otherwise available to Plaintiff.

6 40. The questions here are ones of common or general interests such that there is
7 a well-defined community of interest among the proposed Class members. These questions
8 predominate over questions that may affect only individual Class members because NFCU
9 has acted on grounds generally applicable to the proposed Class. Such common legal or
10 factual questions include, but are not limited to:
11
12

- 13 a. Whether NFCU failed to comply with the EFTA's and Regulation E's
14 unauthorized electronic fund transfers limitations on consumer liability
15 under 15 U.S.C. § 1693g(a) and 12 C.F.R. § 205.6(b)(1);
- 16 b. Whether NFCU failed to satisfy the EFTA's assigned burden upon
17 financial institutions to prove that the disputed electronic transactions were
18 in fact authorized under 15 U.S.C. § 1693g(b);
- 19 c. Whether NFCU failed to comply with the EFTA's and Regulation E's
20 written explanation requirements under 15 U.S.C. § 1693f(d) and 12
21 C.F.R. § 1005.11(d)(4)(ii) upon denying an accountholder's fraud claim;
- 22 d. Whether NFCU's denial of fraud claims on the grounds that it determined
23 no error occurred without any further written explanation is unlawful under
24 the EFTA;
- 25 e. Whether NFCU's investigations of fraud claims are inadequate,
26 unreasonable, or unfair;
- 27 f. Whether NFCU's practice of denying fraud claims constitutes an unfair or
28 unlawful business practice under California's Unfair Competition Law
(the "UCL"), Cal. Bus. & Prof. Code § 17200, *et seq.*;

1 g. Whether NFCU breached its contract with accountholders by failing to
2 abide by its “Zero Liability Policy for Fraud;”

3 h. Whether Plaintiff and other members of the proposed Class are entitled to
4 injunctive relief to enjoin NFCU’s from its unlawful business practices
5 described herein; and

6 i. Whether Plaintiff and other members of the proposed Class have sustained
7 damages as a result of NFCU’s wrongful business practices described
8 herein and the measure of damages.

9 41. Plaintiff’s claims are typical of the claims of the other proposed Class
10 members in that they arise out of the same wrongful business practice by NFCU, as
11 described herein.

12 42. Plaintiff is more than an adequate representative of the proposed Class in that
13 he has suffered damages as a result of NFCU’s improper business practices. Additionally:

14 a. Plaintiff is committed to the vigorous prosecution of this action on behalf
15 of himself and all others similarly situated and has retained competent
16 counsel experienced in the prosecution of class actions and, in particular,
17 class actions on behalf of consumers against financial institutions;

18 b. There is no conflict of interest between Plaintiff and the unnamed Class
19 members;

20 c. Plaintiff anticipates no difficulty in the management of this litigation as a
21 class action; and

22 d. Plaintiff’s legal counsel has the financial and legal resources to meet the
23 substantial costs and legal issues associated with this type of litigation.

24 43. Plaintiff’s proposed class action is the superior method for resolving this
25 dispute because it is impracticable to bring proposed Class members’ individual claims
26 before the Court. Class treatment permits a large number of similarly situated persons or
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1 entities to prosecute their common claims in a single forum simultaneously, efficiently,
2 and without the unnecessary duplication of evidence, effort, expense, or the possibility of
3 inconsistent or contradictory judgments that numerous individual actions would engender.
4 The benefits of the class action mechanism, including providing injured persons or entities
5 with a method for obtaining redress on claims that might not be practicable to pursue
6 individually, substantially outweigh any difficulties that may arise in the management of
7 this class action. Plaintiff knows of no difficulty to be encountered in the maintenance of
8 this action that would preclude its maintenance as a class action.
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12 **FIRST CAUSE OF ACTION**

13 **Violation of the Electronic Funds Transfers Act (“EFTA”)**

14 **15 U.S.C. §§ 1693, *et seq.*; 12 C.F.R. §§ 1005.1, *et seq.* (“Regulation E” of the EFTA)**
15 **(On Behalf of Plaintiff and the Reg. E Class)**

16 44. Plaintiff incorporates the preceding allegations by reference as if fully set
17 forth herein.

18 45. Plaintiff brings this cause of action pursuant to the Electronic Fund Transfers
19 Act (“EFTA”), 15 U.S.C. §§ 1693, *et seq.*, and Regulation E of the EFTA, 12 C.F.R. §§
20 1005.1, *et seq.*

21 46. The EFTA provides strong protection for consumers arising from
22 unauthorized transactions, including by requiring that financial institutions limit consumer
23 liability for unauthorized funds transfers to \$50 if the consumer notifies the financial
24 institution within two business days after learning of the loss or theft of a debit card, or
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1 within sixty days of transmittal of the account statement reflecting the unauthorized
2 transactions. *See* 15 U.S.C. § 1693g(a).

3
4 47. Regulation E similarly provides that “[a] consumer’s liability for an
5 unauthorized electronic transfer or a series of related unauthorized transfers shall be
6 determined as follows: . . . If the consumer notifies the financial institution within two
7 business days after learning of the loss or theft of the access device, the consumer’s liability
8 shall not exceed the lesser of \$50 or the amount of unauthorized transfers that occur before
9 notice to the financial institution.” 12 C.F.R. § 205.6(b)(1).

10
11
12 48. The EFTA further places the burden on the financial institution to demonstrate
13 that challenged transfers were in fact authorized. *See* 15 U.S.C. § 1693g(b) (“In any action
14 which involves a consumer’s liability for an unauthorized electronic fund transfer, the
15 burden of proof is upon the financial institution to show that the electronic fund transfer
16 was authorized . . .”).

17
18 49. Additionally, the EFTA requires that in the event the financial institution
19 determines that an error did *not* occur, it is required to provide the consumer with “an
20 explanation of its findings” and “upon the request of the consumer promptly deliver or mail
21 to the consumer reproductions of all documents which the financial institution relies on to
22 conclude such error did not occur.” 15 U.S.C. § 1693f(d).

23
24
25 50. Similarly, Regulation E provides that if the financial institution determines
26 “no error” occurred, then it is required to provide a written explanation to justify its denial:
27
28

1 **Written explanation.** The institution’s report of the results of its investigation
2 shall include a written explanation of the institution’s findings and shall note
3 the consumer’s right to request the documents that the institution relied on in
4 making its determination. Upon request, the institution shall promptly provide
copies of the documents.

5 12 C.F.R. § 205.11(d)(1).

6 51. A financial institution will be held liable to the consumer for treble damages
7 where “the financial institution knowingly and willfully concluded that the consumer’s
8 account was not in error when such conclusion could not reasonably have been drawn from
9 the evidence available to the financial institution at the time of its investigation.” 15 U.S.C.
10 § 1693f(e)(2).
11
12

13 52. Plaintiff provided notice to NFCU within two business days of discovering
14 that his debit card had been stolen and that there were unauthorized charges.
15

16 53. By denying Plaintiff’s claim on the unsupported ground that “no error
17 occurred” after just one day of conducting a purported “investigation” and by failing to
18 provide a detailed explanation of its findings and justification for its denial, NFCU flouts
19 the EFTA and Regulation E’s investigation and error resolution requirements and
20 ultimately fails to satisfy its burden of proving that the unauthorized transactions as
21 reported by Plaintiff were in fact authorized.
22

23 54. NFCU’s affirmative actions and omissions violate the EFTA and Regulation
24 E whose “primary objective[s]” are “the protection of consumers” and “the protection of
25 individual consumer rights.” *See* 12 C.F.R. § 1005.1(b); 15 U.S.C. § 1693(b).
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1 55. As a direct and proximate result of Defendant's improper conduct outlined
2 herein, Plaintiff and members of the putative class have suffered financial harm in the form
3 of being on the hook for hundreds of dollars in fraudulent purchases that they did not
4 authorize.

5
6 56. Accordingly, Plaintiff and members of the putative class are entitled to an
7 award of statutory and actual damages, including attorneys' fees and costs, as set forth
8 under 15 U.S.C. § 1693m(a).

9
10 57. Additionally, Plaintiff and members of the putative class are entitled to treble
11 damages pursuant to 15 U.S.C. § 1693f(e) given NFCU's knowing and willful inadequate
12 investigations of Plaintiff's and absent class members' fraud claims.

13
14 **SECOND CAUSE OF ACTION**
15 **Violation of California's Unfair Competition Law ("UCL")**
16 **Cal. Bus. & Prof Code § 17200, *et seq.***
17 **(On Behalf of Plaintiff and the California Subclasses)**

18 58. Plaintiff incorporates the preceding allegations by reference as if fully set
19 forth herein.

20 59. Plaintiff and members of the putative class have standing to pursue a cause of
21 action against Defendant for unfair and unlawful business acts or practices because they
22 have suffered an injury-in-fact and lost money due to Defendant's actions and/or omissions
23 as set forth herein.

24
25 60. Defendant's conduct is unlawful under Bus. & Prof. Code § 17200 *et seq.*
26 because it is in violation of the EFTA and Regulation E, as discussed above.
27
28

1 61. Defendant's conduct described herein is "unfair" under Bus. & Prof. Code §
2 17200 because it violates public policy and is immoral, unethical, oppressive,
3 unscrupulous, and/or substantially injurious to consumers, and any utility of such practices
4 is outweighed by the harm caused to consumers, including to Plaintiff, the Class, and the
5 public. Specifically, NFCU wrongfully denies consumers' fraud claims and disputes
6 regarding unauthorized transactions after failing to properly investigate those claims,
7 failing to provide adequate written explanation for the denial of those claims, and by
8 ultimately failing to satisfy its burden to prove that the disputed transactions were in fact
9 authorized. The financial harm to consumers as a result of NFCU's wrongful business
10 practices is substantial in that consumers are forced to pay hundreds of dollars for
11 unauthorized purchases arising from fraud or theft that was out of their own control.
12

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15 62. Plaintiff and the putative Class are entitled to restitution of all funds
16 wrongfully obtained by NFCU through their unlawful and unfair business practices as
17 described herein.
18

19
20 63. Defendant's wrongful conduct is ongoing and is part of a pattern or
21 generalized course of conduct repeated on thousands of occasions yearly.
22

23 64. Pursuant to Bus. & Prof. Code § 17203, Plaintiff seeks an injunction on behalf
24 of the general public enjoining Defendant from continuing to engage in the unfair and
25 unlawful business practices described above, or any other act prohibited by law.
26

27 65. Additionally, Plaintiff and the putative Class members seek an order requiring
28 Defendant to pay attorneys' fees pursuant to Cal. Civ. Code § 1021.5.

THIRD CAUSE OF ACTION

Breach of Contract Including Breach of the Covenant of Good Faith and Fair Dealing

(On Behalf of Plaintiff and the Breach of Contract Class and California Subclass)

66. Plaintiff incorporates the preceding allegations by reference as if fully set forth herein.

67. Plaintiff and members of the Class contracted with NFCU for checking account services, as embodied in the Deposit Agreement & Disclosures, including the Debit Card Disclosure.

68. NFCU breached the terms of its contract with consumers when, as described herein, NFCU failed to fairly investigate reported erroneous and fraudulent transactions and failed to reimburse accountholders for fraud losses incurred on debit card transactions.

69. Further, under the law of each of the states where NFCU does business, an implied covenant of good faith and fair dealing governs every contract. The covenant of good faith and fair dealing constrains NFCU's discretion to abuse self-granted contractual powers.

70. This good faith requirement extends to the manner in which a party employs discretion conferred by a contract.

71. Good faith and fair dealing, in connection with executing contracts and discharging performance and other duties according to their terms, means preserving the spirit—not merely the letter—of the bargain. Put differently, the parties to a contract are mutually obligated to comply with the substance of their contract in addition to its form.

1 Evading the spirit of the bargain and abusing the power to specify terms constitute
2 examples of bad faith in the performance of contracts.

3
4 72. Subterfuge and evasion violate the obligation of good faith in performance
5 even when an actor believes his conduct to be justified. A lack of good faith may be overt
6 or may consist of inaction, and fair dealing may require more than honesty. Other examples
7 of violations of good faith and fair dealing are willful rendering of imperfect performance,
8 abuse of a power to specify terms, and interference with or failure to cooperate in the other
9 party's performance.
10

11
12 73. NFCU breached the covenant of good faith and fair dealing when it failed to
13 fairly investigate reported erroneous and fraudulent transactions and failed to reimburse
14 accountholders for fraudulent losses incurred on debit card transactions.
15

16 74. Each of NFCU's actions were done in bad faith and were arbitrary and
17 capricious.

18 75. Plaintiff and members of the Class have performed all of the obligations
19 imposed on them under the contract.
20

21 76. Plaintiff and members of the Class have sustained monetary damages as a
22 result of NFCU's breaches of the contract and covenant of good faith and fair dealing.
23

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiff demands judgment against NFCU for himself and the
26 proposed Class members as follows:
27
28

- a. Certifying the proposed Class, appointing Plaintiff as representative of the Class, and appointing Plaintiff's counsel as class counsel for the proposed Class;
- b. Declaring that NFCU's policies and practices described herein constitute a violation of the EFTA, Regulation E, California's Unfair Competition Law, and breach of contract and breach of the covenant of good faith and fair dealing;
- c. Enjoining NFCU from the wrongful conduct as described herein on behalf of the general public;
- d. Awarding actual damages and statutory damages in an amount according to proof;
- e. Awarding treble damages, if permitted by law;
- f. Awarding pre-judgment interest at the maximum rate permitted by applicable law;
- g. Reimbursing all costs, expenses, and disbursements accrued by Plaintiff in connection with this action, including reasonable attorneys' fees, costs, and expenses, pursuant to applicable law and any other basis; and
- h. Awarding such other relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff and all others similarly situated hereby demands a jury trial on all issues in this complaint that are so triable as a matter of right.

Dated: October 10, 2023

Respectfully submitted,

/s/ Scott Edelsberg

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Class*

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Attorneys for Plaintiff and the Proposed Class

**UNITED STATES DISTRICT COURT
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on behalf of himself and all others
similarly situated,

Plaintiff,

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Defendant.

Case No: 3:23-cv-01851-WQH-KSC

**AMENDED CLASS ACTION
COMPLAINT**

[DEMAND FOR JURY TRIAL]

1
2 Plaintiff Jeffrey Stephenson (“Plaintiff”) brings this action on behalf of himself and
3 all others similarly situated against Defendant Navy Federal Credit Union (“NFCU” or
4 “Defendant”), and states:
5

6 **I. NATURE OF THE ACTION**

7 1. Every year, more than 2 million consumers fall victim to financial fraud.¹

8 2. Plaintiff Stephenson is one such victim. Immediately after Plaintiff learned
9 that his son’s debit card was stolen out of his school backpack, he alerted NFCU to the loss
10 and submitted a fraud claim with substantial factual proof identifying nearly \$1,000 in
11 unauthorized charges.
12

13 3. One day later, NFCU summarily denied Plaintiff’s claim on the grounds that
14 it “found the claim to be unsupported.”
15

16 4. Upset, Plaintiff pleaded with the bank three more times to either explain it’s
17 reasoning for denying the fraud claim or re-review his submitted evidence — after all, how
18 could NFCU determine that Plaintiff’s fraud claim was “unsupported” when he submitted
19 supporting evidence? And how could Plaintiff convince NFCU to change its mind if he
20 had no understanding as to why NFCU denied the claim in the first instance?
21
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27
28 ¹ Federal Trade Commission, “New FTC Data Show Consumers Reported Losing Nearly \$8.8
Billion to Scams in 2022.” (February 2023).

1 5. Despite Plaintiff's repeated requests for an explanation, NFCU mechanically
2 rejected each of Plaintiff's claims with form denial letters devoid of any factual findings or
3 documentation from its alleged investigation.
4

5 6. NFCU's superficial rejection of Plaintiff's bona fide fraud claim and the use
6 of form denial letters without any written explanation or supporting documentation violates
7 federal law.
8

9 7. Long ago, Congress decided financial institutions—and not consumers—must
10 bear the risk of loss in cases of financial fraud. Financial institutions like NFCU are
11 therefore required to refund all timely reported fraud losses to consumers unless the
12 financial institution can affirmatively demonstrate that the disputed transactions were in
13 fact authorized.
14

15 8. If a financial institution like NFCU denies a fraud claim, it must provide a
16 substantive written explanation of its findings and must make the supporting
17 documentation available to any consumer who requests it. Thus, by statute, once fraud is
18 reported, NFCU—not consumers—bears the burden of proving fraud did not occur. NFCU
19 must meet this burden with evidence and must explain its factual findings in writing.
20

21 9. This requirement is more than a formality: financial institutions must explain
22 their findings and provide the requested documentation so that consumers like Plaintiff can
23 refute the financial institution's conclusions. Without such information, consumers like
24 Plaintiff are hamstrung by NFCU's black-box decision-making.
25
26
27
28

1 10. In sum, NFCU has adopted a fraud investigation process that systematically
2 flips the statutory burden on its head. NFCU denies fraud claims it unilaterally deems to
3 be “unsupported” without providing any substantive explanation as to how or why it has
4 satisfied its burden of demonstrating that the disputed charges were authorized.
5

6 11. Moreover, NFCU’s conduct also constitutes an express breach of its contract
7 with accountholders. NFCU promises that consumers will only be liable for \$50 if their
8 card is lost or stolen if the consumer timely reports the lost or stolen card. But NFCU
9 routinely fails to honor its promise.
10

11 12. NFCU’s disregard of its statutory and contractual obligations subjects its
12 accountholders like Plaintiff who similarly fell victim to debit card theft to shoulder
13 hundreds of dollars in fraudulent purchases that they did not authorize.
14

15 13. Plaintiff brings this action on behalf of himself and a proposed class of all
16 other similarly situated NFCU accountholders who notified Defendant that one or more
17 charges on their account were unauthorized and were summarily denied reimbursement
18 without explanation because NFCU found the claim to be “unsupported”—a standard
19 which unlawfully reverses the evidentiary burden and results in the denial of
20 reimbursement for fraud losses which, by statute, should have been covered by NFCU.
21

22 **II. PARTIES**

23 14. Plaintiff Jeffrey Stephenson is a citizen and resident of Bonita, California and
24 is a joint owner of a NFCU checking account with his 17-year-old son.
25
26
27
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1 15. Defendant Navy Federal Credit Union is a national credit union with its
2 headquarters and principal place of business located in Vienna, Virginia. Among other
3 things, NFCU is engaged in the business of providing retail banking services to consumers,
4 including Plaintiff and the members of the putative class, which includes the issuance of
5 debit cards for use by its customers in conjunction with their checking accounts. NFCU
6 operates banking centers and thus, conducts business throughout the United States,
7 including within this district.
8

9
10 **III. JURISDICTION AND VENUE**
11

12 16. This Court has jurisdiction under 28 U.S.C. § 1331 and 15 U.S.C. § 1693m(g)
13 because Plaintiff's EFTA claim arises under federal law.

14 17. This Court has supplemental jurisdiction under 28 U.S.C. § 1367 to resolve
15 Plaintiff's statutory claim arising under California law.
16

17 18. This Court also has original jurisdiction over the action under the Class Action
18 Fairness Act ("CAFA") of 2005. Pursuant to 28 U.S.C. §§ 1332(d)(2) and (6), this Court
19 has original jurisdiction because the aggregate claims of the putative class members exceed
20 \$5 million, exclusive of interests and costs, and at least one member of the proposed class
21 is a citizen of a different state than NFCU.
22

23 19. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because NFCU
24 is subject to personal jurisdiction here and regularly conducts business in this district, and
25 because a substantial part of the events or omissions giving rise to the claims asserted
26 herein occurred in this district.
27
28

1 **IV. FACTUAL BACKGROUND AND GENERAL ALLEGATIONS**

2 **A. Plaintiff Stephenson Was The Victim of Debit Card Fraud**

3 20. More than 2 million consumers are the victims of financial fraud every year.²

4 21. Consumers' fraud losses are expected to reach \$165 billion in the next
5 decade as scammers deploy more sophisticated tools and techniques.³

6 22. Plaintiff Jeffrey Stephenson and his 17-year-old son are joint owners of an
7 NFCU checking account since approximately April 2020. They are also victims of debit
8 card fraud.

9 23. On or around February 22, 2023, Plaintiff and his son discovered that their
10 NFCU debit card was missing after noticing several unauthorized transactions had occurred
11 on their account.

12 24. On February 23, 2023, the card was promptly reported as stolen to NFCU and
13 Plaintiff submitted a claim of unauthorized debit card activity for a total of \$991.98 in
14 fraudulent purchases.

15 25. Plaintiff submitted to NFCU a detailed account as to why these unauthorized
16 transactions were fraudulent purchases. For example, Plaintiff disclosed that the purchase
17 history since the debit card was acquired over 400+ purchases ago demonstrates that there
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27 ² Federal Trade Commission, "New FTC Data Show Consumers Reported Losing Nearly \$8.8
28 Billion to Scams in 2022." (February 2023).

³ The Nilson Report, "Payment Card Fraud Losses Reach \$32.34 Billion." (December 2022).

1 were *no* purchases made at Walmart, yet 11 of the unauthorized transactions occurred at
2 Walmart all within the short period of 14 days.

3
4 26. On February 24, 2023—just one day after Plaintiff submitted his fraud
5 claim—NFCU sent a letter informing Plaintiff of its “final determination” of the fraud
6 claim in which it concluded that “no error has occurred.” *See* Ex. A, February 24, 2023
7 Letter (the “First Letter”). The First Letter included no additional detail as to the reason the
8 claim was denied, stating only:

9
10 Our investigation was based on a review of your account activity, including,
11 but not limited to: transaction details, account history, and/or discrepancies
12 between the fraud claim and your account.

13 *Id.*

14 27. Having received no meaningful explanation why his fraud claim was denied,
15 Plaintiff submitted additional information via NFCU’s website, including detailed written
16 responses to seven questions posed by NFCU. Plaintiff appealed Defendant’s decision
17 made in the First Letter.

18
19 28. Plaintiff urged NFCU to review Plaintiff’s prior transaction history compared
20 to the fraudulent charges. Plaintiff’s appeal identified specific charges at multiple
21 merchants that Plaintiff had never purchased from before. Plaintiff also pointed out that the
22 account history demonstrates Plaintiff had only previously made low-dollar purchases with
23 his debit card, unlike many of the fraudulent charges that were over a \$100.

24
25 29. Plaintiff additionally filed a police report reporting the stolen card and
26 fraudulent charges and provided NFCU with the report number in his appeal.
27
28

1 30. On March 10, 2023, NFCU sent Plaintiff another letter reporting the findings
2 of its second review of his fraud claim. Defendant again denied Plaintiff's claim without
3 any explanation as to why:
4

5 After carefully reviewing the information you provided, we have concluded
6 that no error occurred. Therefore, the original decision to deny the claim
7 stands. You are responsible for the full amount of the claim, \$991.98.

8 *See* Ex. B, March 10, 2023 Letter (the "Second Letter").

9 31. On March 26, 2023, Plaintiff requested more information regarding the denial
10 via NFCU's website and noted that he has received no explanation despite the second
11 review and several calls to NFCU's fraud prevention team.
12

13 32. In response, on March 30, 2023, NFCU told Plaintiff that, "In order to receive
14 the documents requested, you will need to file a report with your local police department.
15 Your local police can then subpoena our records." *See* Ex. C, March 30, 2023 Online
16 Response.
17

18 33. On or around March 31, 2023, Plaintiff met with a branch manager at NFCU
19 to gather more information about NFCU's denials, but no one could offer him any further
20 information about why his fraud claim was denied.
21

22 34. On April 3, 2023, Plaintiff was forced to submit a claim to the Consumer
23 Financial Protection Bureau (the "CFPB") as an additional avenue of relief to uncover how
24 NFCU reached its conclusion that no fraud occurred. NFCU responded to the CFPB on
25 June 2, 2023, affirming its conclusion that Plaintiff's fraud claim was denied and again
26
27
28

1 failing to offer any justification in support of its determination. Instead, NFCU reiterated
2 that it “found the claim to be unsupported.” NFCU further stated:

3
4 Based on the facts of our investigation, we determined that the claim remains
5 denied. All account owners remain responsible for the activity that was
6 conducted on the account.

7
8 *See* Ex. D, CFPB Complaint Status Report.

9 35. Based on NFCU’s response, CFPB then closed Plaintiff’s complaint.

10 36. Plaintiff similarly submitted a complaint to the Better Business Bureau (the
11 “BBB”) and NFCU responded directly to Plaintiff on June 2, 2023, again standing behind
12 the decisions reached on its first and second reviews and regurgitating the same response
13 devoid of any rationale or factual support. NFCU reiterated that it “found the claim to be
14 unsupported.” NFCU further stated:

15
16 Based on the facts of our investigation, we determined that the claim remains
17 denied. All account owners remain responsible for the activity that was
18 conducted on the account.

19
20 *See* Ex. E, June 2, 2023 Letter (the “Third Letter”).

21 37. To date, Plaintiff has not been refunded any of the \$991.98 in fraudulent
22 purchases.

23 38. Indeed, despite Plaintiff submitting detailed information to prove he incurred
24 unauthorized transactions, NFCU flatly refused to find any “error” occurred and did so
25 without providing any substantive explanation or justification. It was NFCU’s burden to
26 prove that these disputed transactions were authorized—not Plaintiff’s—and its failure to
27
28

1 do so is unlawful and unfair to Plaintiff and thousands of other consumers who have to
2 bear the consequences of stolen funds in unlimited sums.

3
4 **B. NFCU Flouts the Requirements of the Electronic Funds Transfer Act**
5 **Regarding Its Investigation of Fraudulent and Unauthorized Debit Card**
6 **Transactions**

7 39. Congress established the Electronic Funds Transfer Act (the “EFTA”), 15
8 U.S.C. §§ 1693, *et seq.* to guarantee strong protections for consumers who engage in
9 electronic fund transfers with debit cards. Among the widespread protections afforded
10 under these statutes, financial institutions like NFCU are required to maintain thorough
11 practices for error resolution, including to promptly investigate fraud claims, to provide
12 consumers with substantive written explanations of its investigations and conclusions, to
13 limit consumer liability for unauthorized transactions, and, if ultimately denying those
14 fraud claims, to bear the burden of proving that a consumers’ disputed transactions were in
15 fact authorized.

16 40. The EFTA requires that financial institutions limit consumer liability for
17 unauthorized electronic funds transfers to \$50 if the consumer notifies the bank within two
18 business days after learning of the loss or theft of an access device such as a debit card. 12
19 C.F.R. § 205.6(b)(1).

20 41. The EFTA places the burden of proof on the financial institution to
21 demonstrate that challenged transfers were authorized or, if they were unauthorized, that
22 the consumer can be held liable for them. 15 U.S.C. § 1693g(b).

42. Specifically, under Section 1693g(b), the financial institution must show that the disputed transfer was authorized:

BURDEN OF PROOF.--In any action which involves a consumer's liability for an unauthorized electronic fund transfer, the burden of proof is upon the financial institution to show that the electronic fund transfer was authorized or, if the electronic fund transfer was unauthorized, then the burden of proof is upon the financial institution to establish that the conditions of liability set forth in subsection (a) have been met, and, if the transfer was initiated after the effective date of section 905, that the disclosures required to be made to the consumer under section 905(a)(1) and (2) were in fact made in accordance with such section.

43. As a Federal Reserve Board Examiner has explained, "if the institution cannot establish the disputed EFT transaction was authorized, the institution must credit the consumer's account."⁴

44. NFCU explicitly reverses that burden, regularly denying claims on grounds that they "found the claim to be unsupported" or found "no error" based on "discrepancies between the fraud claim and your account."

45. Further, by statute, NFCU is required to support any denial with a written explanation of its findings and is required to provide copies of the documents it relied upon in concluding that the disputed transaction was authorized. Specifically, pursuant to 15 U.S.C. § 1693f(d) and 12 C.F.R. § 1005.11(d), NFCU must provide a written explanation detailing the results of its investigation:

⁴ Scott Sonbuchner, *Error Resolution and Liability Limitations Under Regulations E and Z: Regulatory Requirements, Common Violations, and Sound Practices*, Consumer Compliance Outlook (2021), available at <https://www.consumercomplianceoutlook.org/2021/seconddissue/error-resolution-and-liability-limitations-under-regulations-e-and-z/>.

1 **Written explanation.** The institution's report of the results of its investigation
2 shall include a written explanation of the institution's findings and shall note
3 the consumer's right to request the documents that the institution relied on in
4 making its determination. Upon request, the institution shall promptly provide
5 copies of the documents.

6 46. NFCU fails to comply with its statutory obligations by failing to provide
7 written explanations of its denials. Instead, NFCU routinely denies claims without any
8 explanation whatsoever, stating only its conclusion in a form letter that “no error occurred.”

9 47. Moreover, NFCU violates the EFTA by requiring consumers to file police
10 reports to receive copies of the documents underlying its investigation, which again,
11 violates the statute.

12 48. NFCU’s boilerplate denial letters flip the burden of proof onto consumers to
13 *disprove* the supposed reasonableness of the Bank’s investigation. But EFTA puts the
14 burden of proof on financial institutions to show that disputed charges were authorized. 15
16 U.S.C. § 1693g(b).

17 49. Further, the EFTA prohibits financial institutions from using accountholder
18 agreements that waive any rights conferred by the statute. 15 U.S.C. § 1693l.
19

20 50. NFCU’s Debit Card Agreement purports to allow NFCU to deny claims for
21 unauthorized transactions when NFCU does not “confirm” those transactions to be
22 fraudulent. *See* Ex. F, Debit Card Agreement ¶ 15. NFCU asserts that the Agreement
23 provides it with “flexibility” to unilaterally “conclude a transaction was not unauthorized”
24 (Dkt. No. 11-1 at 18) without any substantive explanation of its findings. *See id.*
25
26
27
28

51. In these ways, NFCU attempts to use its Debit Card Agreement to waive the requirements of the EFTA, in further violation of the statute.

52. In sum, by denying Plaintiff's claim because it "found the claim to be unsupported" and by failing to provide a written explanation of its findings to support its denial, NFCU flouts the EFTA's investigation and error resolution requirements and ultimately fails to satisfy its burden of demonstrating that the unauthorized transactions as reported by Plaintiff were in fact authorized. Further, by doing the foregoing in reliance on its Debit Card Agreement, NFCU violates 15 U.S.C. § 1693l.

C. NFCU Breaches Contract Promises that Fraudulent and Unauthorized Debit Card Transactions Come with Zero Fraud Liability, or at a Minimum, Limit Liability

53. NFCU's Debit Card Agreement makes a simple, straightforward promise for debit card transactions:

Cardholder Liability for Unauthorized Transactions: *NOTIFY US AT ONCE* if you believe that your DC or personal identification number (PIN) has been lost, stolen, or used (or may be used) without your authority. The best way to minimize your possible losses is to contact us as soon as possible by calling us at the number above or, if you have Navy Federal Online Banking, by using the Report Fraud feature. You may also notify us in person at any branch or in writing using the address above.

Timely Notice of Missing DC: If you notify us within 2 business days after you learn of the loss or theft of your DC or PIN, your losses will be no more than \$50 if someone used your DC or PIN without your permission.

Debit Card Agreement ¶ 14.

1 54. Plaintiff Stephenson “believe[d] that [his] [debit card] ha[d] been lost” and
2 duly notified NFCU of the loss of his debit card within 2 business days of learning of the
3 loss.
4

5 55. Despite this notification, Plaintiff Stephenson’s losses total close to \$1,000.

6 56. By failing to limit Plaintiff’s liability to \$50, NFCU breached its contract.
7

8 **D. NFCU Breaches the Covenant of Good Faith and Fair Dealing**

9 57. In addition to the foregoing, NFCU also promises that NFCU will investigate
10 “unauthorized transactions” in accordance with its “Billing Error Resolution” process.
11 Debit Card Agreement at ¶ 16.
12

13 58. For transactions that NFCU “confirms” are fraudulent, NFCU promises “zero
14 liability:”
15

16 **Navy Federal’s Zero Liability Policy for Fraud:** In addition to the liability
17 limits above, if you notify us of suspected fraud within 60 days of the
18 statement date on which the fraudulent transactions first appear, we will not
19 hold you responsible for confirmed fraudulent transactions. This Zero
20 Liability policy only covers transactions that have been confirmed by Navy
21 Federal as fraudulent.

22 *Id.* at ¶ 15.

23 59. NFCU thus vests itself with unilateral discretion to “confirm” or deny whether
24 a fraudulent transaction occurred.
25

26 60. NFCU has significant discretion in conducting these investigations and has an
27 obligation to conduct these investigations in good faith.
28

1 61. NFCU fails to conduct these investigations in good faith, and instead
2 summarily denies bona fide fraud claims based on shoddy investigations, completed behind
3 closed doors and without any explanation.
4

5 62. NFCU's conduct breaches the covenant of good faith and fair dealing.

6 **V. CLASS ACTION ALLEGATIONS**
7

8 63. Plaintiff brings this action on his own behalf and on behalf of all others
9 similarly situated. The proposed Class includes:

10 All holders of a Navy Federal checking account who, within the applicable
11 statute of limitations preceding the filing of this lawsuit up until the date of
12 class certification, notified Navy Federal that one or more charges on their
13 account totaling more than \$50 were unauthorized and were denied
14 reimbursement with a form letter and without a written explanation of Navy
15 Federal's findings demonstrating that the disputed charge(s) were authorized
16 ("Reg E Class").

17 All holders of a Navy Federal checking account who, within the applicable
18 statute of limitations preceding the filing of this lawsuit up until the date of
19 class certification, timely notified Navy Federal that one or more charges on
20 their account were unauthorized and were denied reimbursement by Navy
21 Federal ("Breach of Contract Class").

22 64. Additionally, Plaintiff proposes California subclasses for each of the
23 foregoing classes ("California Subclasses").

24 65. Excluded from the Class is Defendant, its subsidiaries and affiliates, their
25 officers, directors and members of their immediate families and any entity in which
26 Defendant has a controlling interest, the legal representatives, heirs, successors or assigns
27 of any such excluded party, the judicial officer(s) to whom this action is assigned, and the
28 members of their immediate families.

1 66. Plaintiff reserves the right to modify or amend the definition of the proposed
2 Class and/or to add a subclass(es), if necessary, before this Court determines whether
3 certification is appropriate.
4

5 67. The proposed Class is numerous such that joinder is impracticable. Upon
6 information and belief, and subject to class discovery, the Class consists of thousands of
7 members or more, the identity of whom are within the exclusive knowledge of and can be
8 ascertained only by resort to NFCU's records. The proposed Class is also sufficiently
9 ascertainable because NFCU has the administrative capability through its computer
10 systems and other business records to identify all members of the proposed Class, and such
11 specific information is not otherwise available to Plaintiff.
12
13

14 68. The questions here are ones of common or general interests such that there is
15 a well-defined community of interest among the proposed Class members. These questions
16 predominate over questions that may affect only individual Class members because NFCU
17 has acted on grounds generally applicable to the proposed Class. Such common legal or
18 factual questions include, but are not limited to:
19
20

- 21 a. Whether NFCU failed to comply with the EFTA's and Regulation E's
22 unauthorized electronic fund transfers limitations on consumer liability
23 under 15 U.S.C. § 1693g(a) and 12 C.F.R. § 205.6(b)(1);
24 b. Whether NFCU failed to satisfy the EFTA's assigned burden upon
25 financial institutions to prove that the disputed electronic transactions were
26 in fact authorized under 15 U.S.C. § 1693g(b);
27 c. Whether NFCU's Debit Card Agreement violates 15 U.S.C. § 1693i;
28

- d. Whether NFCU failed to comply with the EFTA's and Regulation E's written explanation requirements under 15 U.S.C. § 1693f(d) and 12 C.F.R. § 1005.11(d)(4)(ii) upon denying an accountholder's fraud claim;
- e. Whether NFCU's denial of fraud claims on the grounds that it determined no error occurred without any further written explanation is unlawful under the EFTA;
- f. Whether NFCU's investigations of fraud claims are inadequate, unreasonable, or unfair;
- g. Whether NFCU's practice of denying fraud claims constitutes an unfair, misleading, or unlawful business practice under California's Unfair Competition Law (the "UCL"), Cal. Bus. & Prof. Code § 17200, *et seq.*;
- h. Whether NFCU breached its contract with accountholders or breached the covenant of good faith and fair dealing;
- i. Whether Plaintiff and other members of the proposed Class are entitled to injunctive relief to enjoin NFCU's from its unlawful business practices described herein; and
- j. Whether Plaintiff and other members of the proposed Class have sustained damages as a result of NFCU's wrongful business practices described herein and the measure of damages.

69. Plaintiff's claims are typical of the claims of the other proposed Class members in that they arise out of the same wrongful business practice by NFCU, as described herein.

70. Plaintiff is more than an adequate representative of the proposed Class in that he has suffered damages as a result of NFCU's improper business practices. Additionally:

- k. Plaintiff is committed to the vigorous prosecution of this action on behalf of himself and all others similarly situated and has retained competent counsel experienced in the prosecution of class actions and, in particular, class actions on behalf of consumers against financial institutions;

1 l. There is no conflict of interest between Plaintiff and the unnamed Class
2 members;

3 m. Plaintiff anticipates no difficulty in the management of this litigation as a
4 class action; and

5 n. Plaintiff's legal counsel has the financial and legal resources to meet the
6 substantial costs and legal issues associated with this type of litigation.

7 71. Plaintiff's proposed class action is the superior method for resolving this
8 dispute because it is impracticable to bring proposed Class members' individual claims
9 before the Court. Class treatment permits a large number of similarly situated persons or
10 entities to prosecute their common claims in a single forum simultaneously, efficiently,
11 and without the unnecessary duplication of evidence, effort, expense, or the possibility of
12 inconsistent or contradictory judgments that numerous individual actions would engender.
13 The benefits of the class action mechanism, including providing injured persons or entities
14 with a method for obtaining redress on claims that might not be practicable to pursue
15 individually, substantially outweigh any difficulties that may arise in the management of
16 this class action. Plaintiff knows of no difficulty to be encountered in the maintenance of
17 this action that would preclude its maintenance as a class action.
18
19
20
21

22 **FIRST CAUSE OF ACTION**

23 **Violation of the Electronic Funds Transfers Act ("EFTA")**

24 **15 U.S.C. §§ 1693, *et seq.*; 12 C.F.R. §§ 1005.1, *et seq.* ("Regulation E" of the EFTA)**
25 **(On Behalf of Plaintiff and the Reg. E Class)**

26 72. Plaintiff incorporates the preceding allegations by reference as if fully set
27 forth herein.
28

1 73. Plaintiff brings this cause of action pursuant to the Electronic Fund Transfers
2 Act (“EFTA”), 15 U.S.C. §§ 1693, *et seq.*, and Regulation E of the EFTA, 12 C.F.R. §§
3 1005.1, *et seq.*
4

5 74. The EFTA provides strong protection for consumers arising from
6 unauthorized transactions, including by requiring that financial institutions limit consumer
7 liability for unauthorized funds transfers to \$50 if the consumer notifies the financial
8 institution within two business days after learning of the loss or theft of a debit card, or
9 within sixty days of transmittal of the account statement reflecting the unauthorized
10 transactions. *See* 15 U.S.C. § 1693g(a).
11
12

13 75. Regulation E similarly provides that “[a] consumer’s liability for an
14 unauthorized electronic transfer or a series of related unauthorized transfers shall be
15 determined as follows: . . . If the consumer notifies the financial institution within two
16 business days after learning of the loss or theft of the access device, the consumer’s liability
17 shall not exceed the lesser of \$50 or the amount of unauthorized transfers that occur before
18 notice to the financial institution.” 12 C.F.R. § 205.6(b)(1).
19
20

21 76. The EFTA further places the burden on the financial institution to demonstrate
22 that challenged transfers were in fact authorized. *See* 15 U.S.C. § 1693g(b) (“In any action
23 which involves a consumer’s liability for an unauthorized electronic fund transfer, the
24 burden of proof is upon the financial institution to show that the electronic fund transfer
25 was authorized . . .”).
26
27
28

1 77. NFCU explicitly reverses that burden, regularly denying claims on grounds
2 that they “found the claim to be unsupported.”

3
4 78. Additionally, the EFTA requires that in the event the financial institution
5 determines that an error did *not* occur, it is required to provide the consumer with “an
6 explanation of its findings” and “upon the request of the consumer promptly deliver or mail
7 to the consumer reproductions of all documents which the financial institution relied on to
8 conclude such error did not occur.” 15 U.S.C. § 1693f(d).

9
10 79. Similarly, Regulation E provides that if the financial institution determines
11 “no error” occurred, then it is required to provide a written explanation to justify its denial:
12

13 **Written explanation.** The institution’s report of the results of its investigation
14 shall include a written explanation of the institution’s findings and shall note
15 the consumer’s right to request the documents that the institution relied on in
16 making its determination. Upon request, the institution shall promptly provide
copies of the documents.

17 80. NFCU fails to provide a written explanation of the results of its investigation
18 and instead relies on form letters which state in conclusory fashion, “no error occurred.”
19 Such letters do not comply with the EFTA’s requirements because they fail to explain to
20 consumers why their claim was denied, thus making it impossible to challenge the financial
21 institution’s findings.
22

23 81. NFCU also violates the EFTA by requiring consumers to file police reports to
24 receive copies of the documents it relied upon in concluding that the disputed transaction
25 was authorized.
26
27
28

1 82. Further, the EFTA prohibits financial institutions from using accountholder
2 agreements that waive any rights conferred by the statute. 15 U.S.C. § 1693l.

3
4 83. NFCU's Debit Card Agreement purports to allow NFCU to deny claims for
5 unauthorized transactions when NFCU does not "confirm" those transactions to be
6 fraudulent. Debit Card Agreement ¶ 15. NFCU asserts that the Agreement provides it with
7 "flexibility" to unilaterally "conclude a transaction was not unauthorized" (Dkt. No. 11-1
8 at 18) without any substantive explanation of its findings.

9
10 84. NFCU's Debit Card Agreement, as interpreted by NFCU, requires consumers
11 to waive these rights conferred by the EFTA and therefore violates the EFTA.

12
13 85. A financial institution will be held liable to the consumer for treble damages
14 where "the financial institution knowingly and willfully concluded that the consumer's
15 account was not in error when such conclusion could not reasonably have been drawn from
16 the evidence available to the financial institution at the time of its investigation." 15 U.S.C.
17 § 1693f(e)(2).

18
19 86. Plaintiff provided notice to NFCU within two business days of discovering
20 that his debit card had been stolen and that there were unauthorized charges.

21
22 87. By denying Plaintiff's claim because it "found the claim to be unsupported"
23 and by failing to provide a written explanation detailing its investigation and findings,
24 NFCU flouts the EFTA and Regulation E's investigation and error resolution requirements
25 and ultimately fails to satisfy its burden of proving that the unauthorized transactions as
26 reported by Plaintiff were in fact authorized.
27
28

1 88. NFCU’s affirmative actions and omissions violate the EFTA and Regulation
2 E whose “primary objective[s]” are “the protection of consumers” and “the protection of
3 individual consumer rights.” *See* 12 C.F.R. § 1005.1(b); 15 U.S.C. § 1693(b).
4

5 89. As a direct and proximate result of Defendant’s improper conduct outlined
6 herein, Plaintiff and members of the putative class have suffered financial harm in the form
7 of being on the hook for hundreds of dollars in fraudulent purchases that they did not
8 authorize.
9

10 90. Accordingly, Plaintiff and members of the putative class are entitled to an
11 award of statutory and actual damages, including attorneys’ fees and costs, as set forth
12 under 15 U.S.C. § 1693m(a).
13

14 91. Additionally, Plaintiff and members of the putative class are entitled to treble
15 damages pursuant to 15 U.S.C. § 1693f(e) given NFCU’s knowing and willful inadequate
16 investigations of Plaintiff’s and absent class members’ fraud claims.
17
18

19 **SECOND CAUSE OF ACTION**
20 **Violation of California’s Unfair Competition Law (“UCL”)**
21 **Cal. Bus. & Prof Code § 17200, *et seq.***
22 **(On Behalf of Plaintiff and the California Subclasses)**

23 92. Plaintiff incorporates the preceding allegations by reference as if fully set
24 forth herein.

25 93. Plaintiff and members of the putative class have standing to pursue a cause of
26 action against Defendant for unfair, unlawful, and fraudulent business acts or practices
27
28

1 because they have suffered an injury-in-fact and lost money due to Defendant's actions
2 and/or omissions as set forth herein.

3
4 94. Defendant's conduct is unlawful under Bus. & Prof. Code § 17200 *et seq.*
5 because it is in violation of the EFTA and Regulation E, as discussed above.

6 95. Defendant's conduct described herein is "unfair" under Bus. & Prof. Code §
7 17200 because it violates public policy and is immoral, unethical, oppressive,
8 unscrupulous, and/or substantially injurious to consumers, and any utility of such practices
9 is outweighed by the harm caused to consumers, including to Plaintiff, the Class, and the
10 public. Specifically, NFCU wrongfully denies consumers' fraud claims and disputes
11 regarding unauthorized transactions after failing to properly investigate those claims,
12 failing to provide adequate written explanation for the denial of those claims, and by
13 ultimately failing to satisfy its burden to prove that the disputed transactions were in fact
14 authorized. The financial harm to consumers as a result of NFCU's wrongful business
15 practices is substantial in that consumers are forced to pay hundreds of dollars for
16 unauthorized purchases arising from fraud or theft that was out of their own control.

17 96. Defendant's conduct described herein is "fraudulent" under Bus. & Prof.
18 Code § 17200 because NFCU's business practices have misled Plaintiff and the Class and
19 will continue to mislead them in the future.

20 97. Plaintiff relied on NFCU's misrepresentations about its fraud policies insofar
21 as Plaintiff believed he would be refunded for unauthorized transactions if his debit card
22
23
24
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28

1 was lost or stolen. By misrepresenting material facts as to its policies, NFCU deceived
2 Plaintiff and the class into making banking decisions they otherwise would not make.

3
4 98. As a direct and proximate result of NFCU's misconduct, Plaintiff and the
5 Class have suffered and will continue to suffer harm.

6 99. Plaintiff and the putative Class are entitled to restitution of all funds
7 wrongfully obtained by NFCU through their unlawful and unfair business practices as
8 described herein.

9
10 100. Defendant's wrongful conduct is ongoing and is part of a pattern or
11 generalized course of conduct repeated on thousands of occasions yearly.

12
13 101. Plaintiff remains an NFCU accountholder and as such may be subject to the
14 same wrongful conduct in the future unless NFCU is enjoined. Pursuant to Bus. & Prof.
15 Code § 17203, Plaintiff seeks an injunction on behalf of the general public enjoining
16 Defendant from continuing to engage in the unfair and unlawful business practices
17 described above, or any other act prohibited by law.

18
19 102. Additionally, Plaintiff and the putative Class members seek an order requiring
20 Defendant to pay attorneys' fees pursuant to Cal. Civ. Code § 1021.5.

21
22 **THIRD CAUSE OF ACTION**

23 **Breach of Contract Including Breach of the Covenant of Good Faith and Fair**
24 **Dealing**
25 **(On Behalf of Plaintiff and the Breach of Contract Class and California Subclass)**

26 103. Plaintiff incorporates the preceding allegations by reference as if fully set
27 forth herein.

1 104. Plaintiff and members of the Class contracted with NFCU for checking
2 account services, as embodied in the Deposit Agreement & Disclosures, including the
3 Debit Card Disclosure.
4

5 105. NFCU breached the terms of its contract with consumers when, as described
6 herein, NFCU failed to fairly investigate reported erroneous and fraudulent transactions
7 and failed to reimburse accountholders for fraud losses incurred on debit card transactions.
8

9 106. Further, under the law of each of the states where NFCU does business, an
10 implied covenant of good faith and fair dealing governs every contract. The covenant of
11 good faith and fair dealing constrains NFCU's discretion to abuse self-granted contractual
12 powers.
13

14 107. This good faith requirement extends to the manner in which a party employs
15 discretion conferred by a contract.
16

17 108. Good faith and fair dealing, in connection with executing contracts and
18 discharging performance and other duties according to their terms, means preserving the
19 spirit—not merely the letter—of the bargain. Put differently, the parties to a contract are
20 mutually obligated to comply with the substance of their contract in addition to its form.
21 Evading the spirit of the bargain and abusing the power to specify terms constitute
22 examples of bad faith in the performance of contracts.
23
24

25 109. Subterfuge and evasion violate the obligation of good faith in performance
26 even when an actor believes his conduct to be justified. A lack of good faith may be overt
27 or may consist of inaction, and fair dealing may require more than honesty. Other examples
28

1 of violations of good faith and fair dealing are willful rendering of imperfect performance,
2 abuse of a power to specify terms, and interference with or failure to cooperate in the other
3 party's performance.
4

5 110. NFCU breached the covenant of good faith and fair dealing when it failed to
6 fairly investigate reported erroneous and fraudulent transactions and failed to reimburse
7 accountholders for fraudulent losses incurred on debit card transactions.
8

9 111. Each of NFCU's actions were done in bad faith and were arbitrary and
10 capricious.
11

12 112. Plaintiff and members of the Class have performed all of the obligations
13 imposed on them under the contract.
14

15 113. Plaintiff and members of the Class have sustained monetary damages as a
16 result of NFCU's breaches of the contract and covenant of good faith and fair dealing.
17

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff demands judgment against NFCU for himself and the
20 proposed Class members as follows:

- 21 a. Certifying the proposed Class, appointing Plaintiff as representative of the
22 Class, and appointing Plaintiff's counsel as class counsel for the proposed
23 Class;
- 24 b. Declaring that NFCU's policies and practices described herein constitute a
25 violation of the EFTA, Regulation E, California's Unfair Competition Law,
26 and breach of contract and breach of the covenant of good faith and fair
27 dealing;
- 28 c. Enjoining NFCU from the wrongful conduct as described herein on behalf of
the general public;

- d. Awarding actual damages and statutory damages in an amount according to proof;
- e. Awarding treble damages, if permitted by law;
- f. Awarding pre-judgment interest at the maximum rate permitted by applicable law;
- g. Reimbursing all costs, expenses, and disbursements accrued by Plaintiff in connection with this action, including reasonable attorneys' fees, costs, and expenses, pursuant to applicable law and any other basis; and
- h. Awarding such other relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff and all others similarly situated hereby demands a jury trial on all issues in this complaint that are so triable as a matter of right.

Dated: January 22, 2024

Respectfully submitted,

/s/ Scott Edelsberg

EDELSBERG LAW, P.A.

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Exhibit *A2*

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Counsel for Plaintiffs and the Proposed Class

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JEFFREY STEPHENSON and BILLY SMITH II, individually, on behalf of themselves and all others similarly situated

Plaintiffs,

v.

NAVY FEDERAL CREDIT UNION,
Defendant.

Case No: 3:23-cv-01851-WQH-KSC

SECOND AMENDED CLASS ACTION COMPLAINT

[DEMAND FOR JURY TRIAL]

1 Plaintiffs Jeffrey Stephenson and Billy Smith II (“Plaintiffs”) bring this action on
2 behalf of themselves and all others similarly situated against Defendant Navy Federal
3 Credit Union (“NFCU” or “Defendant”), and state:
4

5 **I. NATURE OF THE ACTION**

6 1. Every year, more than 2 million consumers fall victim to financial fraud.¹
7

8 2. Plaintiff Stephenson is one such victim. Immediately after Plaintiff
9 Stephenson learned that his son’s debit card was stolen out of his school backpack, he
10 alerted NFCU to the loss and submitted a fraud claim with substantial factual proof
11 identifying nearly \$1,000 in unauthorized charges.
12

13 3. One day later, NFCU summarily denied Plaintiff Stephenson’s claim on the
14 grounds that it “found the claim to be unsupported.”
15

16 4. Plaintiff Stephenson pleaded with the bank three more times to either explain
17 its reasoning for denying the fraud claim or re-review his submitted evidence — after all,
18 how could NFCU determine that Plaintiff Stephenson’s fraud claim was “unsupported”
19 when he submitted supporting evidence? And how could Plaintiff convince NFCU to
20 change its mind if he had no understanding as to why NFCU denied the claim in the first
21 instance?
22
23
24
25
26

27 ¹ Federal Trade Commission, “New FTC Data Show Consumers Reported Losing Nearly \$8.8
28 Billion to Scams in 2022.” (February 2023).

1 5. Plaintiff Smith—an active duty military member—is another such victim.
2 Plaintiff Smith’s phone was stolen and his checking and savings accounts were accessed
3 without his authority. Plaintiff notified NFCU and submitted a detailed fraud claim
4 identifying thousands of dollars in unauthorized funds transfers.
5

6 6. Approximately three days later, however, NFCU summarily denied Plaintiff
7 Smith’s claim after concluding that “no error has occurred.”
8

9 7. Plaintiffs were given no opportunity to contest NFCU’s reasoning for denying
10 their fraud claims or any explanation as to how NFCU reached its conclusion. Despite
11 Plaintiffs’ repeated requests for an explanation and further review, and submitting detailed
12 reports of their stolen cards/access device and fraudulent transactions, NFCU mechanically
13 rejected each of Plaintiffs’ claims without performing a reasonable investigation and
14 instead, issued form denial letters devoid of any factual findings or documentation from its
15 alleged investigation.
16
17

18 8. NFCU’s superficial rejection of Plaintiffs’ bona fide fraud claims and the use
19 of form denial letters without any written explanation or supporting documentation violates
20 federal law.
21

22 9. Long ago, Congress decided financial institutions—and not consumers—must
23 bear the risk of loss in cases of financial fraud. Financial institutions like NFCU are
24 therefore required to refund all timely reported fraud losses to consumers unless the
25 financial institution can affirmatively demonstrate that the disputed transactions were in
26 fact authorized.
27
28

1 10. If a financial institution like NFCU denies a fraud claim, it must provide a
2 substantive written explanation of its findings and must make the supporting
3 documentation available to any consumer who requests it. Thus, by statute, once fraud is
4 reported, NFCU—not consumers—bears the burden of proving fraud did not occur. NFCU
5 must meet this burden with evidence and must explain its factual findings in writing.
6

7 11. This requirement is more than a formality: financial institutions must explain
8 their findings and provide the requested documentation so that consumers like Plaintiffs
9 can refute the financial institution’s conclusions. Without such information, consumers like
10 Plaintiffs are hamstrung by NFCU’s black-box decision-making.
11

12 12. In sum, NFCU has adopted a fraud investigation process that systematically
13 flips the statutory burden on its head. NFCU denies fraud claims it unilaterally deems to
14 be “unsupported” or that “no error has occurred” without providing any substantive
15 explanation as to how or why it has satisfied its burden of demonstrating that the disputed
16 charges were authorized. In practice, this creates a NFCU versus the consumer system in
17 which NFCU always wins. This is precisely the type of system federal law was designed
18 to prevent.
19

20 13. Moreover, NFCU’s conduct also constitutes an express breach of its contract
21 with accountholders. NFCU’s Debit Card Agreement promises that consumers will only
22 be liable for \$50 if their card is lost or stolen if the consumer timely reports the lost or
23 stolen card. Similarly, NFCU’s Account Disclosures promises that consumers will only be
24 liable for \$50 if their password or other means to access their account, card, or PIN is lost
25
26
27
28

1 or stolen if the consumer timely reports same. But NFCU routinely fails to honor its
2 promises.

3
4 14. NFCU's disregard of its statutory and contractual obligations subjects its
5 accountholders like Plaintiff who similarly fell victim to theft to shoulder thousands of
6 dollars in fraudulent purchases and transactions that they did not authorize.

7
8 15. Plaintiffs bring this action on behalf of themselves and a proposed class of all
9 other similarly situated NFCU accountholders who notified Defendant that one or more
10 charges on their account were unauthorized and were summarily denied reimbursement
11 without a reasonable investigation and explanation because NFCU found the claim to be
12 "unsupported" or that "no error" occurred—a standard which unlawfully reverses the
13 evidentiary burden and results in the denial of reimbursement for fraud losses which, by
14 statute and its contract, should have been covered by NFCU.
15
16

17 **II. PARTIES**

18 16. Plaintiff Jeffrey Stephenson is a citizen and resident of Bonita, California and
19 is a joint owner of a NFCU checking account with his teenage son.
20

21 17. Plaintiff Billy Smith II is a citizen and resident of Los Angeles, California and
22 owner of a NFCU checking and savings account. Plaintiff Smith is also an active duty
23 member of the U.S. Navy with security clearance.
24

25 18. Defendant Navy Federal Credit Union is a national credit union with its
26 headquarters and principal place of business located in Vienna, Virginia. Among other
27 things, NFCU is engaged in the business of providing retail banking services to consumers,
28

1 including Plaintiff and the members of the putative class, which includes the issuance of
2 debit cards for use by its customers in conjunction with their checking accounts. NFCU
3 operates banking centers and thus, conducts business throughout the United States,
4 including within this district.
5

6 **III. JURISDICTION AND VENUE**

7
8 19. This Court has jurisdiction under 28 U.S.C. § 1331 and 15 U.S.C. § 1693m(g)
9 because Plaintiffs' EFTA claim arises under federal law.

10 20. This Court has supplemental jurisdiction under 28 U.S.C. § 1367 to resolve
11 Plaintiffs' statutory claim arising under California law.
12

13 21. This Court also has original jurisdiction over the action under the Class Action
14 Fairness Act ("CAFA") of 2005. Pursuant to 28 U.S.C. §§ 1332(d)(2) and (6), this Court
15 has original jurisdiction because the aggregate claims of the putative class members exceed
16 \$5 million, exclusive of interests and costs, and at least one member of the proposed class
17 is a citizen of a different state than NFCU.
18

19 22. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because NFCU
20 is subject to personal jurisdiction here and regularly conducts business in this district, and
21 because a substantial part of the events or omissions giving rise to the claims asserted
22 herein occurred in this district.
23
24

25 **IV. FACTUAL BACKGROUND AND GENERAL ALLEGATIONS**

26
27
28

23. More than 2 million consumers are the victims of financial fraud every year.²

24. Consumers' fraud losses are expected to reach \$165 billion in the next decade as scammers deploy more sophisticated tools and techniques.³

A. Plaintiff Stephenson Was The Victim of Debit Card Fraud

25. Plaintiff Jeffrey Stephenson and his teenage son are joint owners of an NFCU checking account since approximately April 2020. They are also victims of debit card fraud.

26. On or around February 22, 2023, Plaintiff Stephenson and his son discovered that their NFCU debit card was missing after noticing several unauthorized transactions had occurred on their account.

27. On February 23, 2023, the card was promptly reported as stolen to NFCU and Plaintiff Stephenson submitted a claim of unauthorized debit card activity for a total of \$991.98 in fraudulent purchases.

28. Plaintiff Stephenson submitted to NFCU a detailed account as to why these unauthorized transactions were fraudulent purchases. For example, Plaintiff Stephenson disclosed that the purchase history since the debit card was acquired over 400+ purchases ago demonstrates that there were *no* purchases made at Walmart, yet 11 of the unauthorized transactions occurred at Walmart all within the short period of 14 days.

² Federal Trade Commission, "New FTC Data Show Consumers Reported Losing Nearly \$8.8 Billion to Scams in 2022." (February 2023).

³ The Nilson Report, "Payment Card Fraud Losses Reach \$32.34 Billion." (December 2022).

1 29. On February 24, 2023—just one day after Plaintiff Stephenson submitted his
2 fraud claim—NFCU sent a letter informing Plaintiff Stephenson of its “final
3 determination” of the fraud claim in which it concluded that “no error has occurred.” *See*
4 **Exhibit A**, February 24, 2023 Letter (the “First Stephenson Denial Letter”). The First
5 Denial Letter included no additional detail as to the reason the claim was denied, stating
6 only:
7

8 Our investigation was based on a review of your account activity, including,
9 but not limited to: transaction details, account history, and/or discrepancies
10 between the fraud claim and your account.

11 *Id.*

12 30. Having received no meaningful explanation why his fraud claim was denied,
13 Plaintiff Stephenson submitted additional information via NFCU’s website, including
14 detailed written responses to seven questions posed by NFCU. Plaintiff Stephenson
15 appealed Defendant’s decision made in the First Denial Letter.
16

17 31. Plaintiff Stephenson urged NFCU to review Plaintiff Stephenson’s prior
18 transaction history compared to the fraudulent charges. Plaintiff Stephenson’s appeal
19 identified specific charges at multiple merchants that Plaintiff had never purchased from
20 before. Plaintiff Stephenson also pointed out that the account history demonstrates Plaintiff
21 had only previously made low-dollar purchases with his debit card, unlike many of the
22 fraudulent charges that were over a \$100.
23

24 32. Plaintiff Stephenson additionally filed a police report reporting the stolen card
25 and fraudulent charges and provided NFCU with the report number in his appeal.
26
27
28

1 33. On March 10, 2023, NFCU sent Plaintiff Stephenson another letter reporting
2 the findings of its second review of his fraud claim. Defendant again denied Plaintiff's
3 claim without any explanation as to why:
4

5 After carefully reviewing the information you provided, we have concluded
6 that no error occurred. Therefore, the original decision to deny the claim
7 stands. You are responsible for the full amount of the claim, \$991.98.

8 *See Exhibit B*, March 10, 2023 Letter (the "Second Stephenson Denial Letter").

9 34. On March 26, 2023, Plaintiff Stephenson requested more information
10 regarding the denial via NFCU's website and noted that he has received no explanation
11 despite the second review and several calls to NFCU's fraud prevention team.
12

13 35. In response, on March 30, 2023, NFCU told Plaintiff Stephenson that, "In
14 order to receive the documents requested, you will need to file a report with your local
15 police department. Your local police can then subpoena our records." *See Exhibit C*,
16 March 30, 2023, NFCU's Online Response to Stephenson.
17

18 36. On or around March 31, 2023, Plaintiff Stephenson met with a branch
19 manager at NFCU to gather more information about NFCU's denials, but no one could
20 offer him any further information about why his fraud claim was denied.
21

22 37. On April 3, 2023, Plaintiff Stephenson was forced to submit a claim to the
23 Consumer Financial Protection Bureau (the "CFPB") as an additional avenue of relief to
24 uncover how NFCU reached its conclusion that no fraud occurred. NFCU responded to the
25 CFPB on June 2, 2023, affirming its conclusion that Plaintiff Stephenson's fraud claim was
26
27
28

1 denied and again failing to offer any justification in support of its determination. Instead,
2 NFCU reiterated that it “found the claim to be unsupported.” NFCU further stated:

3
4 Based on the facts of our investigation, we determined that the claim remains
5 denied. All account owners remain responsible for the activity that was
6 conducted on the account.

7
8 *See Exhibit D*, Stephenson’s CFPB Complaint Status Report.

9
10 38. Based on NFCU’s response, CFPB then closed Plaintiff Stephenson’s
11 complaint.

12
13 39. Plaintiff Stephenson similarly submitted a complaint to the Better Business
14 Bureau (the “BBB”) and NFCU responded directly to Plaintiff on June 2, 2023, again
15 standing behind the decisions reached on its first and second reviews and regurgitating the
16 same response devoid of any rationale or factual support. NFCU reiterated that it “found
17 the claim to be unsupported.” NFCU further stated:

18
19 Based on the facts of our investigation, we determined that the claim remains
20 denied. All account owners remain responsible for the activity that was
21 conducted on the account.

22
23 *See Exhibit E*, June 2, 2023 Letter (the “Third Stephenson Denial Letter”).

24
25 40. To date, Plaintiff Stephenson has not been refunded any of the \$991.98 in
26 fraudulent purchases.

27
28 41. Indeed, despite Plaintiff Stephenson submitting detailed information to prove
he incurred unauthorized transactions, NFCU flatly refused to find any “error” occurred
and did so without providing any substantive explanation or justification. It was NFCU’s
burden to prove that these disputed transactions were authorized—not Plaintiff’s—and its

1 failure to do so is unlawful and unfair to Plaintiff and thousands of other consumers who
2 have to bear the consequences of stolen funds in unlimited sums.

3
4 **B. Plaintiff Smith Was The Victim of Fraud**

5 42. Plaintiff Smith was temporarily assigned to Pensacola, Florida to attend
6 training for the Navy. On either July 13 or July 14, 2024, Plaintiff's phone was stolen while
7 he was on a trip to New Orleans. Plaintiff tried retracing his steps and searching his hotel
8 room to locate his phone but was unsuccessful. On July 14, 2024, Plaintiff discovered that
9 (1) his account was compromised, and (2) thousands of dollars had been stolen in
10 unauthorized and fraudulent transfers and/or withdrawals.
11

12
13 43. On July 14, 2024, Plaintiff immediately reported to NFCU that his phone had
14 been stolen and his account information was compromised and submitted a detailed claim
15 of unauthorized and fraudulent account activity worth thousands of dollars. In doing so,
16 Plaintiff sufficiently informed NFCU as to why these unauthorized transactions were
17 fraudulent and improper.⁴
18

19
20 44. Just a few days after Plaintiff Smith submitted his fraud claim—on July 17,
21 2024—NFCU sent a letter informing Plaintiff of its “final determination” of the \$9,800.00
22 fraud claim in which it concluded that “no error has occurred.” *See Exhibit F*, July 17,
23 2024 Letter (“First Smith Denial Letter”). The First Smith Denial Letter further stated:
24
25

26
27 ⁴ One day later, Plaintiff Smith tracked the location of his phone to Memphis, Tennessee—clearly
28 demonstrating that his phone had been stolen and informed NFCU of the same.

1 Based on the facts of our investigation, we have determined that no error has
2 occurred and your claim has been denied. Additionally, we have reviewed
3 your transaction history and, based on the facts surrounding the use of your
4 account, we have found that you benefited from the transaction(s). As a
consumer, you have the right to request any documentation that was used in
the decision of this claim.

5 *Id.*

6 45. Needless to say, Plaintiff Smith was shocked as these transactions took place
7 *after* his phone was stolen and he did not receive any benefit from them, let alone know
8 who or what they were for. Having received no detailed or meaningful explanation as to
9 why his fraud claim was denied, and having received no findings from NFCU as to why
10 his claim was denied or how he “benefitted” from same, Plaintiff Smith appealed
11 Defendant’s decision made in the First Smith Denial Letter. In doing so, Plaintiff Smith
12 provided a detailed, written account of the fraud claim and the circumstances surrounding
13 same to NFCU.
14

15 46. On August 12, 2024, after Plaintiff Smith inquired about the status of the
16 appeal, NFCU sent Plaintiff another letter (this time in the form of an e-message) reporting
17 the findings of its “second review” of his fraud claim. Defendant again denied Plaintiff’s
18 claim without any explanation or findings:
19

20 After a second review of your claim, it has been determined that your claim
21 will remain denied.
22

23 *See Exhibit G*, August 12, 2024 NFCU Online Response to Smith.
24
25
26
27
28

1 47. In response, Plaintiff asked for the documentation supporting the denial of the
2 fraud claim, which NFCU promised it would provide as part of its first denial letter.
3
4 Revealingly, NFCU refused to provide any documents. Instead, Defendant claimed that:

5 During our investigation, we use various methodologies to achieve the best
6 results, which may include internal databases, monthly statements, merchant
7 documentation (if applicable) and any information obtained directly from the
8 member. Please note that we are unable to provide sensitive information that
does not fall within compliance.

9 *See id*; *see also* Dkt. 19-2 and Exhibit E attached thereto (NFCU’s same online
10 response to Stephenson’s request for documents).

11 48. By denying Plaintiff Smith’s claim on the unsupported, vague, and conclusory
12 ground that “no error has occurred” after just a few days of conducting a purported
13 “investigation,” and by failing to provide a detailed explanation of its findings supporting
14 its denial (or any documents in support of same), NFCU flouts the EFTA and Regulation
15 E’s investigation and error resolution requirements and ultimately fails to satisfy its burden
16 of proving that the unauthorized transactions as reported by Plaintiff Smith were in fact
17 authorized.
18
19

20 49. Despite Plaintiff Smith submitting detailed information to prove he suffered
21 from unauthorized transactions, NFCU flatly refused to find any “error” occurred and did
22 so without providing any substantive explanation or findings and refusing to provide the
23 requested documentation. It was NFCU’s burden to prove that these disputed transactions
24 were authorized—not Plaintiff Smith’s—and its failure to do so is unlawful and unfair to
25
26
27
28

1 Plaintiff Smith and thousands of other consumers who have to bear the consequences of
2 stolen funds in unlimited sums.

3
4 50. To date, Plaintiff Smith has not been refunded the outstanding fraudulent
5 transfers and/or withdrawals. Meanwhile, Plaintiff is an active military member with a wife
6 and child who relies on his military salary alone. Plaintiff and his family cannot afford to
7 simply lose thousands of dollars from their bank accounts.
8

9 **C. NFCU Flouts the Requirements of the Electronic Funds Transfer Act**
10 **Regarding Its Investigation of Fraudulent and Unauthorized**
11 **Transactions**

12 51. Congress established the Electronic Funds Transfer Act (the “EFTA”), 15
13 U.S.C. §§ 1693, *et seq.* to guarantee strong protections for consumers who engage in
14 electronic fund transfers. Among the widespread protections afforded under these statutes,
15 financial institutions like NFCU are required to maintain thorough practices for error
16 resolution, including to promptly investigate fraud claims, to provide consumers with
17 substantive written explanations of its investigations and conclusions, to limit consumer
18 liability for unauthorized transactions, and, if ultimately denying those fraud claims, to bear
19 the burden of proving that a consumers’ disputed transactions were in fact authorized.
20
21

22 52. The EFTA requires that financial institutions limit consumer liability for
23 unauthorized electronic funds transfers to \$50 if the consumer notifies the bank within two
24 business days after learning of the loss or theft of an access device such as a phone or debit
25 card. 12 C.F.R. § 205.6(b)(1).
26
27
28

1 53. The EFTA places the burden of proof on the financial institution to
 2 demonstrate that challenged transfers were authorized or, if they were unauthorized, that
 3 the consumer can be held liable for them. 15 U.S.C. § 1693g(b).
 4

5 54. Specifically, under Section 1693g(b), the financial institution must show that
 6 the disputed transfer was authorized:
 7

8 BURDEN OF PROOF.--In any action which involves a consumer's liability
 9 for an unauthorized electronic fund transfer, the burden of proof is upon the
 10 financial institution to show that the electronic fund transfer was authorized
 11 or, if the electronic fund transfer was unauthorized, then the burden of proof
 12 is upon the financial institution to establish that the conditions of liability set
 13 forth in subsection (a) have been met, and, if the transfer was initiated after
 14 the effective date of section 905, that the disclosures required to be made to
 15 the consumer under section 905(a)(1) and (2) were in fact made in accordance
 16 with such section.

17 55. As a Federal Reserve Board Examiner has explained, "if the institution
 18 cannot establish the disputed EFT transaction was authorized, the institution must credit
 19 the consumer's account."⁵
 20

21 56. NFCU explicitly reverses that burden, regularly denying claims on grounds
 22 that they "found the claim to be unsupported" or found "no error" based on "discrepancies
 23 between the fraud claim and your account."
 24
 25

26 ⁵ Scott Sonbuchner, *Error Resolution and Liability Limitations Under Regulations E and Z:*
 27 *Regulatory Requirements, Common Violations, and Sound Practices*, Consumer Compliance
 28 Outlook (2021), available at <https://www.consumercomplianceoutlook.org/2021/seconddissue/error-resolution-and-liability-limitations-under-regulations-e-and-z/>.

1 57. Further, by statute, NFCU is required to support any denial with a written
2 explanation of its findings and is required to provide copies of the documents it relied upon
3 in concluding that the disputed transaction was authorized. Specifically, pursuant to 15
4 U.S.C. § 1693f(d) and 12 C.F.R. § 1005.11(d), NFCU must provide a written explanation
5 detailing the results of its investigation:
6

7 **Written explanation.** The institution's report of the results of its investigation
8 shall include a written explanation of the institution's findings and shall note
9 the consumer's right to request the documents that the institution relied on in
10 making its determination. Upon request, the institution shall promptly provide
11 copies of the documents.

12 58. NFCU fails to comply with its statutory obligations by failing to provide
13 written explanations of its denials and by failing to provide copies of documents it relied
14 on to determine the disputed transactions were authorized. Instead, NFCU routinely denies
15 claims without any explanation whatsoever, stating only its conclusion in a form letter that
16 a claim has been denied because supposedly “no error occurred.”
17

18 59. Moreover, NFCU violates the EFTA by requiring consumers to file police
19 reports to receive copies of the documents underlying its investigation, which again,
20 violates the statute. *See Exhibit B.*
21

22 60. Instead, when consumers request the underlying investigative documents that
23 Navy Federal is federally mandated to produce, NFCU flatly refuses. *See Exhibit G; see*
24 *also* Dkt. 19-2 and Exhibit E attached thereto.
25

26 61. NFCU’s boilerplate denial letters flip the burden of proof onto consumers to
27 *disprove* the supposed reasonableness of its investigation. But EFTA puts the burden of
28

1 proof on financial institutions to show that disputed charges were authorized. 15 U.S.C. §
2 1693g(b).

3
4 62. Further, the EFTA prohibits financial institutions from using accountholder
5 agreements that waive any rights conferred by the statute. 15 U.S.C. § 1693l.

6 63. NFCU's Debit Card Agreement purports to allow NFCU to deny claims for
7 unauthorized transactions when NFCU does not "confirm" those transactions to be
8 fraudulent. *See Exhibit H*, Debit Card Agreement ¶ 15. NFCU asserts that the Agreement
9 provides it with "flexibility" to unilaterally "conclude a transaction was not unauthorized"
10 (Dkt. No. 11-1 at 18) without any substantive explanation of its findings. *See id.*

11
12
13 64. In these ways, NFCU attempts to use its Debit Card Agreement to waive the
14 requirements of the EFTA, in further violation of the statute.

15
16 65. In sum, by denying Plaintiff's claim because it "found the claim to be
17 unsupported" or "no error occurred" and by failing to provide a written explanation of its
18 findings to support its denial and refusing to provide the documents it relies on in making
19 its determination, NFCU flouts the EFTA's investigation and error resolution requirements
20 and ultimately fails to satisfy its burden of demonstrating that the unauthorized transactions
21 as reported by Plaintiffs were in fact authorized. Further, by doing the foregoing in reliance
22 on its Debit Card Agreement, NFCU violates 15 U.S.C. § 1693l.

23
24
25 ***NFCU's Investigation was Conclusory and Insufficient and Failed to Provide a Written***
26 ***Explanation of Its Findings to Support Its Denial***
27
28

1 66. Under the EFTA, if the consumer alleges that there has been an unauthorized
2 transfer, the consumer's financial institution **must** investigate and determine if the
3 allegation is true, correcting any unauthorized transfer that occurred. 12 C.F.R. § 1005,
4 Supp. I at 11(c)(4) (emphasis added).

5
6 67. Financial institutions are liable to the consumer if they do not
7 conduct a good faith investigation of the claim, reject the claim despite not having a
8 reasonable basis to do so, or unreasonably fail to draw from the evidence that no error had
9 occurred. 15 U.S.C. § 1693f(e).
10

11
12 68. When investigating a consumer's claim of error, which includes unauthorized
13 transfers, 15 U.S.C. § 1693f(f), "the financial institution **must** review any relevant
14 information within the institution's own records for the particular account to resolve the
15 consumer's claims." 12 C.F.R. § 1005, Supp. I at 11(c)(4) (emphasis added).
16

17 69. NFCU received notice from Plaintiffs of the facts and circumstances of the
18 unauthorized transactions. But NFCU ignored or failed to meaningfully consider that
19 Plaintiffs' disputed the transactions as unauthorized.
20

21 70. Similarly, NFCU ignored or failed to meaningfully consider Plaintiffs'
22 transaction histories for a reasonable period of time immediately preceding their claims for
23 consistency with prior transaction history. As it relates to Plaintiff Stephenson, he
24 identified specific charges at multiple merchants that Plaintiff had never purchased from
25 before. Plaintiff Stephenson also pointed out that the account history demonstrates Plaintiff
26
27
28

1 Stephenson had only previously made low-dollar purchases with his debit card, unlike
2 many of the fraudulent charges that were over \$100.

3
4 71. Plaintiff Stephenson also provided NFCU with a copy of the police report for
5 his stolen card and fraudulent transactions after his claim was denied.

6
7 72. For Plaintiff Smith, NFCU ignored that he had never transferred money to the
8 recipients and that the transfers occurred after his phone had been stolen. The unauthorized
9 transfers included transfers of \$5,000 and \$4,000 that occurred on the same day and to
10 recipients he had no transaction history with and were by far the largest transfers posted to
11 his account in recent months.

12
13 73. Despite this, NFCU's denial letters opaquely stated, "no error has occurred[.]"

14
15 74. NFCU's boilerplate denial letters boilerplate denial letters fail to explain the
16 review it conducted of its own records, including the specific records it reviewed and how
17 these specific records supported NFCU's conclusion that the subject transactions
18 supposedly had "no error."

19
20 ***NFCU failed to comply with its error resolution obligations and did not reimburse***
21 ***Plaintiffs for the unauthorized transactions***

22
23 75. The EFTA requires that financial institutions limit consumer liability for
24 unauthorized electronic funds transfers to \$50 if the consumer notifies the bank within two
25 business days after learning of the loss or theft of an access device such as a debit card. 12
26 C.F.R. § 205.6(b)(1).

1 76. Consumer negligence plays no role in determining the consumer's maximum
 2 liability. For example, if a consumer wrote their pin number on a debit card which was
 3 used by a third party to initiate an unauthorized transaction, NFCU would still have an
 4 error resolution obligation to reimburse the consumer. Comment to 12 C.F.R. § 1005.6(b)
 5 – 2.

6
 7
 8 77. In violation of its “error resolution” obligation under 12 C.F.R. § 1005.11,
 9 NFCU did not reimburse Plaintiffs’ losses from the unauthorized transactions.

10 78. To date, Plaintiff Stephenson has not been reimbursed for nearly \$1,000 in
 11 fraudulent transactions. Nor has Plaintiff Smith been reimbursed fully for over \$11,000 in
 12 fraudulent transactions.
 13

14 **D. NFCU Breaches Contract Promises that Fraudulent and Unauthorized**
 15 **Transactions Come with Zero Fraud Liability, or at a Minimum, Limit**
 16 **Liability**

17 79. NFCU’s Debit Card Agreement makes a simple, straightforward promise for
 18 debit card transactions:

19
 20 **Cardholder Liability for Unauthorized Transactions: *NOTIFY US AT***
 21 ***ONCE* if you believe that your DC or personal identification number**
 22 **(PIN) has been lost, stolen, or used (or may be used) without your**
 23 **authority.** The best way to minimize your possible losses is to contact us as
 24 soon as possible by calling us at the number above or, if you have Navy
 Federal Online Banking, by using the Report Fraud feature. You may also
 notify us in person at any branch or in writing using the address above.

25 **Timely Notice of Missing DC:** If you notify us within 2 business days after
 26 you learn of the loss or theft of your DC or PIN, your losses will be no more
 27 than \$50 if someone used your DC or PIN without your permission.

28 Debit Card Agreement ¶ 14.

1
2 80. Plaintiff Stephenson “believe[d] that [his] [debit card] ha[d] been lost” and
3 duly notified NFCU of the loss of his debit card within 2 business days of learning of the
4 loss.
5

6 81. Despite this notification, Plaintiff Stephenson’s losses total close to \$1,000.

7 82. By failing to limit Plaintiff Stephenson’s liability to \$50, NFCU breached its
8 contract.
9

10 83. Similarly, NFCU’s Account Disclosures promises that for electronic funds
11 transfers:
12

13 **Your Liability for Unauthorized Electronic Funds Transfers**
14 **Notify us AT ONCE if you believe:**

- 15 • your account may have been accessed without your authority;
- 16 • your card, code, or password has been lost or stolen;
- 17 • someone has transferred or may transfer money from your account
18 without your permission; or
- 19 • an electronic funds transfer has been made without your permission
20 using information from your check or your MMSA check.

21 The best way to minimize your possible loss is to telephone or, if you have
22 Online Banking, contact us through our eMessaging system at
23 **navyfederal.org**, although you may advise us in person or in writing.

24 [...]

25 If you tell us within two (2) business days after you discover your password
26 or other means to access your account has been lost or stolen, your liability is
27 no more than \$50.00 should someone access your account without your
28 permission.

See **Exhibit I**, Account Disclosures at p. 13-14.

1 84. Plaintiff Smith believed his “account [had] been accessed without [his]
2 authority,” believed that his “card, code, or password_ha[d] been lost or stolen,” believed
3 that “someone ha[d] transferred ... money from [his] account without [his] permission”
4 and duly notified NFCU of the loss within 2 business days of learning same.
5

6 85. Despite this notification, Plaintiff Smith’s losses total thousands of dollars.
7

8 86. By failing to limit Plaintiff Smith’s liability to \$50, NFCU breached its
9 contract.
10

11 **E. NFCU Breaches the Covenant of Good Faith and Fair Dealing**

12 87. In addition to the foregoing, NFCU also promises that NFCU will investigate
13 “unauthorized transactions” in accordance with its “Billing Error Resolution” process.
14 Debit Card Agreement at ¶ 16; *see also* Account Disclosures at p. 14 (describing
15 substantially similar error resolution procedures).
16

17 88. For debit card transactions that NFCU “confirms” are fraudulent, NFCU
18 promises “zero liability:”
19

20 **Navy Federal’s Zero Liability Policy for Fraud:** In addition to the liability
21 limits above, if you notify us of suspected fraud within 60 days of the
22 statement date on which the fraudulent transactions first appear, we will not
23 hold you responsible for confirmed fraudulent transactions. This Zero
24 Liability policy only covers transactions that have been confirmed by Navy
25 Federal as fraudulent.
26 Debit Card Agreement at ¶ 15.

27 89. NFCU thus vests itself with unilateral discretion to “confirm” or deny whether
28 a fraudulent transaction occurred.

1 90. NFCU has significant discretion in conducting these investigations and has an
2 obligation to conduct these investigations in good faith.

3
4 91. NFCU fails to conduct these investigations in good faith, and instead
5 summarily denies bona fide fraud claims based on shoddy investigations, completed behind
6 closed doors and without any explanation.

7
8 92. NFCU's conduct breaches the covenant of good faith and fair dealing.

9 **V. CLASS ACTION ALLEGATIONS**

10 93. Plaintiffs bring this action on their own behalf and on behalf of all others
11 similarly situated. The proposed Class includes:

12
13 All holders of a Navy Federal checking and/or savings account who, within
14 the applicable statute of limitations preceding the filing of this lawsuit up until
15 the date of class certification, notified Navy Federal that one or more charges
16 on their account totaling more than \$50 were unauthorized and were denied
17 reimbursement with a form letter and without a written explanation of Navy
Federal's findings demonstrating that the disputed charge(s) were authorized
("Reg E Class").

18
19 All holders of a Navy Federal checking and/or savings account who, within
20 the applicable statute of limitations preceding the filing of this lawsuit up until
21 the date of class certification, notified Navy Federal that one or more charges
22 on their account totaling more than \$50 were unauthorized and were denied
23 reimbursement and who were not timely provided a copy of the investigative
documents upon request in accordance with 15 U.S.C. § 1693f(d) and its
implementing regulations ("Investigative Documents Class").

24 All holders of a Navy Federal checking account who, within the applicable
25 statute of limitations preceding the filing of this lawsuit up until the date of
26 class certification, timely notified Navy Federal that one or more charges on
27 their account were unauthorized and were denied reimbursement by Navy
28 Federal ("Breach of Contract Class").

1 94. Additionally, Plaintiffs propose California subclasses for each of the
2 foregoing classes (“California Subclasses”).
3

4 95. Excluded from the Class is Defendant, its subsidiaries and affiliates, their
5 officers, directors and members of their immediate families and any entity in which
6 Defendant has a controlling interest, the legal representatives, heirs, successors or assigns
7 of any such excluded party, the judicial officer(s) to whom this action is assigned, and the
8 members of their immediate families.
9

10 96. The Class and alternative state subclasses defined above are collectively
11 referred to herein as the “Class.” Plaintiffs reserve the right to modify or amend the
12 definition of the proposed Class and/or to add a subclass(es), if necessary, before this Court
13 determines whether certification is appropriate.
14

15 97. **Numerosity (Rule 23(a)(1)).** The proposed Class is numerous such that
16 joinder is impracticable. Upon information and belief, and subject to class discovery, the
17 Class consists of thousands of members or more, the identity of whom are within the
18 exclusive knowledge of and can be ascertained only by resort to NFCU’s records. The
19 proposed Class is also sufficiently ascertainable because NFCU has the administrative
20 capability through its computer systems and other business records to identify all members
21 of the proposed Class, and such specific information is not otherwise available to Plaintiff.
22

23 98. **Commonality (Rule 23(a)(2)).** The questions here are ones of common or
24 general interests such that there is a well-defined community of interest among the
25 proposed Class members. These questions predominate over questions that may affect only
26
27
28

1 individual Class members because NFCU has acted on grounds generally applicable to the
2 proposed Class. Such common legal or factual questions include, but are not limited to:

- 3
4 a. Whether NFCU failed to comply with the EFTA's and Regulation E's
5 unauthorized electronic fund transfers limitations on consumer liability
6 under 15 U.S.C. § 1693g(a) and 12 C.F.R. § 205.6(b)(1);
- 7
8 b. Whether NFCU failed to satisfy the EFTA's assigned burden upon
9 financial institutions to prove that the disputed electronic transactions were
10 in fact authorized under 15 U.S.C. § 1693g(b);
- 11
12 c. Whether NFCU's Debit Card Agreement violates 15 U.S.C. § 1693l;
- 13
14 d. Whether NFCU failed to comply with the EFTA's and Regulation E's
15 written explanation requirements under 15 U.S.C. § 1693f(d) and 12
16 C.F.R. § 1005.11(d)(4)(ii) upon denying an accountholder's fraud claim;
- 17
18 e. Whether NFCU failed to comply with the EFTA's and Regulation E's
19 request for copies of documentation requirements under 15 U.S.C. §
20 1693f(d) and 12 C.F.R. § 1005.11(d)(1) upon denying an accountholder's
21 fraud claim;
- 22
23 f. Whether NFCU's denial of fraud claims on the grounds that it determined
24 no error occurred without any further written explanation is unlawful under
25 the EFTA;
- 26
27 g. Whether NFCU's investigations of fraud claims are inadequate,
28 unreasonable, or unfair;
- h. Whether NFCU's practice of denying fraud claims constitutes an unfair,
misleading, or unlawful business practice under California's Unfair
Competition Law (the "UCL"), Cal. Bus. & Prof. Code § 17200, *et seq.*;
- i. Whether NFCU breached its contract with accountholders or breached the
covenant of good faith and fair dealing;
- j. Whether Plaintiffs and other members of the proposed Class are entitled to
injunctive relief to enjoin NFCU's from its unlawful business practices
described herein; and

- 1
2 k. Whether Plaintiffs and other members of the proposed Class have
3 sustained damages as a result of NFCU's wrongful business practices
4 described herein and the measure of damages.

5 99. **Typicality (Rule 23(a)(3)).** Plaintiffs' claims are typical of the claims of the
6 other proposed Class members in that they arise out of the same wrongful business practice
7 by NFCU, as described herein.

8 100. **Adequacy (Rule 23(a)(4)).** Plaintiffs are more than adequate representatives
9 of the proposed Class in that they have suffered damages as a result of NFCU's improper
10 business practices. Additionally:

- 11
12 l. Plaintiffs are committed to the vigorous prosecution of this action on
13 behalf of themselves and all others similarly situated and has retained
14 competent counsel experienced in the prosecution of class actions and, in
15 particular, class actions on behalf of consumers against financial
16 institutions;
- 17 m. There is no conflict of interest between Plaintiffs and the unnamed Class
18 members;
- 19 n. Plaintiffs anticipate no difficulty in the management of this litigation as a
20 class action; and
- 21 o. Plaintiffs' legal counsel has the financial and legal resources to meet the
22 substantial costs and legal issues associated with this type of litigation.

23 101. **Predominance & Superiority (Rule 23(b)(3)).** Plaintiffs' proposed class
24 action is the superior method for resolving this dispute because it is impracticable to bring
25 proposed Class members' individual claims before the Court. Class treatment permits a
26 large number of similarly situated persons or entities to prosecute their common claims in
27 a single forum simultaneously, efficiently, and without the unnecessary duplication of
28

1 evidence, effort, expense, or the possibility of inconsistent or contradictory judgments that
2 numerous individual actions would engender. The benefits of the class action mechanism,
3 including providing injured persons or entities with a method for obtaining redress on
4 claims that might not be practicable to pursue individually, substantially outweigh any
5 difficulties that may arise in the management of this class action. Plaintiffs know of no
6 difficulty to be encountered in the maintenance of this action that would preclude its
7 maintenance as a class action.

10 **102. Final Declaratory or Injunctive Relief (Rule 23(b)(2)).** Plaintiffs also
11 satisfy the requirements for maintaining a class action under Rule 23(b)(2). Defendant has
12 acted or refused to act on grounds generally applicable to each of the Class, thereby making
13 appropriate final injunctive relief or corresponding declaratory relief with respect to each
14 Class as a whole.

17 **103. Particular Issues (Rule 23(c)(4)).** Plaintiffs also satisfy the requirements for
18 maintaining a class action under Rule 23(c)(4). Plaintiffs' claims consist of particular issues
19 that are common to all members of the Classes and are capable of class-wide resolution
20 that will significantly advance the litigation.

FIRST CAUSE OF ACTION

23 **Violation of the Electronic Funds Transfers Act ("EFTA")**
24 **15 U.S.C. §§ 1693, *et seq.*; 12 C.F.R. §§ 1005.1, *et seq.* ("Regulation E" of the EFTA)**
25 **(On Behalf of Plaintiffs and the Reg. E Class and Investigative Documents Class)**

26 104. Plaintiffs incorporates the preceding allegations by reference as if fully set
27 forth herein.

1 105. Plaintiffs bring this cause of action pursuant to the Electronic Fund Transfers
2 Act (“EFTA”), 15 U.S.C. §§ 1693, *et seq.*, and Regulation E of the EFTA, 12 C.F.R. §§
3 1005.1, *et seq.*
4

5 106. The primary objective of the EFTA is “the protection of individual consumers
6 engaging in electronic fund transfers and remittance transfers.” 12 C.F.R. § 1005.1(b).
7

8 107. Financial institutions have error resolution obligations pursuant to Regulation
9 E in the event that a consumer notifies the financial institution of an error. 12 C.F.R. §
10 1005.11.
11

12 108. Plaintiffs notified NFCU of an error and the amount of the error.

13 109. The EFTA provides strong protection for consumers arising from
14 unauthorized transactions, including by requiring that financial institutions limit consumer
15 liability for unauthorized funds transfers to \$50 if the consumer notifies the financial
16 institution within two business days after learning of the loss or theft of a debit card, or
17 within sixty days of transmittal of the account statement reflecting the unauthorized
18 transactions. *See* 15 U.S.C. § 1693g(a).
19
20

21 110. Regulation E similarly provides that “[a] consumer’s liability for an
22 unauthorized electronic transfer or a series of related unauthorized transfers shall be
23 determined as follows: . . . If the consumer notifies the financial institution within two
24 business days after learning of the loss or theft of the access device, the consumer’s liability
25 shall not exceed the lesser of \$50 or the amount of unauthorized transfers that occur before
26 notice to the financial institution.” 12 C.F.R. § 205.6(b)(1).
27
28

1 111. The EFTA further places the burden on the financial institution to demonstrate
2 that challenged transfers were in fact authorized. *See* 15 U.S.C. § 1693g(b) (“In any action
3 which involves a consumer’s liability for an unauthorized electronic fund transfer, the
4 burden of proof is upon the financial institution to show that the electronic fund transfer
5 was authorized . . .”).

6
7 112. NFCU explicitly reverses that burden, regularly denying claims on grounds
8 that they found “no error has occurred” or “found the claim to be unsupported.”

9
10 113. NFCU failed to comply failed to comply with its EFTA and Regulation E
11 duties to properly investigate reported claims of error. *See* 15 U.S.C. § 1693f(c); 12 C.F.R.
12 § 205.11(c)(4).

13
14 114. NFCU did not make a good faith investigation and instead summarily denied
15 bona fide fraud claims, failing to consider all information it had available to it.

16
17 115. NFCU refused to reimburse Plaintiffs after it deemed its investigation
18 concluded.

19
20 116. Accordingly, NFCU failed to comply with its error resolution and
21 reimbursement obligations to Plaintiffs under EFTA, 15 § U.S.C. 1693f–1693g, and
22 Regulation E. *See* 12 C.F.R. § 1005.11.

23
24 117. Additionally, the EFTA requires that in the event the financial institution
25 determines that an error did *not* occur, it is required to provide the consumer with “an
26 explanation of its findings” and “upon the request of the consumer promptly deliver or mail
27
28

1 to the consumer reproductions of all documents which the financial institution relied on to
2 conclude such error did not occur.” 15 U.S.C. § 1693f(d).

3
4 118. Similarly, Regulation E provides that if the financial institution determines
5 “no error” occurred, then it is required to provide a written explanation to justify its denial:

6 **Written explanation.** The institution’s report of the results of its investigation
7 shall include a written explanation of the institution’s findings and shall note
8 the consumer’s right to request the documents that the institution relied on in
9 making its determination. Upon request, the institution shall promptly provide
copies of the documents.

10 119. NFCU fails to provide a written explanation of the results of its investigation
11 and instead relies on form letters which state in conclusory fashion, “no error occurred.”
12 Such letters do not comply with the EFTA’s requirements because they fail to explain to
13 consumers why their claim was denied, thus making it impossible to challenge the financial
14 institution’s findings.
15
16

17 120. NFCU boilerplate denial letters fail to explain whether Defendant, in
18 reviewing its own records, considered: the sum of each electronic fund transfer, the
19 recipient or merchant of each electronic fund transfer, the number of electronic fund
20 transfers processed in one day, and whether the Plaintiffs had previously solicited the
21 merchant(s).
22

23
24 121. NFCU also fails to provide the consumers with documents it relied on to
25 conclude that such error did not occur in violation of 15 U.S.C. § 1693f(d).

26 122. Plaintiffs requested NFCU to provide them with the documents relied on to
27 deny their claim, but they were never provided to them. NFCU also violates the EFTA by
28

1 requiring consumers to file police reports to receive copies of the documents it relied upon
2 in concluding that the disputed transaction was authorized.

3
4 123. Further, the EFTA prohibits financial institutions from using accountholder
5 agreements that waive any rights conferred by the statute. 15 U.S.C. § 1693l.

6 124. NFCU's Debit Card Agreement purports to allow NFCU to deny claims for
7 unauthorized transactions when NFCU does not "confirm" those transactions to be
8 fraudulent. Debit Card Agreement ¶ 15. NFCU asserts that the Agreement provides it with
9 "flexibility" to unilaterally "conclude a transaction was not unauthorized" (Dkt. No. 11-1
10 at 18) without any substantive explanation of its findings.

11
12
13 125. NFCU's Debit Card Agreement, as interpreted by NFCU, requires consumers
14 to waive these rights conferred by the EFTA and therefore violates the EFTA.

15
16 126. A financial institution will be held liable to the consumer for treble damages
17 where "the financial institution knowingly and willfully concluded that the consumer's
18 account was not in error when such conclusion could not reasonably have been drawn from
19 the evidence available to the financial institution at the time of its investigation." 15 U.S.C.
20 § 1693f(e)(2).

21
22 127. Plaintiffs provided notice to NFCU within two business days of discovering
23 that their debit card or access device had been stolen and that there were unauthorized
24 charges.

25
26 128. Plaintiffs requested NFCU provide them with the documents relied on to deny
27 their claims, but were never provided them.
28

1 129. By denying Plaintiffs' claims because it "found the claim to be unsupported"
2 or "no error has occurred" and by failing to provide a written explanation detailing its
3 investigation and findings and failing to provide the documents it relied on for its decision,
4 NFCU flouts the EFTA and Regulation E's investigation and error resolution requirements
5 and ultimately fails to satisfy its burden of proving that the unauthorized transactions as
6 reported by Plaintiffs were in fact authorized.
7

8
9 130. NFCU's affirmative actions and omissions violate the EFTA and Regulation
10 E whose "primary objective[s]" are "the protection of consumers" and "the protection of
11 individual consumer rights." *See* 12 C.F.R. § 1005.1(b); 15 U.S.C. § 1693(b).
12

13 131. As a direct and proximate result of NFCU's improper conduct outlined herein,
14 Plaintiffs and members of the putative class have suffered financial harm in the form of
15 being on the hook for hundreds of dollars in fraudulent transactions that they did not
16 authorize.
17

18 132. Accordingly, Plaintiffs and members of the putative class are entitled to an
19 award of statutory and actual damages, including attorneys' fees and costs, as set forth
20 under 15 U.S.C. § 1693m(a).
21

22 133. Additionally, Plaintiffs and members of the putative class are entitled to treble
23 damages pursuant to 15 U.S.C. § 1693f(e) given NFCU's knowing and willful inadequate
24 investigations of Plaintiff's and absent class members' fraud claims.
25

26 \\
27

28 \\
29

SECOND CAUSE OF ACTION

**Breach of Contract Including Breach of the Covenant of Good Faith & Fair Dealing
(On Behalf of Plaintiffs and the Breach of Contract Class and California Subclass)**

134. Plaintiffs incorporate the preceding allegations by reference as if fully set forth herein.

135. Plaintiffs and members of the Class contracted with NFCU for checking account services, as embodied in the Account Disclosures, including the Debit Card Disclosure.

136. NFCU breached the terms of its contract with consumers when, as described herein, NFCU failed to fairly investigate reported erroneous and fraudulent transactions and failed to reimburse accountholders for fraud losses incurred on debit card transactions and/or their deposit accounts.

137. Further, under the law of each of the states where NFCU does business, an implied covenant of good faith and fair dealing governs every contract. The covenant of good faith and fair dealing constrains NFCU's discretion to abuse self-granted contractual powers.

138. This good faith requirement extends to the manner in which a party employs discretion conferred by a contract.

139. Good faith and fair dealing, in connection with executing contracts and discharging performance and other duties according to their terms, means preserving the spirit—not merely the letter—of the bargain. Put differently, the parties to a contract are mutually obligated to comply with the substance of their contract in addition to its form.

1 Evading the spirit of the bargain and abusing the power to specify terms constitute
2 examples of bad faith in the performance of contracts.

3
4 140. Subterfuge and evasion violate the obligation of good faith in performance
5 even when an actor believes his conduct to be justified. A lack of good faith may be overt
6 or may consist of inaction, and fair dealing may require more than honesty. Other examples
7 of violations of good faith and fair dealing are willful rendering of imperfect performance,
8 abuse of a power to specify terms, and interference with or failure to cooperate in the other
9 party's performance.
10

11
12 141. NFCU breached the covenant of good faith and fair dealing when (1) it failed
13 to fairly investigate reported erroneous and fraudulent transactions; (2) failed to reimburse
14 accountholders for fraudulent losses incurred on debit card transactions; and (3)
15 unilaterally determined that the fraud claims were "unsupported" or that "no error
16 occurred" when it failed to consider all the evidence available to it at the time of its
17 decision.
18

19
20 142. Each of NFCU's actions were done in bad faith and were arbitrary and
21 capricious.

22
23 143. Plaintiffs and members of the Class have performed all of the obligations
24 imposed on them under the contract.

25
26 144. Plaintiffs and members of the Class have sustained monetary damages as a
27 result of NFCU's breaches of the contract and covenant of good faith and fair dealing.
28

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment against NFCU for themselves and the proposed Class members as follows:

- a. Certifying the proposed Class, appointing Plaintiffs as representatives of the Class, and appointing Plaintiffs' counsel as class counsel for the proposed Class;
- b. Declaring that NFCU's policies and practices described herein constitute a violation of the EFTA, Regulation E, and breach of contract and breach of the covenant of good faith and fair dealing;
- c. Enjoining NFCU from the wrongful conduct as described herein on behalf of the general public;
- d. Awarding actual damages and statutory damages in an amount according to proof;
- e. Awarding treble damages, if permitted by law;
- f. Awarding pre-judgment interest at the maximum rate permitted by applicable law;
- g. Reimbursing all costs, expenses, and disbursements accrued by Plaintiff in connection with this action, including reasonable attorneys' fees, costs, and expenses, pursuant to applicable law and any other basis; and
- h. Awarding such other relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs and all others similarly situated hereby demand a jury trial on all issues in this complaint that are so triable as a matter of right.

1 Dated: October 4, 2024

Respectfully submitted,

2 /s/ Scott Edelsberg

3 **EDELSBERG LAW, P.A.**

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12 Telephone: (305) 479-2299

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13
14 *Counsel for Plaintiffs and the Proposed*
15 *Class*
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27
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EXHIBIT A



February 24, 2023

MR WYATT R STEPHENSON

[REDACTED]
[REDACTED]

RE: Number [REDACTED]

Dear Member:

This letter concerns the final determination regarding your Navy Federal fraud claim in the amount of \$ 991.98 . Based on our investigation of your account activity, we have determined that no error has occurred.

Our investigation was based on a review of your account activity, including, but not limited to: transaction details, account history, and/or discrepancies between the fraud claim and your account.

As a consumer, you have the right to request any documentation that was used in the decision of this claim. If you have any questions, please call us toll-free at 1-888-842-6328. If you prefer, you may send us a secure message online at navyfederal.org via our online banking services, or write to Navy Federal Credit Union, Card Fraud Prevention Recovery, P.O. Box 23603, Merrifield, VA 22119-3603.

Sincerely,

Card Fraud Prevention Recovery
Navy Federal Credit Union

EXHIBIT B



March 10, 2023

In reply refer to:

WYATT R STEPHENSON



Dear Member:

This letter concerns your request for a second review of your fraud claim.

After carefully reviewing the information you provided, we have concluded that no error occurred. Therefore, the original decision to deny the claim stands. You are responsible for the full amount of the claim, \$991.98.

If you have any questions regarding this matter, please let us know. You may call us toll-free anytime at 1-888-842-6328.

Sincerely,

Card Fraud Prevention Recovery
Navy Federal Credit Union

EXHIBIT C

Your Message 03/26/2023 : I received your response that a second review of the fraudulent charges to my debit card was rejected. However, there is no explanation as to how you came to that conclusion and my attempt to speak to someone who could provide that information was unsuccessful, despite several calls to your fraud prevention team. Based on the information shared with me, only the "investigators" are privy to that information.

I would like more information about how that conclusion was reached. To date, no information has been shared and it feels like your policy is to automatically reject claims regardless of merit and hope that your customers drop the matter.

Navy Federal's response has been inconsistent with your policy (Zero Liability) that fraud is a transaction that I didn't make or approve, and that if someone steals my payment information and makes transactions that I didn't authorize they are considered fraud. This is a case of fraud where someone stole my information and made unauthorized purchases.

I look forward to hearing from you.

Navy Federal Response 03/30/2023 :

Thank you for your message. In order to receive the documents requested, you will need to file a report with your local police department. Your local police can then subpoena our records. If you have any further questions or concerns, feel free to contact us. Navy Federal is available 24 hours a day, 7 days a week at 1-888-842-6328 or you can contact us via Online Banking.

Subject: Need More Information

Your Message 03/30/2023 : A police report was filed. The report number was included in my original documentation. Your reply provides additional documentation that you did not read my original submittal.

EXHIBIT D



Consumer Financial
Protection Bureau

(<https://www.consumerfinance.gov/>)

[Start a new complaint](#)

[◀ All complaints \(.\)](#)

230403-10773650

CLOSED

✓ Submitted

STATUS

Submitted to the CFPB on 4/3/2023

PRODUCT

Credit card or prepaid card

ISSUE

Problem with a purchase shown on your statement

We received your complaint. Thank you.

We will review your complaint. Depending on what we find, we will typically:

- Send your complaint to the company for a response; or
- Send your complaint to another state or federal agency, or help you get in touch with your state or local consumer protection office; or
- Let you know if we need more information to continue our work.

YOUR COMPLAINT

Fraudulent purchases were made using my stolen Navy Federal debit card. Location of purchases and amounts of purchases are inconsistent with purchase history. For example, purchase history since the date card was acquired years ago (over 400+ purchases) shows no purchases at Walmart. Yet person who stole card went to Walmart 11 times in 14 days. I asked to be reimbursed for the fraudulent purchases via website. Was denied, but not given reason for denial. Submitted additional information via website and was denied on second review, but again, no reason given for second denial. Met with branch manager to gather more information, but they could not tell me why denied again. Spoke with fraud department twice via phone and they could not tell me why my claim was denied. To date,

no explanation as to why I was denied. I was told I could submit a third appeal, but without knowing why previous claims were denied it is impossible to prepare another appeal that will be effective. Banking laws should be changed to protect consumers and give them due process when they become victims of fraud. Navy Federal should be made to explain how they reached their conclusion since it is my money that was stolen.

View full complaint 

Sent to company

STATUS

Sent to company on 4/3/2023

We've sent your complaint to the company, and we will let you know when they respond.

Their response should include the steps they took, or will take, to address your complaint.

Companies generally respond in 15 days. In some cases, the company will let you know their response is in progress and provide a final response in 60 days.

Company still working

STATUS

Company response is in progress as of 4/6/2023

The company has responded that it is still working on your issue

In some cases, companies need more time to respond. You should receive a final response within 60 days from the date we sent your complaint to the company.

COMPANY'S INTERIM RESPONSE

Our review of the matter is in progress and we will respond as soon as possible.

✓ Company responded

STATUS

Company responded on 6/2/2023

RESPONSE TYPE

Closed with explanation

Company's Response

The following references the complaint we received on 3 April 2023 from the Consumer Financial Protection Bureau on behalf of Navy Federal member Jeffrey R. Stephenson. The complaint was assigned a case number of 230403-10773650. We have researched our member's concerns. Our records show that on 23 February 2023, a claim of unauthorized debit card activity was submitted for activity on Mr. Stephenson's joint checking account ending in [REDACTED] in the amount of \$991.98. We completed an investigation and found the claim to be unsupported. On 24 February 2023, we sent a letter to our member's address of record explaining the claim denial. We received an appeal of the decision, and we completed a second review of the claim. Based on the facts of our investigation, we determined that the claim remains denied. All account owners remain responsible for the activity that was conducted on the account. Should Mr. Stephenson have any questions, he may contact Brad Johnson, Supervisor, Fraud Operations, by calling 1-850-912-0313 between the hours of 7:00 a.m. and 3:30 p.m., Central time, weekdays.

📄 Feedback requested

STATUS

Feedback requested on 6/2/2023

FEEDBACK DUE

8/1/2023

Provide feedback about the company's response

We welcome your feedback on how the company responded to your complaint. You will have 60 days from when the company responded to share your feedback. The CFPB will share your feedback responses with the company and use the information to help the CFPB's work with consumer complaints.

Submit your feedback

✕ Closed

The CFPB has closed your complaint.



ADDITIONAL TOOLS AND RESOURCES

Credit Cards (<https://www.consumerfinance.gov/consumer-tools/credit-cards/>)

Privacy Act Statement

OMB #3170-0011

Note on user experience

Have a question? ¿Preguntas?

(855) 411-2372

TTY/TTD: (855) 729-2372

8 a.m. to 8 p.m. ET, Monday through Friday

(except federal holidays). (<https://www.opm.gov/policy-data-oversight/pay-leave/federal-holidays/#url=Overview>)

6/22/23, 7:10 AM

Complaint Detail

More than 180 languages available.



An official website of the United States Government

EXHIBIT E

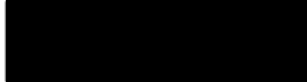


In reply refer to:

12709435

2 June 2023

Mr. Jeffrey R. Stephenson



Dear Mr. Stephenson:

Your recent concern which was submitted via the Better Business Bureau has been referred to me for a reply. Thank you for taking the time to bring your concerns to our attention, and for providing us with the opportunity to respond.

We have researched your concerns. Our records show that on 23 February 2023, a claim of unauthorized debit card activity was submitted for activity on your joint checking account ending in [REDACTED] in the amount of \$991.98. We completed an investigation and found the claim to be unsupported. On 24 February 2023, we sent a letter to your address of record explaining the claim denial. We received an appeal of the decision, and we completed a second review of the claim. Based on the facts of our investigation, we determined that the claim remains denied. All account owners remain responsible for the activity that was conducted on the account.

Should you have any questions, you may contact Brad Johnson, Supervisor, Fraud Operations, by calling 1-850-912-0313 between the hours of 7:00 a.m. and 3:30 p.m., Central time, weekdays.

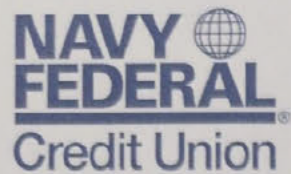
Sincerely,

A handwritten signature in black ink that reads "Chip Kohlweiler".

Chip Kohlweiler
Senior Vice President,
Security

CK:TH:ht

EXHIBIT F



July 17, 2024

Access No: 4246400

BILLY R SMITH II

RE: Checking, Savings account(s) ending in 1393, 5465.

Dear Member,

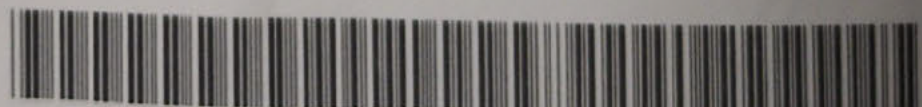
This letter concerns the final determination regarding your Navy Federal fraud claim with Navy Federal in the amount of \$9,800.00.

Based on the facts of our investigation, we have determined that no error has occurred and your claim has been denied. Additionally, we have reviewed your transaction history and, based on the facts surrounding the use of your account, we have found that you benefited from the transaction(s).

As a consumer, you have the right to request any documentation that was used in the decision of this claim. If you have any questions, please call us toll-free at 1-888-842-6328. If you prefer, you may send us a secure message via Navy Federal Online® Account Access, or you may write to: Navy Federal Credit Union, by fax at 703-206-4085.

Sincerely,

Security Department
Navy Federal Credit Union



Federally insured by NCUA.

© 2015 Navy Federal NFCU 40165-SC-SE047 (9-15)
GS-L418

P.O. Box 3000 Merrifield, VA 22119-3000

EXHIBIT G

07:26



← Message Detail



Subject:

General General Inquiry

Confirmation #: 240812-000774

Reply from Navy Federal

2024-08-13

Thank you for using Navy Federal's eMessaging Service. During our investigation, we use various methodologies to achieve the best results, which may include internal databases, monthly statements, merchant documentation (if applicable) and any information obtained directly from the member. Please note that we are unable to provide sensitive information that does not fall within compliance. If you have any further questions, please call us toll-free at [1-888-842-6328](tel:1-888-842-6328). Thank you.

Your Message

2024-08-12

Thank you for the response. Could you please send me all the documentation you have from my fraud investigations? the initial denial letter I received said I was able to get them if requested. Thank you for the help. V/R Billy Ray Smith

Reply from Navy Federal

2024-08-12

Thank you for using Navy Federal's eMessaging Service. After a second review of your claim, it has been determined that your claim will remain denied. If you have any questions, please call us toll-free at [1-888-842-6328](tel:1-888-842-6328). If you prefer, you may send us a secure message online at navyfederal.org via our Online Banking service or write to Navy Federal Credit Union, PO Box 3000, Merrifield, VA 22119-3000.

Your Message

2024-08-12

good Morning, I'm writing to follow up on the status of my fraud claim appeal. I just got back to my permanent duty station from my

EXHIBIT H

Navy Federal Credit Union® Debit Card Disclosure

As used in this Agreement, the words “you” and “your” mean each and every person signing, using, or having a Debit Card (DC) with Navy Federal Credit Union, referred to as “we,” “us,” or “Navy Federal.” Navy Federal business days are Monday through Friday, excluding federal holidays. Navy Federal may change and amend this Agreement at any time. This Agreement, including any claim or dispute arising under it, shall be governed by federal law and the laws of the Commonwealth of Virginia.

To report your DC lost or stolen, or for service inquiries, please call 1-888-842-6328, from overseas at 1-800-0-842-6328, or collect at 1-703-255-8837. Calls may be monitored and/or recorded to provide improved member service. All other correspondence relating to this Agreement should be addressed to Navy Federal, P.O. Box 23603, Merrifield, VA 22119-3603. Information concerning Navy Federal DCs may also be obtained at navyfederal.org.

1. Accepting This Agreement/Signing the Card: Use of your DC means you agree to all terms in this Agreement. Please read this Agreement carefully and keep a copy for your records. Upon receipt of your Navy Federal DC, immediately sign the signature panel on the back of the card. Your DC must be activated prior to use. Should you choose to not use your DC, you may cancel it at any time for any reason, by contacting us using the information above. Then immediately and securely destroy the card by cutting it in half or shredding it.

2. Membership: You must be a Navy Federal Member or joint owner, have an open checking account, and be at least 14 years old or an emancipated minor to obtain a DC. You understand that any joint owner has access to funds in your savings and checking accounts, as well as access to any Checking Protection options you enroll in (Optional Overdraft Protection Service (OOPS) or Checking Line of Credit (CLOC)).¹ You understand that you remain responsible for repayment of any credit extensions, overdraft amounts, and/or fees incurred by either you or any joint owner(s).

a. Account Closure. As stated in the Important Disclosures, if you or Navy Federal close your account, we may return deposit or debit items received, or reopen your account and process debits and credits against the account, including, for example, debit card transactions and provisional credit reversals. You agree to immediately repay all amounts you owe to us after the account is reopened. Reopening the account will not reopen or reconnect debit cards or other means of account access that were closed, terminated, or disconnected when the account was closed. Navy Federal may restrict the types of transactions, including debit card transactions, allowed on your account after the account is reopened and may re-close your account after processing debits and credits.²

3. How Transactions Are Authorized and Posted to Your Account: It is important to understand that your checking account has two kinds of balances: the Available Balance and the Current Balance.³

a. Available Balance. The Available Balance indicates the amount of funds available for withdrawal or use at that moment. The Available Balance includes pending transactions that have been authorized but may not yet have been processed (posted), such as DC Point of Sale (POS) transactions, online transfers, automated teller machine (ATM) transactions, or pending deposits, but does not include items such as scheduled Bill Pay transactions, deposits with holds on them, and checks that you have written but that have not yet cleared your account.

b. Current Balance. The Current Balance is calculated after all transactions have posted to your account after the end of the business day (Eastern Time). We first process (post) all money coming in to your account (credits, deposits, etc.).¹ After those are processed, we process (post) all money coming out of your account (debits, withdrawals, etc.) in a pre-determined order. The following frequently-used debit transactions are processed in groups in this order: 1) Branch withdrawals; 2) ATM withdrawals; 3) DC or POS transactions that merchants have presented to us for payment; 4) Transfers from one Navy Federal account to another; 5) ACH; and 6) Checks. When more than one transaction from a group is processed on the same day, the items will be processed in the order of lowest to highest amount within that group of transactions.

c. DC Transaction Authorization. When using your DC to make a purchase, the transaction is authorized based on your Available Balance plus any Checking Protection option (OOPS or CLOC) you have enrolled in at the time of the purchase. Once a transaction is authorized, a temporary hold is placed on your account for the amount of the purchase; you will see this hold reflected in your Available Balance. This hold does not affect or otherwise adjust your Current Balance. This hold will be removed when the transaction posts to your account or after 3 business days, whichever comes first. Although the hold may be removed after 3 business days, the merchant has up to 180 calendar days to present the transaction for posting. In some cases, the hold may exceed or be less than the amount of the transaction; for example, for some purchases made at gas stations, restaurants, or hotels, or for car rentals. Funds subject to a hold are not necessarily the same funds that are ultimately used to pay for a transaction. Ordinarily, we will not authorize DC transactions unless you have sufficient funds available in your checking account plus any Checking Protection option you may have. If we previously authorized a DC transaction, or placed a hold that is less than the final transaction amount, we will pay the transaction even if you have insufficient funds and even if you did not opt in to a Checking Protection option for DC transactions.

d. Person to Person (P2P) Original Credit Transactions (OCTs). Transfers of money you receive through Original Credit Transactions (OCTs) often used by person-to-person services, including the Zelle® network and Cash App, will generally be available the same business day. However, funds received by Navy Federal on or after 8 p.m. (Eastern Time) will not be available until the following business day for processing some items such as Automated Clearing House debits (ACH) and checks, but Optional Overdraft Protection (OOPs) and Non-Sufficient Funds fees (NSF) will apply, as applicable.

e. On the day a DC transaction is processed/posts (which may not be the day of purchase or use), if the transaction exceeds your Current Balance after all items have posted, your account will be overdrawn, and you will be responsible for the negative balance. To avoid overdrafts, you should ensure that your Current Balance (which may differ from your Available Balance) has sufficient funds to cover transactions at the time those transactions post to your account. If you have enrolled in a Checking Protection option, you may be assessed fees or interest.² If your checking account goes into an overdrawn status (including OOPS fees) and funds are available in the linked savings account, we will transfer all or some of the funds from the savings account to the overdrawn checking account to reduce or eliminate the overdrawn amount, as permitted by law.³ You agree that we have the right to collect funds owed to us from all your accounts, as well as the available balance on your Checking Protection option (if any), including all accounts of joint owner(s). This does not apply to shares in an Individual Retirement Account. The failure to deposit funds to eliminate an account's negative balance may result in the overdrawn balance being charged off as a loss to Navy Federal. Such action could result in the checking account being closed and restriction of your membership privileges, including revocation of your DC.

4. Transactions and Limits: Your DC may be used to purchase goods and services wherever the card is accepted. You may use your DC for the following: balance inquiries, funds transfers, cash withdrawals, deposits to your checking account, Money Market Savings Account, and savings account, and receive cash back with a purchase at participating Interlink® or Maestro® merchants. Cash back with a purchase is only offered from your available checking account balance plus any Checking Protection option you may have. The daily transaction limit for purchases is \$3,000 for all types of checking accounts with the exception of Flagship Checking, which has a daily purchase transaction limit of \$5,000. The daily cash limit is \$1,000, which includes withdrawals at NFCU proprietary ATMs, manual cash at NFCU financial institutions, and cash back with a purchase at participating merchants. Daily limits may vary for other types of transactions. Generally, there is no limit on the number of transactions that can be performed per day; however, for security reasons, we reserve the right to impose other limits on the transactions you may make using your DC.

5. Use of Card for Illegal or Risky Transactions: It is your responsibility to comply with all laws when using your Navy Federal DC. You agree to hold us harmless for any damages or other liability arising from transactions initiated by you for the purpose of conducting illegal activity. We reserve the right to decline authorizations and/or cardholder disputes due to participation in transactions for activities we believe may violate law or pose significant risk to us or our Members, such as online gambling.

6. Liability for Failure to Complete Electronic Fund Transfers: If we do not complete a transaction using your DC on time or in the correct amount, when properly instructed by you according to the terms of this Agreement, we will be liable for damages caused by our failure, with some exceptions. We will **NOT** be liable in any of the following events:

- If, through no fault of ours, you do not have enough money in your account or available in your selected Checking Protection option to make the transfer or transaction.
- If the funds in your account are subject to legal process, such as garnishment or attachment, or if the account is subject to a pledge or security agreement.
- If the ATM where you are making the transfer or transaction does not have enough cash.
- If the ATM was not working properly and you knew about the breakdown when you started the transfer or transaction.
- If, despite reasonable precautions that we have taken, circumstances beyond our control (such as fire, power failure, or flood) prevent the transfer or transaction.

7. Foreign/International Transactions: Transactions using your DC made in foreign countries will post to your account in U.S. dollars and will be charged an International Service Assessment Fee. This fee will be identified as a separate transaction on your statement. The fee will be assessed on purchases and ATM transactions as follows:

- Transactions made in foreign countries (“Foreign Transactions”) will be charged 1.0% of the transaction amount. Foreign Transactions include internet and ATM transactions made while you are in the U.S. (or in any other location) with merchants that process the transactions in foreign countries.

8. Documentation of Transactions: It is recommended that you obtain a transaction receipt at the time you make any transaction using your DC at an ATM or POS terminal and retain the receipt copy for a period of at least 90 days. Your checking account statement will identify the merchant, financial institution, or electronic terminal where transactions are made and the dollar amount of the transaction. You will get a monthly account statement even if there are no transfers in a particular month. You may also view your statements and account balances on our website at navyfederal.org or by using our mobile app.

9. Fees: There is no fee for using your DC to make a purchase at a merchant location; however, participating merchants may impose a fee for the cash-back portion of the transaction. Cash-back amount limits may vary depending on store policy. For a list of free ATMs, please check our website at navyfederal.org. ATM fees are disclosed in our *Schedule of Fees and Charges* brochure and may also be viewed via navyfederal.org. When you use a non-Navy Federal ATM, you may be charged a fee by the ATM operator. Additionally, you may be charged a fee for a balance inquiry even if you do not complete an electronic funds transfer.

10. Refusal to Honor Your DC: You agree Navy Federal is not responsible or liable for any merchant, financial institution, or other party that refuses to honor your DC.

11. Ownership and Cancellation of the DC: The DC is the property of Navy Federal. Navy Federal has the right to cancel your DC or revoke your DC privileges at any time without notice to you.

12. Disclosure of Information to Third Parties: Navy Federal will disclose information to third parties about your DC or checking account or the transfers you make in any of the following circumstances: if we are unable to complete an electronic transfer because of insufficient funds; where it is necessary to complete the transaction; to verify the existence or conditions of your account for a third party, such as a credit bureau or merchant; in order to comply with government agency or court orders; if you give us written permission; or in accordance with our privacy policy. Additionally, you may have agreements with merchants to keep your DC on file. You acknowledge that Navy Federal may share your DC information with the participating network in order to keep your card information current and/or facilitate uninterrupted processing of your recurring payments.

13. Stop-Payment for Pre-Authorized Recurring DC Transactions: We can only honor stop-payment requests for transactions using your DC on pre-authorized recurring transactions or services. If you have told us in advance to make regular payments out of your account, using your DC, you can request us to stop any of these payments. In order to initiate a Stop Payment, you must contact us via phone or in writing using the information above in time for us to receive your request 3 business days or more before the payment is scheduled to be made. If you call, we may also require you to confirm your request in writing within 14 days after you call. If you request us to stop one of these payments 3 business days or more before the transfer is scheduled, and we do not do so, we will be liable for your losses or damages.

14. Cardholder Liability for Unauthorized Transactions: NOTIFY US AT ONCE if you believe that your DC or personal identification number (PIN) has been lost, stolen, or used (or may be used) without your authority. The best way to minimize your possible losses is to contact us as soon as possible by calling us at the number above or, if you have Navy Federal Online Banking, by using the Report Fraud feature. You may also notify us in person at any branch or in writing using the address above.

Timely Notice of Missing DC: If you notify us within 2 business days after you learn of the loss or theft of your DC or PIN, your losses will be no more than \$50 if someone used your DC or PIN without your permission.

Delayed Notice of Missing DC: If you fail to notify us within 2 business days after you learn of the loss or theft of your DC or PIN, your losses may be as high as \$500. In this case, you would be liable for unauthorized transactions up to \$50 for the first 2 business days plus all unauthorized transactions that occur between those first 2 business days and the day you actually notify us, altogether up to \$500. You will only be liable for unauthorized transactions after the first 2 business days if we can demonstrate that we could have stopped the unauthorized transactions if you had notified us sooner.

Unauthorized Transactions on Statement: If your statement shows transactions that you did not make or authorize, tell us AT ONCE. If you do not tell us within 60 calendar days after the statement has been made available to you, your losses for unauthorized transactions that occur after those 60 days may be unlimited until you actually notify us. You will only be liable for unauthorized transactions after the 60 days if we can demonstrate that we could have stopped the unauthorized transactions if you had notified us. Under certain circumstances, we may extend the notification time period.

We advise you to safeguard your DC and protect the integrity of your PIN. Granting use of the DC to another person will make you financially liable for their use, loss, or misuse of the DC until you report unauthorized use or transactions to Navy Federal.

15. Navy Federal's Zero Liability Policy for Fraud: In addition to the liability limits above, if you notify us of suspected fraud within 60 days of the statement date on which the fraudulent transactions first appear, we will not hold you responsible for confirmed fraudulent transactions. This Zero Liability policy only covers transactions that have been confirmed by Navy Federal as fraudulent.

16. Billing Error Resolution: The Billing Error Resolution process covers the following errors: unauthorized transactions, including invalid amounts, duplicate transactions, transactions that were paid for by other means, and canceled recurring payments; expected credit not received; and non-receipt of ATM funds or POS cash-back. If you think your statement or receipt has errors, or if you need more information about a transaction listed on your statement or receipt, contact us as soon as possible using the contact information listed above. You **MUST** contact us no later than 60 calendar days after we **FIRST** make available the statement on which the suspected error appeared. You will need to identify yourself and the account, describe the error or the transaction you are questioning, clearly explain why you believe an error exists or why you need more information, and tell us the dollar amount of the suspected error. If you call to report a suspected error, we may require you to send us your concern in writing within 10 business days. If we ask you to put your concern in writing and we do not receive it within 10 business days, we may not provisionally credit (see below) your account.

We may take up to 45 days to investigate your concern; however, for suspected errors involving new accounts, POS, or foreign-initiated transactions, we may take up to 90 days to investigate. If we take longer than 10 business days (20 business days for new accounts) to determine whether an error occurred, we will provisionally credit your account the amount you reported as an error on or before the 10th business day. This Provisional Credit is a temporary credit that allows you to use the money during the time it takes us to complete our investigation. We will report the results of our investigation to you within 3 business days after completing our investigation. If we determine there was an error, we will promptly correct it. If we determine there was no error, we will send you a written explanation of our findings. You may ask for copies of the documents that we used in making our determination. Any Provisional Credits will be taken out of your account if we determine there was no error, and if there are insufficient funds in your account to cover the reversal of the Provisional Credit, the account may become overdrawn.

17. Other Reasons for Dispute: Disputed transactions that are not covered by our Error Resolution Process such as defective, damaged, or non-receipt of merchandise or services, or items received "not as described" will be handled at our discretion. Please first make a good faith attempt to resolve discrepancies with the merchant. If your good faith attempt is not successful, we may use our dispute resolution process to act on your behalf and pursue recovery of funds from the merchant, based on your statement supporting your claim, as well as any documentation we may request. We may not be able to recover your funds. We will report the results of the dispute resolution process to you within 120 days; however, we are not obligated to issue a Provisional Credit during the dispute resolution process.

Transaction(s) conducted through a person-to-person payment service provider that transfers funds, such as the Zelle® network and Cash App, is intended for use among friends and family. There are no protections or warranties for the purchase of goods and services. Navy Federal is unable to pursue these merchants or the 3rd party recipient for recovery on your behalf through the dispute process.

18. Merchant Credits: Merchants and others who honor the DC may give credits for returns or adjustments, which will appear as credits on your checking account statement.

19. Notice of Claim: Neither Member nor Navy Federal may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Agreement or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Agreement until such party has notified the other party of such alleged breach and afforded the other party a reasonable period after the giving of such notice to take corrective action.

*1. For details, see our Optional Overdraft Protection Service (OOPS) Disclosures (NFCU 657) and our Checking Line of Credit Agreement and Disclosure (NFCU 33C).

2. Subject to holds placed on certain transactions, see our Funds Availability Policy (NFCU 668) and the Mobile Check Deposit User Agreement, which may be viewed on our website via navyfederal.org.

3. For more information about savings accounts, checking accounts, and transaction limits, see our Important Disclosures (NFCU 606).

EXHIBIT I

Your Affiliate Marketing Choices

For personal information (*such as your name, address, or certain account-related information*) shared among affiliates, you may opt out of direct marketing of products and services by those affiliates with whom you do not have a prior business relationship. You may do this by calling the toll-free number of the appropriate Navy Federal company provided. An opt-out by a joint account holder will be treated as applying to all associated joint account holders. Your choice to limit marketing offers from our affiliates will apply until you notify us to modify your preference.

Note: If you have already requested this, there is no need to do so again.

Contact the Navy Federal Family

If you have questions or if you need to correct information that we have on file, please contact us at:

Navy Federal Credit Union

- PO Box 3000
Merrifield, VA 22119-3000
Toll-free in the U.S. 1-888-842-6328
For toll-free numbers when overseas, visit navyfederal.org.
Collect internationally 1-703-255-8837

Navy Federal Financial Group

Navy Federal Brokerage Services

- 820 Follin Lane SE
Vienna, VA 22180
1-877-221-8108
Fax: 703-206-1510

Navy Federal Title Services

- 21631 Ridgetop Circle
Suite #265
Sterling, VA 20166
571-267-2120
Toll-free 1-855-404-9549

NAVY FEDERAL CREDIT UNION

IMPORTANT DISCLOSURES

Federally insured by NCUA.

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navyfederal.org
1-888-842-6328

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Membership/Savings/Checking Disclosure Statement**Membership**

Upon verification of eligibility following submission of a completed membership application and acceptance for membership by the membership officer, and upon purchase of at least one share (\$5), a Membership Savings Account will be established in your name, indicating that you are a Member-owner of Navy Federal Credit Union (*Navy Federal*). Membership at Navy Federal comes with certain ongoing responsibilities. By signing your original membership application, you and your joint owner(s), if any, agree to abide by the properly disclosed terms and conditions of all accounts or services that you may receive at Navy Federal. You also agree to keep Navy Federal informed of your current mailing address. The terms and conditions of these accounts and services are subject to change without notice to you, unless prior notification is required by law.

A balance of at least one share (\$5) is required to establish and maintain membership. The balance in your Membership Savings Account must not be reduced below the value of one share (\$5) at any given time. If your Membership Savings Account maintains a balance of less than a share (\$5) for 180 consecutive days, the Membership Savings Account may be closed, thereby terminating your membership. To protect your Member-owner status, we may limit access to your initial share (\$5). You will be considered an active Member in Navy Federal as long as you have a Membership Savings Account balance of \$50 or more; have a Membership Savings Account balance of \$5 or more and a checking account, a Money Market Savings Account (*MMSA*), a certificate, an Individual Retirement Account, a credit card account, an additional savings account, or a current consumer loan or mortgage account; or have a Membership Savings Account balance of \$5 or more and are a Member under the age of 24. If you do not meet one of the above criteria, you will be considered an inactive Member and may be subject to a quarterly Inactive Member Fee in the amount listed on Navy Federal's current *Schedule of Fees and Charges*. The fee will be assessed until you meet one of the criteria listed above or the Membership Savings Account is closed, thereby terminating your membership. Once this happens, you must be in Navy Federal's field of membership to reopen the account.

A savings account may not be used for commercial or business purposes.

Restriction of Services

Navy Federal may restrict or suspend access by a Member to any or all products or services, except the basic rights of a Member to vote in annual and special meetings and maintain a share account, if a Member engages in conduct that is abusive to the credit union and its membership. This conduct includes, but is not limited to, actions that abuse the products or services of the credit union; abusive or threatening behavior; and suspicious, fraudulent, illegal, dishonest, or deceptive activities. Restrictions or suspensions of accounts, products, and/or services will be reasonably related to the nature of the Member's conduct. This policy will also apply to joint owners and authorized users of accounts, products, and services. When a Member is delinquent on a loan or has caused Navy Federal a loss, Navy Federal may deny that Member's subsequent application for any new product or service that would allow the Member to obtain further credit from Navy Federal or cause Navy Federal a further loss. Pursuant to Navy Federal's bylaws and the Federal Credit Union Act, Members may be expelled at a special meeting called for the purpose of expelling those Members.

Other Limitations of Services

Your access to any services described herein or otherwise offered to you may be limited due to system outages, errors, backlogs, or suspected fraud or illegal activity—to the extent allowed by law—in order to maintain or restore security or performance to said systems. There are many reasons we may decline or prevent transactions to or from your account, but generally we do this to protect you, us, and our membership as a whole, or to comply with legal requirements. We may decline or prevent any or all transactions to or from your account. We may refuse, freeze, reverse, or delay any specific withdrawal, payment, transfer of funds, deposits (check, ACH, or wires), credit, or debit to or from your account, or we may remove funds from your account to hold them pending investigations, including in one or more of the following circumstances:

- Your account is involved in any legal or administrative proceeding;
- We receive conflicting information or instructions regarding account ownership, control, or activity;
- We suspect that you may be the victim of a fraud, scam, or financial exploitation, even though you have authorized the transaction(s);
- We suspect that any transaction may involve illegal activity; be fraudulent; or, after having made funds available, may reasonably result in uncollected funds;

- We are complying with any federal, state, or local law, rule, or regulation, including federal asset control and sanction rules and anti-money laundering rules, or with our policies adopted to assure that we comply with those laws, rules, or regulations; or
- We reasonably believe that doing so is necessary to avoid a loss or reduce risk to us, you, or the membership as a whole.

If we suspect fraud or illegal activity, we may, at our discretion, transfer your existing account to a replacement account with a new account number. We may make this assignment when your account is reported compromised by you. If we issue you a replacement account number, this agreement will continue to apply, without interruption, as if you retained the discontinued account number.

Contacting You Via Your Cell Phone Number or Email Address

You must provide us a phone number and an email address to discuss your accounts with us. If you provide a cell phone number, Navy Federal has your permission to contact you at that number about all your Navy Federal accounts, including account servicing and collection purposes. You're granting Navy Federal permission to place automated, prerecorded, or artificial-voice non-marketing calls and text messages to that number. Messaging and data rates from your carrier may apply. You agree to promptly notify us if your contact information changes. Visit navyfederal.org for more information.

If you provide an email address, Navy Federal has your permission to send you email messages using an automatic emailing system for commercial or transactional purposes.

Navy Federal may at any time request the following from you in relation to your Mobile or Online Banking activities: electronic banking credentials, implementation of alternative risk control mechanisms, or may contact authorities when suspicious account activity or Member security-related events occur.

Services	SMS Short Code	Description of Service	Frequency of Messages
Credit Card Fraud Alerts	20270	Free to End User notifications to alert you about possible risk of credit card fraud	Message frequency varies
Debit Card Fraud Alerts	33748	Free to End User notifications to alert you about possible risk of debit card fraud	Message frequency varies
One-Time Passcode Alerts	668439	Free to End User text message to receive your passcode via a one-time text message on your mobile phone	One-time per request
Security Alerts	73077 35038	Free to End User notifications to alert you about possible risk of fraud, identity theft, and/or account security	Message frequency varies
Account Transaction Alerts AKA "Recurring"	40554 21398	Notifications related to account transactions, including, but not limited to, account balance alerts or deposit confirmation alerts	Message frequency varies
On-Demand Alerts	73949 24149	Receive information you have requested via a one-time text message to your mobile phone	One-time per request
Visit Notifications	36428	Notifications about your visit to an NFCU Branch	Message frequency varies
Account Servicing and Collection Alerts	37531 62351	Notifications to contact you for account servicing and collection purposes, including payment reminders	Message frequency varies
Informational Alerts	39227	Receive informational messages about Navy Federal	Message frequency varies
Status Alerts	46328 68678	Notifications related to account status updates, including, but not limited to, application and appointment updates.	Message frequency varies

If you have questions about mobile or text messages related to the Services listed above, you may **send a text message with the word "HELP" to the applicable SMS Short Code or call us toll-free at 1-888-868-8123**. To stop receiving text messages for any of the above Services on your phone, **text "STOP" to the applicable SMS Short Code**. Wireless service providers and wireless carriers are not liable for delayed or undelivered messages.

Required IRS Information

Federal law requires each individual becoming a Member to certify under penalty of perjury that the Taxpayer Identification Number (*TIN*) furnished to Navy Federal is the individual's correct number and the individual is not subject to backup withholding. For an individual, your TIN is usually your Social Security Number. The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required for backup withholding. Failure to provide a valid TIN and to complete and sign a membership application certifying your Social Security Number for this purpose could result in backup withholding being applied to all your interest earnings (*dividends*) at Navy Federal. If you are not a U.S. citizen or U.S. resident alien, you must complete a Form W-8BEN verifying non-resident alien status.

Important Information About Procedures for Opening a New Account

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account.

What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents. Further, to comply with the Bank Secrecy Act (BSA), we may ask you to supply certain additional information about your employment and other sources of income.

Dividends

Dividends are a division and distribution of earnings among Members, after all expenses have been paid and the required amount has been set aside for reserves. Dividend rates are declared prospectively by the Board of Directors in the month preceding the dividend period. These prospective dividend rates may change at the determination of the Board. Navy Federal also provides the Annual Percentage Yield (*APY*) for each dividend rate declared by the Board. Payment of all dividends is dependent on the availability of earnings at the end of the period. Dividends at Navy Federal are earned on deposits, including non-cash deposits, from day-of-deposit to day-of-withdrawal (*Mobile Deposits on checking, savings, and MMSA accounts are earned from the day of acceptance of the Mobile Deposit*), and are computed using the daily balance method by applying the daily periodic rate to the full amount in the account at the end of the day. Dividends for the savings and checking accounts, where applicable, are credited the last day of the period they are earned and are compounded monthly. The dividend period is monthly—for example, the beginning date of the first dividend period of the calendar year is Jan. 1, and the ending date of such dividend period is Jan. 31. All other dividend periods follow this same pattern of dates.

Current Rates and Fees

Current rates may be obtained online at navyfederal.org or by calling Navy Federal toll-free in the U.S. at 1-888-842-6328. For toll-free numbers when overseas, visit navyfederal.org Use 1-703-255-8837 for collect international calls. Fees and charges that may be assessed are disclosed on Navy Federal's current *Schedule of Fees and Charges*.

Share Insurance Coverage

Your shares at Navy Federal are federally insured. Share insurance coverage is provided by the National Credit Union Administration (*NCUA*), an independent government agency that charters, regulates, and insures federal credit unions. Your shares are backed by our solid financial standing. The insurance protects Members against loss if a federal credit union fails. Individual accounts are insured for up to \$250,000 for combined balances in your savings, checking, share certificates, and MMSAs. Joint accounts are insured for up to \$250,000 for each joint owner on the account. The most share insurance coverage any Member can have as a result of joint ownership is \$250,000, regardless of the number of joint accounts he or she co-owns.

The combined balances in your Traditional, Simplified Employee Pension (*SEP*), and Roth IRA plans are insured separately from your other Navy Federal accounts for up to \$250,000. Educational Savings Accounts (*ESAs*) are insured separately from your other Navy Federal accounts for up to \$250,000.

Payable on Death (*POD*) accounts are insured separately from your other Navy Federal accounts. Each owner is insured for up to \$250,000 per beneficiary. Deposit Trust Accounts are insured separately from your other Navy Federal accounts. Each grantor is insured for up to \$250,000 per beneficiary. For more information about NCUA share insurance, please see the Insurance on Your Savings brochure (*NFCU 1116e*).

Joint Ownership

Account opening disclosures, change in terms notice, annual error resolution notice, periodic statements, preauthorized transfer notice, and overdraft opt-in notice can be provided to each owner of the account. If you designate a joint owner on any depository account(s), it is co-owned equally by you and the joint owner. Joint ownership means that the shares and accumulated dividends may be withdrawn or transferred by you or the joint owner, or pledged as collateral against a loan by you or the joint owner (if a Member) at any time. Navy Federal is not liable for carrying out any of these requested actions. Accounts can be closed at any time, including by a joint owner, provided it is not the Membership Savings Account. Joint owner designation does not grant membership in Navy Federal. Non-Members may be designated as joint owners by the account owner. Non-Member joint owners are granted ownership rights and access to funds in the designated Member account(s) equal to the owner of the account. Non-Member joint owners may not have access to all Member services.

Survivorship

The “survivorship” designation on the Membership Savings Account applies to all other joint accounts with the same joint owner, unless specifically designated otherwise for a particular account on a separate application. If “Joint Account–With Survivorship” is designated, on the death of an owner of the account, the deceased owner’s shares in the account pass to the surviving owner of the account. If “Joint Account–No Survivorship” is designated, on the death of an owner of the account, the deceased owner’s shares in the account pass as a part of the deceased owner’s estate.

Zero Balance Accounts

Checking accounts, savings accounts other than a Membership Savings Account, and MMSAs may close after 180 consecutive days at a zero balance. Share Certificates and Individual Retirement Arrangement (IRA) Certificates will generally close within 30 days if the balance is zero. IRA Savings Accounts and IRA MMSAs may close after 90 consecutive days at a zero balance.

Savings Transfers and Withdrawals

You may transfer and/or withdraw funds from your savings account as often as you want. Navy Federal shall have the right, at any time, to require you to give, in writing, not more than 60 days’ notice of intention to withdraw or transfer the whole or any part of the funds in your savings account.

Order of Transactions

Navy Federal posts items presented on your account in the following order: all money coming in (*credits and deposits*); ATM withdrawals; debit card transactions, also called Point of Sale (*POS*); Automated Clearing House (*ACH*) debits; and checks written. When more than one transaction is processed from a group of transactions, the items will be posted in the order of lowest to highest amount within that group of transactions.

Checking Account

We may deny opening a checking account if you have had any previous checking accounts closed for unsatisfactory reasons. A personal checking account may not be used for commercial or business purposes. Shares in the checking account may not be pledged as collateral on any loan. All non-cash share purchases or payments made to the checking account will be credited subject to final payment of the deposited item(s). Navy Federal encourages you to use blue or black ink when writing checks.

It is agreed that checks may be used to withdraw funds from this checking account. By requesting a checking account, you authorize Navy Federal to pay checks signed by you or the joint owner (*if any*) of this account and to charge the payments against the checking account. You shall discharge Navy Federal from any liability for carrying out any requested actions. The right or authority of Navy Federal under this agreement shall not be changed or terminated by you except by written notice to Navy Federal, which shall not affect transactions previously made. Each negotiated check will be charged to the checking account as of the date of receipt by Navy Federal. Navy Federal will not be responsible for checks that are postdated if they are paid before the date of the instrument. Navy Federal is under no obligation to pay or refuse payment of a check on which the date is more than 6 months old. Navy Federal is authorized to refuse checks that exceed funds available in the checking account. The first time we refuse a check for insufficient funds, we will assess a Non-Sufficient Funds (“*NSF*”) fee in the amount shown on Navy Federal’s current *Schedule of Fees and Charges* for each refused check. A financial institution where you deposit a check, or a payee, may resubmit the check to Navy Federal even if we have already refused the check for insufficient funds in the checking account. If the resubmitted check again exceeds the funds available in the checking account, Navy Federal will refuse the check but additional NSF fee(s) will not be assessed as to that resubmitted check if the merchant properly labeled it as a resubmitted item and resubmitted it within 90 days. However, because Navy Federal generally cannot identify resubmitted items unless the

merchant properly labels them, you may incur an NSF fee for resubmitted items. If you believe that you incurred an NSF fee for a resubmitted item, you must notify Navy Federal as soon as possible to request a fee refund or reversal.

The owner and joint owner (*if any*) may request that payment of a check be stopped by providing notification to Navy Federal. A fee will be assessed in the amount shown on Navy Federal’s current *Schedule of Fees and Charges* for each stop-payment request. When we process a stop-payment request, you will hold Navy Federal harmless from all claims and demands resulting from the refusal to honor the check. This means that reimbursement for all damages, costs, and expenses incurred or later assigned because of the refusal to honor the check will be your responsibility. The owner and joint owner (*if any*) may request copies of paid checks. A fee may be assessed as provided on Navy Federal’s current *Schedule of Fees and Charges* for each check copy.

In order to stop payment on automated payments scheduled through your checking account, savings account, or debit card, you must contact Navy Federal via phone or in writing at the contact information provided at the end of this agreement and disclosure.

Navy Federal may return certain debits (*i.e., ACH payments*) submitted for payment against the checking account if the amount of the debit exceeds the funds available in the checking account. The first time we return a debit for insufficient funds, we will assess a NSF fee in the amount shown on Navy Federal’s current *Schedule of Fees and Charges* for each returned debit item. The entity that submitted the debit may submit another debit to Navy Federal even if we have already returned the prior debit for insufficient funds in the checking account. If the resubmitted debit again exceeds the funds available in the checking account, Navy Federal will return the debit but additional NSF fee(s) will not be assessed if the merchant properly labeled that debit as a resubmitted item. However, because Navy Federal generally cannot identify resubmitted debit items unless the merchant properly labels them, you may incur an NSF fee for resubmitted debit items. If you believe that you incurred an NSF fee for a resubmitted debit item, you must notify Navy Federal as soon as possible to request a fee refund or reversal.

Navy Federal may, at its option, pay a Navy Federal Debit Card transaction that exceeds the balance in the checking account by transferring the amount of the resulting overdraft from your savings account. You will be held responsible for the amount of any Navy Federal Debit Card transaction that cannot be paid out of your checking account or line of credit, or through the Optional Overdraft Protection Service (*OOPS*). A Navy Federal membership account generally includes one or more savings subaccounts and one or more checking subaccounts. Periodically, we may transfer funds between a checking subaccount and a savings subaccount for account management purposes.

Overdraft Savings Transfers

An Overdraft Savings Transfer is a service that transfers funds, at no charge to you, from a linked share savings account to your checking account when there are insufficient or unavailable funds in your checking account. Your share savings account is linked to your checking account of choice unless you decline Overdraft Savings Transfer coverage. Only one savings account per checking account can be set up as a linked account. An MMSA is not eligible to be a linked savings account. If you wish to designate a different savings account for Overdraft Savings Transfers, you may call Navy Federal at 1-888-842-6328 or visit a Navy Federal branch.

If your checking account does not have sufficient funds to pay a check or ACH authorization, or a previously authorized debit card POS transaction that posts to your checking account, Navy Federal may transfer funds from your linked savings account to pay for the transaction. For example, assume your checking account has a balance of \$50 and your linked savings account has a balance of \$50. If you authorize a \$100 check or ACH transaction, the Overdraft Savings Transfer will move \$50 from your linked savings account to your checking account to pay the transaction. If the checking and linked savings account do not have sufficient funds to cover the full amount of the check or ACH transaction, Navy Federal may return the transaction and assess a non-sufficient funds (NSF) fee to your checking account as detailed in the *Schedule of Fees and Charges*.

Debit card POS transactions will not be authorized for payment if your checking account does not have sufficient funds available to pay for the full amount of the transaction at the time the merchant requests authorization for payment from Navy Federal. For example, assume your checking account has a balance of \$50 and your linked savings account has a balance of \$50. If you attempt a \$100 debit card POS transaction, the transaction will be declined because you do not have sufficient funds in your checking account to cover the full amount of the transaction. Funds in your savings account will not automatically transfer to your checking account to cover a debit card POS authorization.

If your checking account becomes overdrawn due to a check, ACH, or debit card POS transaction posting to your account, and funds are available in your savings account(s), Navy Federal will transfer funds from your account(s) to reduce or eliminate the overdrawn amount, as permitted by law.

If you are enrolled in Optional Overdraft Protection Service (OOPS)

If you are enrolled in OOPS and your checking account does not have sufficient funds to cover a check or ACH transaction, Navy Federal will first attempt to pay for the transaction at no charge using the Overdraft Savings Transfer before using OOPS. If the checking account, linked savings account, and OOPS do not have sufficient funds to cover the full amount of the check or ACH transaction, Navy Federal may return the transaction and assess an NSF fee to your checking account as detailed in the *Schedule of Fees and Charges*.

If your checking account becomes overdrawn due to a check, ACH, or debit card POS transaction posting to your account, Navy Federal will first use the Overdraft Savings Transfer to reduce or eliminate the overdrawn amount before using OOPS.

If you have a Checking Line of Credit (CLOC)

If you have a CLOC and your checking account does not have sufficient funds to cover a check or ACH transaction, Navy Federal will first attempt to pay for the transaction by advancing credit from your CLOC before using the Overdraft Savings Transfer. If your checking account, CLOC, and linked savings account do not have sufficient funds and credit to cover the full amount of the check or ACH transaction, Navy Federal may return the transaction and assess an NSF fee to your checking account as detailed in the *Schedule of Fees and Charges*.

If your checking account becomes overdrawn due to a check, ACH, or debit card POS transaction posting to your account, Navy Federal will first attempt to pay the overdrawn amount by advancing credit from your CLOC before using the Overdraft Savings Transfer to reduce or eliminate it.

Optional Overdraft Protection Service

Optional Overdraft Protection Service (OOPS) is a service that allows us to pay checks, POS Debit Card transactions, ATM withdrawals, and ACH transactions presented against your checking account when you do not have enough money available in your account to cover the transaction(s). You must be at least 18 years of age and a Member for 90 days to qualify for the service. You also must have no delinquencies or legal orders against your Navy Federal accounts in order to qualify. Members may not have both CLOC and OOPS on the same account. Members may enroll up to 2 primary checking accounts in OOPS.

Standard Practices and Fees:

- a. We will charge a fee of \$20 each time we pay an overdraft.
- b. You will not be charged a fee on transactions of \$5 or less.
- c. You will not be charged a fee if the amount you are overdrawn after all transactions have cleared or posted after the end of the business day is less than \$15.
- d. You can only be assessed one overdraft fee per day per account.

OOPS is available up to \$500, but your account may become overdrawn up to \$550 to accommodate fees or a transaction. The additional \$50 accommodation includes the amount of overdrawn items, OOPS fees, and any other transactions that result in overdrawing your account, including returned deposits and other fees as described in our *Schedule of Fees and Charges (NFCU 2043ep)* and *Funds Availability Schedule (NFCU 668)*.

Enrolling in OOPS does not guarantee that we will pay overdrafts. Navy Federal pays overdrafts at our discretion. If we do not pay an overdraft, your transaction will be declined and/or your check/ACH will be returned, unpaid. Navy Federal Credit Union reserves the right to revoke OOPS privileges, permanently or temporarily, at any time and to deny the payment of any transactions without prior notification.

If you are enrolled in OOPS and your checking account does not have sufficient funds to cover a check or ACH transaction, Navy Federal will first attempt to pay for the transaction at no charge using the Overdraft Savings Transfer, provided it has sufficient funds available, before using OOPS. If your checking account becomes overdrawn due to a check, ACH, or debit card POS transaction posting to your account, Navy Federal will first use the Overdraft Savings Transfer to reduce or eliminate the overdrawn amount before using OOPS. To determine whether a transaction may cause an overdraft, it is important to understand that your checking account has 2 kinds of balances: the Available Balance and the Current Balance.

- a. Available Balance indicates the amount of funds available for withdrawal or use at that moment. The Available Balance includes pending transactions that have been authorized but may not yet have been processed (*posted*), such as debit card POS transactions, online transfers, ATM transactions, or pending deposits, but does not include items such as scheduled Bill Pay transactions, deposits with holds on them, and checks that you have written but that have not yet cleared your account.
- b. Current Balance is calculated after all transactions have posted to your account after the end of the business day (*Eastern Time*). We first process (*post*) all money coming in to your account

(*credits, deposits, etc.*), subject to holds placed on certain transactions (see our ***Funds Availability Schedule*** on page 10). After those are processed, we process (*post*) all money coming out of your account (*debits, withdrawals, etc.*) in a predetermined order. The following frequently used debit transactions are processed in groups in this order: 1) Branch withdrawals; 2) ATM withdrawals; 3) Debit card or POS transactions that merchants have presented to us for payment; 4) Transfers from one Navy Federal account to another; 5) ACH; and 6) Checks. When more than one transaction from a group is processed on the same day, the items will be processed in the order of lowest to highest amount within that group of transactions.

Assessment of overdraft fees is determined based on the account's Current Balance after the close of each business day, and not based on the Available Balance at the time a transaction is authorized. If the account balance, including new credits/deposits, is greater than or equal to the total of new debits/expenditures after all items have posted after the end of a business day (*Eastern Time*), there will be no overdraft fees assessed. Subject to the fee exceptions described below, if the total of all items posted on a business day exceeds your account balance, you will be charged a maximum of one overdraft fee per day if we cover the overdraft transactions under OOPS.

When you use your Navy Federal Debit Card to make a purchase, the transaction is authorized based on your Available Balance plus any Checking Protection option (OOPS or Checking Line of Credit) you have enrolled in at the time of the purchase. When most transactions are authorized, a temporary hold is placed on your account for the amount of the purchase; you will see this hold reflected in your Available Balance but not your Current Balance. However, the hold is not always in place for the settlement of the full transaction. If a hold is placed, it will be removed when the transaction or a portion of the transaction posts to your account or after three (3) business days, whichever comes first. Although the hold may be removed, the merchant has up to 180 calendar days to present the transaction, or remainder of the transaction, for posting. In some cases, the hold may exceed or be less than the amount of the transaction (for example, for some purchases made at gas stations, restaurants, hotels, or car rentals). Funds subject to a hold are not necessarily the same funds that are ultimately used to pay for a transaction. When a hold is removed, those funds will be returned to the Available Balance. If we previously authorized a Debit Card transaction, or placed a hold that is less than the final transaction amount, we will pay the transaction even if you have insufficient funds and even if you did not opt in to a Checking Protection option for Debit Card transactions. This may result in fees being assessed to your account.

Even though a transaction has been authorized, it still might result in an overdraft if you initiate other transactions that post first. Do not consider a transaction authorization as a guarantee there will be sufficient funds in your account to cover the transaction when it posts. If, at the time the transaction was authorized, your account's Available Balance had sufficient funds to cover the transaction, Navy Federal will refund the OOPS fee assessed on that transaction unless certain exceptions apply. These exceptions are for transactions where the amount of the posted transaction(s) does not match the amount of the authorized transaction(s), when an OOPS fee would have applied even if the transaction in question had not occurred, or if the transaction settled more than 5 business days after authorization.

OOPS is not a loan or a line of credit and must be repaid promptly. Should the account remain overdrawn beyond 30 days of the initial transaction posting, OOPS privileges will be revoked temporarily and the service frozen. For example, if you overdraft \$100 on the first of the month and \$200 on the 20th, then a total of \$300 is due on or before the 30th. However, while the account is overdrawn, we may transfer funds available or deposited into a linked savings account to bring your account positive prior to the end of the 30-day repayment cycle. The account must have a positive balance for a minimum of one business day to allow the deposited funds to clear and reset the 30-day repayment cycle. If Day 30 of the repayment cycle falls on a weekend or holiday, the account must have a positive balance as of the previous business day to be eligible for OOPS reinstatement. Should the account remain overdrawn beyond 45 days, OOPS privileges will be revoked permanently. The failure to deposit funds to bring the account to a positive balance may result in the overdrawn balance being charged off as a loss to Navy Federal. Such action could result in the checking account being closed and restriction of your membership privileges.

The full terms and conditions for OOPS are detailed in the Navy Federal Form 657–Optional Overdraft Protection Service Disclosures, which is included in these disclosures by reference and which can be found at https://www.navyfederal.org/pdf/applications-forms/NFCU_657.pdf. Navy Federal recommends that you read this disclosure form prior to opting in to OOPS. By opting in to OOPS, you agree to all the terms and conditions in the Form 657–Optional Overdraft Protection Service Disclosures.

You have the right to revoke your consent by opting out of OOPS at any time through [navyfederal.org](https://www.navyfederal.org) or by phone, toll-free in the U.S., by calling 1-888-842-6328. For toll-free numbers when overseas, visit [navyfederal.org](https://www.navyfederal.org). Use 1-703-255-8837 for collect international calls. If you prefer, you may also opt out at any branch location, by faxing a request to 1-703-206-4244, or by mailing the request to: PO Box 3000, Merrifield, VA 22119-3000.

Dormant Checking Account

A Dormant Checking Account fee in the amount shown on Navy Federal's *Schedule of Fees and Charges* may be assessed if you have not engaged in checking account activity in 365 days, you carry a combined balance of less than \$50 in your checking and membership savings accounts, and you have no other Navy Federal products during that time (**Note: This fee will not be assessed for Members under the age of 24**). You agree that we may close your checking account if it reaches a zero balance as a result.

Change in Terms and Right of Assignment

Navy Federal reserves the right to change or terminate this agreement. The terms of this account may change upon 30 days' notice. The right or authority of Navy Federal under this agreement shall not be changed or terminated by you except by written notice, which shall not affect transactions previously made. Navy Federal has the right of assignment of this agreement.

Verification and Correction of Transactions

All transactions are subject to final verification by Navy Federal. Navy Federal may reverse or adjust any transaction, credit, or debit that Navy Federal believes was erroneously made to your account at any time without prior notice being provided to you, except as may be required by regulation or federal law. In addition, you agree that if any deposit or other credit is made to you that Navy Federal determines should not have been made to you, Navy Federal may reverse the credit without prior notice to you.

Consumer Reports

The owner and joint owner, if any, authorize Navy Federal to obtain consumer reports about them during their membership to consider them for offers of or related to Navy Federal products and services. They also authorize Navy Federal to obtain consumer reports to evaluate membership applications and review any Navy Federal accounts they open. They understand these reports may be used in decisions to deny account applications, close accounts, and/or restrict accounts or services.

We may report information about your account to credit bureaus. Late payments, missed payments, or other defaults on your account may be reflected in your credit report.

Overdrawn Accounts

The owner and joint owner, if any, agree to be jointly and severally liable for negative balances on any accounts in which either owner has an ownership interest, including any overdrafts, regardless of the cause, and agree to immediately deposit sufficient funds to cover the negative amount of the overdraft.

Account Closing Practices

If you or Navy Federal close your account, we may return deposits, checks, and other items received after the account is closed. You agree to immediately pay all amounts you owe to us. In limited circumstances, we may reopen the closed account, including to process pending product applications, and we will re-close the account after all processing is complete. Please note that if you request to close your account, and the balance is zero, your account will close the next business day. If funds are in your account, your account remains in a closing status until the balance is zero, or your account reaches 14 days, then it will close. While your account is in a closing status, pending transactions will continue to process, which can make your account negative. Your account will not close with a negative balance.

Contractual Lien

The owner and joint owner, if any, authorize Navy Federal to transfer funds from any accounts in which either of them has an ownership interest to correct a negative or overdrawn amount on any account on which either's name appears. This authorization applies to all funds voluntarily deposited into Navy Federal accounts, including Social Security funds, as permitted by law. The owner and joint owner, if any, agree to reimburse Navy Federal for all costs of collection, including reasonable attorney's fees and court costs.

Statutory Lien/Security Interest

The owner and joint owner, if any, acknowledge and pledge to Navy Federal a statutory lien in either of their shares and dividends on deposit in all joint and individual accounts and any monies held by Navy Federal now and in the future, to the extent of any loan made and any charges payable. The statutory lien does not apply to shares in any IRA.

The owner and joint owner, if any, acknowledge and pledge to Navy Federal a security interest in the collateral securing loan(s) that either of them has with Navy Federal now and in the future,

including any type of change or increase, and any proceeds from the sale of such collateral and of insurance thereon, not to exceed the unpaid balance of the loan. This security interest in collateral securing other loans does not apply to any loan(s) on the primary residence of either the owner or joint owner, if any.

If approved for a Navy Federal (NFCU) Credit Card, use of the card demonstrates my/our consent to all its terms and conditions, including the Security Interest Specific for Credit Cards provision, which reads: I/We acknowledge and pledge, specifically as a condition of my/our use of the credit card, that I/we have voluntarily granted NFCU a security interest in all of my/our individual and joint share accounts at NFCU. If my/our credit card loan becomes delinquent, this security interest may be used without further notice to pay all or part of such delinquency. This security interest does not apply to shares in an Individual Retirement Account (IRA).

Request for Information

When necessary for business purposes, the owner and the joint owner, if any, authorize any person to furnish upon request by Navy Federal any information concerning either or both of their financial affairs.

Governing Laws and Liability

Navy Federal Members' funds and checking, savings, and all other accounts are located in the Commonwealth of Virginia, and are maintained and governed in accordance with federal law and the laws of the Commonwealth of Virginia, as amended. Property may be transferred to the appropriate state if there has been no activity on any of your accounts within the time period specified by state law. Transactions in your account are also subject to applicable payment network rules and federal rules and regulations.

We will not be liable for failure to follow your instructions in order to protect you from fraud or stop illegal activity or if we reasonably believe that your instructions would expose us to potential loss or civil or criminal liability, or conflict with customary banking practices. **WE WILL NOT BE LIABLE FOR INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES, REGARDLESS OF THE FORM OF ACTION AND EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

Notice of Claim: Neither Member nor Navy Federal may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this agreement or that alleges that the other party has breached any provision of, or any duty owed by reason of, this agreement, until such party has notified the other party of such alleged breach and afforded the other party a reasonable period after the giving of such notice to take corrective action.

Funds Availability Schedule

Your Ability to Withdraw Funds at Navy Federal Credit Union

This **Funds Availability Schedule** (*Schedule*) applies to deposits made into a checking or (*non-IRA*) savings account made at a branch, at an automated teller machine (*ATM*), or by mail. This Schedule does not apply to deposits made remotely through mobile deposit services.

Except as described later in this Schedule, our general procedure is to make funds available from your deposits on or before the first business day after the day we receive your deposit. At that time, you can withdraw the funds in cash and we will use the funds to pay checks or other items. For example, if you deposit a check on Monday, you may not be able to access the funds from that deposit, to include paying other checks, until Tuesday or possibly later.

See the availability timelines below for details about when you can use the funds from different types of deposits. Longer delays may apply to checks deposited in branches and ATMs outside of the continental United States. Additionally, we may place a longer hold on non-U.S. items and credit will not be received until the collection process is completed.

If you are unsure when your funds will be available for withdrawal, please contact us by telephone or at Navy Federal Online Banking.

Telephone Us

Call 1-888-842-6328 toll-free in the U.S. For toll-free numbers when overseas, visit navyfederal.org. Use 1-703-255-8837 for collect international calls.

Online

If you are signed up for Navy Federal Online Banking, you may send us an electronic message through our eMessaging system at navyfederal.org.

Determining When a Deposit Is Received

A Business Day is Monday through Friday, except federal holidays (*Business Day*). If you make a deposit with a Member Service Representative (MSR) at one of our branches on a Business Day before 2:00 pm, local time, we will consider that day to be the day we received your deposit. If you make a deposit at a Navy Federal ATM on a Business Day before that ATM's posted cutoff time, we will consider that day to be the day we received your deposit. However, if you make a deposit on a day that is not a Business Day, or make a deposit after the cutoff time, we will consider the deposit to have been received on the next Business Day.

- For deposits at Navy Federal ATMs, a message on the ATM will notify you of its cutoff time ("*posted cutoff time*").
- All deposits made by mail will be considered received by Navy Federal on the Business Day we receive the deposit at a Navy Federal campus or branch location.

Person to Person (P2P) Original Credit Transactions (OCTs)

Transfers of money you receive through OCTs (*person-to-person services such as the Zelle® network or Cash App™*) will generally be available the same Business Day. However, funds received by Navy Federal at or after 8 pm (*Eastern Time*) will not be available and reflected in your Current Balance until the end of the next Business Day. These funds might not be available for processing pending items such as Automated Clearing House (*ACH*) debits and checks. Optional Overdraft Protection (*OOPS*) and Non-Sufficient Funds (*NSF*) fees may apply, subject to the terms of the *Schedule of Fees and Charges*.

Real Time Payments (RTP)

We can accept Real Time Payments to your checking, savings, and MMSA accounts. However, such payments cannot be applied to Navy Federal loan products. Transmissions of funds through RTP are only available between accounts located in the U.S. This applies even if you are sending or receiving a payment on behalf of another person. All persons who send, receive, or benefit from an RTP transaction must also reside in the U.S.

Transfers of money you receive through RTP will generally be available immediately upon receipt of the funds, 24 hours a day, 7 days a week. However, funds received by Navy Federal on or after 8 pm (*Eastern Time*) will not be available until the following Business Day for processing some items such as Automated Clearing House (*ACH*) debits and checks, but Optional Overdraft Protection (*OOPS*) and Non-Sufficient Funds (*NSF*) fees will apply, as applicable.

Same-Day Availability

Funds from electronic direct deposits to your account will be available on the day we receive the deposit.

Next-Day Availability

Funds from the following deposits are available on (*or before*) the first Business Day after the day we are considered to have received your deposit:

- U.S. Treasury Checks that are payable to you
- Electronic payments, such as wire transfers, and Automated Clearing House (*ACH*) credits
- Checks drawn on any bank, \$225 or less
- On-us checks deposited at a Navy Federal branch office or at a Navy Federal ATM located inside or within 50 feet of a Navy Federal branch office

If you make a deposit in person to a MSR at a branch, funds from the following deposits are also available on the first Business Day after the day we are considered to have received your deposit:

- State and local government checks that are payable to you
- Cashier's, certified, and teller's checks that are payable to you
- Federal Reserve Bank checks, Federal Home Loan Bank checks, and postal money orders, if these items are payable to you
- Cash
- Other on-us checks

If you do not make your deposit in person to a MSR at a branch, the funds may not be made available until the second Business Day after the day we are considered to have received your deposit. Available funds may be withdrawn in cash or used to pay checks or other items. Longer delays may apply in certain circumstances.

Checks \$225 and Over

The first \$225 per Business Day of the total amount of checks deposited in the branch will be made available on or before the first Business Day after the day we are considered to have received your deposit. The remaining funds will be available on the second Business Day after the day we are considered to have received your deposit.

For example, if you deposit a check of \$1,000 on a Monday, \$225 of the deposit is available on or before Tuesday. The remaining \$775 is available on or before Wednesday.

Navy Federal ATMs: Cash deposits at a Navy Federal ATM will be available immediately for cash withdrawals only. Other deposits will be made available by the second Business Day after the day we are considered to have received your deposit.

Deposits at Nonproprietary ATMs (Vcom® ATMs): Funds from any non-cash deposits made at ATMs we do not own or operate may not be available until the fifth Business Day after the day you make the deposit. Cash deposits will be made available on the first Business Day after the day we are considered to have received your deposit.

Longer Delays May Apply

Funds you deposit by check may be delayed for a longer period if:

- we believe a check you deposit will not be paid;
- you deposit checks totaling more than \$5,525 on any one day;
- you redeposit a check that has been returned unpaid;
- you have overdrawn your account repeatedly in the last 6 months; or
- there is an emergency, such as natural disaster or failure of communications equipment.

We will notify you if we delay your ability to withdraw funds for any of these reasons, and we will tell you when the funds will be available. If we delay availability for one of these reasons, funds will generally be available no later than the fifth Business Day after the day we are considered to have received your deposit.

If your check deposit is made with one of our MSRs and we decide at that time to delay your ability to withdraw funds, we will tell you then. If we decide to delay availability of your funds after you complete your deposit, we will mail you a deposit hold notice by the first Business Day after we decide to take that action.

Except in California, New York, and Connecticut, deposits into a savings account may be held up to 5 Business Days.

Special Rules for New Accounts

If you are a new Member, the following special rules may apply during the first 30 days your account is open:

- Funds from electronic direct deposits will be available on the day we receive the deposit.
- Funds from deposits of the first \$5,525 of a day's total deposits of cashier's, certified, teller's, and federal, state, and local government checks will be available on the first Business Day after the day we are considered to have received your deposit if the deposit meets certain conditions. For example, the checks must be made payable to you. The excess over \$5,525 will be available on the fifth Business Day after the day we are considered to have received your deposit. If you do not deposit these checks (*other than U.S. Treasury Checks*) in person to one of our MSRs at a branch, the first \$5,525 will not be made available until the second Business Day after the day we are considered to have received your deposit.
- Funds from all other check deposits will be available no later than the fifth Business Day after the day we are considered to have received your deposit.

Check Cashing

If we cash a check for you that is drawn on another financial institution, we may withhold the availability of a corresponding amount of funds that are already in your account. Those funds will be available on the day they would have been available as though you had deposited the check.

Availability and Notice for Electronic Entries

In the case of credit entries subject to Article 4A of the Uniform Commercial Code, Navy Federal hereby provides notice that such entries may be transmitted through the Automated Clearing House (ACH) Network pursuant to the ACH Rules governed by the National Automated Clearing House Association (NACHA). Your rights and obligations concerning these entries shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia. Credit provided by Navy Federal as the Receiving Depository Financial Institution (RDFI) to you for these entries is provisional until we have received final settlement through a Federal Reserve Bank. If we do not receive such payment for the entry, we are entitled to a refund from you in the amount of the credit to your account, and the payor of the entry will not be considered to have paid the amount of the credit to you. Navy Federal has not agreed to provide you with notice if we have received a credit entry subject to Article 4A of the Uniform Commercial Code.

Rights Reserved

Navy Federal reserves the right to:

- accept or reject any check presented, including, but not limited to, any third-party check in excess of \$10,000;
- revoke any settlement with respect to a check accepted by us, and to charge back to your account the amount of the check based on the return of the check or a receipt of notice of non-payment of the check, or claim a refund for such credit; and
- require that the space reserved for endorsement by Navy Federal on the back of any check accepted for deposit be free and clear of any prior markings or endorsements.

Payment of Dividends

Dividends are paid on all deposits to your savings and checking accounts, where applicable, as of the Business Day we are considered to have received the deposits, including non-cash deposits (*such as, checks*).

Electronic Funds Transfer Agreement and Disclosure

Types of Transfers, Limitations, and Fees

For deposits made at CO-OP Network® ATMs, the ATM owner will impose a fee per item if an adjustment is processed due to one of the following discrepancies in the deposit: the currency appears to be counterfeit; the currency is foreign; the deposit contents do not equal the deposit amount in U.S. dollars as entered into the ATM; an item is unsigned by the maker; an item is dated more than 6 months prior to the date of deposit; the numerical and written amounts do not agree; or the deposit is over \$1,000.00 and contains an obvious alteration. For each adjustment initiated for deposit items processed and subsequently returned by the financial institution, the ATM owner will impose a fee per item at the time the adjustment is processed.

We can accept transfers to your checking or savings accounts and make transfers from your checking or savings accounts electronically. Such transfers are often received or sent in the form of ACH debits and credits. For example, an ACH credit to your account might be in the form of an electronic deposit of your pay, stock dividends, or tax refund. An ACH debit might be made as a result of an authorization you gave a third party to automatically transfer funds from your account to pay your monthly insurance premium, utility bills, or car payment. You may also authorize third parties to use information from one of your checks or MMSA checks to initiate a one-time ACH debit from your checking account or MMSA.

Using Navy Federal's Automated Telephone Service (ATS), you may make transfers between your Navy Federal savings, MMSA, and checking accounts, including accounts on which you are a joint owner. You may make transfers from your savings accounts, checking accounts, and MMSAs to your savings, Individual Retirement Accounts (IRAs), MMSA IRAs, share certificates, or IRA share certificates. You may also transfer funds from your savings, checking, and MMSA accounts to make Navy Federal loan, CLOC, and credit card payments. By calling Navy Federal at the telephone numbers listed at the end of this agreement and disclosure, you may initiate a one-time ACH funds transfer to an account at another financial institution. By completing the Automatic Funds Transfer Authorization via the Automated Clearing House (ACH) form and mailing or faxing it to Navy Federal or delivering it to a branch, you may set up a recurring transfer to an account at another financial institution.

Please see Navy Federal's *Mobile Banking, Online Banking, and Bill Pay Disclosure* for the types of transfers that can be initiated through Mobile and Online Banking, and for limitations on those transfers.

Please see Navy Federal's Debit Card Disclosure for transfers that can be initiated using a Navy Federal Debit Card.

You may verify the posting of your transfers by calling us at the telephone numbers listed at the end of this agreement and disclosure, or by accessing your account information through ATS or Navy Federal Online Banking.

Please note that your Navy Federal savings account may only receive ACH credits. MMSAs may receive ACH credits and debits in accordance with the limitations set forth in the MMSA agreement.

When you originate an ACH transfer at another financial institution, Navy Federal places no limitations on the dollar amount of received ACH transfers, and Navy Federal does not charge fees for received transfers.

You may only originate ACH transfers at Navy Federal from your checking account. For transfers originated at Navy Federal, there is no limit on the number of funds transfers you can make from your checking account per day. However, there are minimum and maximum total dollar transfer limits associated with transferring funds to/from another financial institution via the ACH, when the transfer is originated from Navy Federal.

Transfers from a Navy Federal checking account to a checking account at another financial institution may be requested for a minimum of \$5.00 to a maximum of \$5,000.00 per business day. However, the total aggregate amount of all checking transfers within any 5-business-day period cannot exceed \$15,000.

Transfers to Navy Federal loans from a checking account at another financial institution may be requested for a minimum of \$5.00 to a maximum of \$10,000 per business day. However, the total aggregate amount of all loan payments within any 5-business-day period cannot exceed \$30,000.

Transfers to Navy Federal mortgage loans from a checking account at another financial institution may be requested for a minimum of \$5.00 to a maximum of \$30,000 per business day. However, the total aggregate amount, which includes your regular payment, additional escrow, principal, and late fees, of all mortgage payments within any 5-business-day period cannot exceed \$30,000.

Aggregate amounts apply to all accounts that you own individually or that you have joint ownership of, and are based on the effective transfer date(s). For security reasons, Navy Federal may impose further limitations on the dollar amounts of transfers initiated at Navy Federal.

Periodic Statements

You will receive a statement monthly unless your account(s) has/have not engaged in savings or checking account activity (*no transactions*) within 365 days. When there is no activity within 365 days, Navy Federal may choose to provide a statement on an annual basis.

Business Days

Our business days are Monday through Friday, excluding federal holidays.

Your Liability for Unauthorized Electronic Funds Transfers

 **Notify us AT ONCE if you believe:**

- your account may have been accessed without your authority;
- your card, code, or password has been lost or stolen;
- someone has transferred or may transfer money from your account without your permission; or
- an electronic funds transfer has been made without your permission using information from your check or your MMSA check.

The best way to minimize your possible loss is to telephone or, if you have Online Banking, contact us through our eMessaging system at navyfederal.org, although you may advise us in person or in writing. See the telephone numbers and address listed at the end of this agreement and disclosure.

If you do not notify us, you could lose all the money in your account (*plus your maximum line of credit amount*).

If you tell us within two (2) business days after you discover your password or other means to access your account has been lost or stolen, your liability is no more than \$50.00 should someone access your account without your permission. If you do not tell us within two (2) business days after you discover such loss or theft, and we can prove that we could have prevented the unauthorized use of your password or other means to access your account if you had told us, you could be liable for as much as \$500.00.

Also, if your statement shows transfers that you did not make or authorize, tell us AT ONCE. If you do not tell us within sixty (60) days after the statement was delivered to you of any unauthorized use of your account, you may not get back any of the money you lost after the sixty (60) days if we can prove that we could have stopped someone from taking the money if you had told us in time. If a good reason (*such as a long trip or a hospital stay*) prevented you from telling us, we may in our sole discretion extend the time periods.

In Case of Errors or Questions About Your Electronic Transfers

If you think your statement or receipt is wrong, or if you need more information about a transaction listed on your statement or receipt, contact us as soon as possible at the telephone numbers and address listed at the end of this agreement and disclosure.

We must hear from you no later than sixty (60) days after the FIRST statement on which the problem or error appeared. When you contact us:

- tell us your name and account number;
- describe the error or the transaction you are unsure about and clearly explain why you believe it is an error or why you need more information; and
- tell us the dollar amount and date of the suspected error.

These are our procedures for resolving errors:

- If you tell us orally, we may require that you send your complaint in writing within ten (10) business days after your oral notification.
- We will determine whether an error occurred within ten (10) business days (*twenty (20) business days for new accounts*) after you notify us of the error and will correct any error promptly. However, if we require more time to confirm the nature of your complaint or question, we reserve the right to take up to forty-five (45) days to complete our investigation. For errors involving new accounts, POS, or foreign-initiated transactions, we may take up to ninety (90) days to investigate your complaint or question. If we decide to do this, we will provisionally credit your account within ten (10) business days (*twenty (20) business days for new accounts*) for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation. A provisional credit is a temporary credit adjustment made to your account during the time it takes us to complete our investigation.
- If we ask you to submit your complaint or question in writing and we do not receive it within ten (10) business days, we may remove the provisional credit from your account
- If it is determined that there was no error, we will reverse any provisional credits within one (1) business day of finishing our investigation and send you a written explanation within three (3) business days. If there are insufficient funds in your account to cover the amount of the provisional credit, the account will be overdrawn, and you will be responsible for payment. You may ask for copies of documents used in our investigation.

Stop Payment Procedure

Navy Federal cannot cancel an agreement that you have with a third party or revoke the authorization that you have provided a third party for recurring automatic transfers from your accounts. To cancel your agreement with a third party and revoke your authorization for recurring automatic transfers, you must contact the third party with whom you have an agreement. When you request a stop-payment on a one-time preauthorized transfer, Navy Federal will stop payment on that one transfer and not on any subsequent transfers you may have authorized the third party to make. When you request a stop-payment on a series of recurring preauthorized transfers to a third party, Navy Federal will stop payment on that series of transfers, not on any subsequent series of recurring transfers you may authorize the third party to make. If you wish to stop payment on any preauthorized transfers other than the specific one (*or series*) on which you initially stopped payment, you will need to make a new stop-payment request. We must receive your stop-payment request three (3) business days or more before the transfer is scheduled to be made. You may only initiate a stop payment on recurring automatic payments or one-time preauthorized transfers by contacting us via calling or writing using the telephone numbers or address listed at the end of this agreement and disclosure. You will be charged for each stop-payment

request in accordance with Navy Federal's *Schedule of Fees and Charges*. When we process a stop-payment request, you will hold Navy Federal harmless from all claims and demands resulting from the refusal to honor the preauthorized transfer. This means that reimbursement for all damages, costs, and expenses incurred or later assigned because of the refusal to honor the preauthorized transfer will be your responsibility. If you order us to stop one of these transfers three (3) business days or more before the transfer is scheduled, and we do not do so, we may be liable for your losses or damages.

Notice of Varying Amounts

If your recurring transfers vary in amount, the third party debiting your account will tell you ten (10) days before each payment, in addition to when the debit will be made and how much it will be.

Navy Federal's Liability

If Navy Federal does not complete a transfer to or from your account on time, in the correct amount, or to the correct recipient according to our agreement with you, we may be liable for your losses or damages. Navy Federal's liability is limited; we will not be liable for indirect, special, or consequential damages.

There are some instances when we will not be liable, for example, if:

- 1) through no fault of ours, you do not have enough money in your account, available funds through your OOPS, or available credit in your CLOC to make the transfer.
- 2) the funds in your account are subject to legal process, such as garnishment or attachment, or if the account is subject to a pledge or security agreement.
- 3) circumstances beyond our control (*such as fire or flood*) prevent the transfer, despite reasonable precautions that we have taken.
- 4) there are additional exceptions specified under other agreements that you have with us.

Exclusions of Warranties

NAVY FEDERAL SERVICES, INCLUDING, BUT NOT LIMITED TO, THE WEBSITE, ONLINE BANKING, AND MOBILE BANKING, ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT. IN PARTICULAR, WE DO NOT GUARANTEE CONTINUOUS, UNINTERRUPTED, OR TIMELY ACCESS TO ANY PART OF OUR SERVICES OR SYSTEMS. SOME STATES DO NOT ALLOW THE DISCLAIMER OF CERTAIN IMPLIED WARRANTIES, SO THE FOREGOING DISCLAIMERS MAY NOT APPLY TO YOU.

Account Information Disclosures

We will disclose information to third parties about your account or the transactions you make:

- 1) if we are unable to complete an electronic fund transfer because of insufficient funds.
- 2) when it is necessary for completing transfers.
- 3) to verify the existence or conditions of your account for a third party, such as a consumer reporting agency or merchant.
- 4) to comply with government agency or court orders.
- 5) if you give us your written permission.
- 6) in accordance with our privacy policy.

Contact Numbers and Address

Whenever possible, please contact us by telephone or at Navy Federal Online Banking to report unauthorized transfers or request stop payments. Contacting us by these methods is the quickest way for us to comply with your requests.

Telephone Us

Call 1-888-842-6328 toll-free in the U.S. For toll-free numbers when overseas, visit navyfederal.org. Use 1-703-255-8837 for collect international calls.

Online

If you are signed up for Navy Federal Online Banking, you may send us an electronic message through our eMessaging system at navyfederal.org.

Write Us

Navy Federal Credit Union
Account Servicing Section
PO Box 3000
Merrifield, VA 22119-3001



Rev. 12/21

FACTS		WHAT DOES NAVY FEDERAL DO WITH YOUR PERSONAL INFORMATION?
Why?	Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.	
What?	The types of personal information that we collect and share depend on the product or service that you have with us. This information can include: • Social Security Number and income • Account balances and payment history • Account transactions and checking account information When you are <i>no longer</i> our Member, we continue to share your information as described in this notice.	
How?	All financial companies need to share members' personal information to run their everyday businesses. In the section below, we list the reasons financial companies can share their members' personal information, whether Navy Federal chooses to share, and whether you can limit this sharing.	

Reasons we can share your personal information	Does Navy Federal share?	Can you limit this sharing?
For our everyday business purposes —such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus	Yes	No
For our marketing purposes —to offer our products and services to you	Yes	No
For joint marketing with other financial companies	Yes	No
For our affiliates' everyday business purposes —information about your transactions and experiences	Yes	No
For our affiliates' everyday business purposes —information about your creditworthiness	No	We don't share
For nonaffiliates to market to you	No	We don't share

Questions?	Call toll-free 1-888-842-6328 or go to navyfederal.org .

Who we are	
Who is providing this notice?	Navy Federal Credit Union; Navy Federal Financial Group, LLC; Navy Federal Investment Services, LLC
What we do	
How does Navy Federal protect my personal information?	To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards and secured files and buildings. Navy Federal regularly tests and assesses its information security measures, systematically trains employees, and adopts upgrades and enhancements as necessary to protect your information.
How does Navy Federal collect my personal information?	We collect your personal information, for example, when you: • open an account or deposit money • pay your bills or apply for a loan • use your credit or debit card We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.
Why can't I limit all sharing?	Federal law gives you the right to limit only: • sharing for affiliates' everyday business purposes—information about your creditworthiness • affiliates from using your information to market to you • sharing for nonaffiliates to market to you State laws and individual companies may give you additional rights to limit sharing.

Definitions	
Affiliates	Companies related by common ownership or control. They can be financial and non-financial companies. • <i>Our affiliates include companies with a Navy Federal name: financial companies such as Navy Federal Credit Union; Navy Federal Financial Group, LLC; Navy Federal Investment Services, LLC; or Navy Federal Title Services, LLC.</i>
Nonaffiliates	Companies not related by common ownership or control. They can be financial and non-financial companies. • <i>Navy Federal does not share with nonaffiliates so they can market to you.</i>
Joint marketing	A formal agreement between nonaffiliated financial companies that together market financial products or services to you. • <i>Our joint marketing partners include investment, insurance, and other financial services companies.</i>

Exhibit B

1 Scott Edelsberg (SBN 330090)
2 Adam Schwartzbaum (*pro hac vice*)
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5 Edwin E. Elliott (*pro hac vice*)
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8 *Counsel for Plaintiffs and Proposed Classes*
9

10
11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 JEFFREY STEPHENSON and BILLY
14 SMITH II, individually, on behalf of
15 himself and all others similarly situated,

16 Plaintiffs,

17 vs.

18 NAVY FEDERAL CREDIT UNION,
19 Defendant.

Case No. **3:23-CV-01851-WQH-KSC**

**NOTICE OF MOTION AND
PLAINTIFFS' UNOPPOSED
MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT
AND PROVISIONAL CLASS
CERTIFICATION**

Judge: Hon. William Q. Hayes
Place: Courtroom 14B
Hearing Date: August 25, 2025

**NO ORAL ARGUMENT UNLESS
REQUESTED BY THE COURT**

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23
24 TO THE HONORABLE COURT, ALL PARTIES, AND THEIR COUNSEL
25 OF RECORD, PLEASE TAKE NOTICE that on **August 25, 2025**, or as soon
26 thereafter as the matter may be heard, in Courtroom 14B, before the Honorable
27 William Q. Hayes, Plaintiffs and Class Counsel will, and hereby do, respectfully
28

1 request that the Court grant Preliminary Approval of the Settlement, the terms of
2 which are more specifically described in the Memorandum and Points of Authority
3 filed in support of this Motion.

4 This Motion is based upon this Notice of Motion and Unopposed Motion; the
5 accompanying Memorandum of Points and Authorities; the Settlement Agreement;
6 and the Joint Declaration of Scott Edelsberg, Adam Schwartzbaum, Sophia Gold,
7 Jeffrey Kaliel and Edwin Elliot in Support of Preliminary Approval, other pleadings
8 and papers on file in this Action; and other such evidence or argument as may be
9 presented to the Court at the hearing on this Motion. Defendant, Navy Federal Credit
10 Union, does not oppose this Motion.

11
12 Dated: July 22, 2025

Respectfully submitted,

13
14 /s/ Scott Edelsberg
15 Scott Edelsberg, Esq.
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of July 2025, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record via transmission of Notice of Electronic Filing generated by CM/ECF.

Respectfully submitted,
/s/ Scott Edelsberg

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10
11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 JEFFREY STEPHENSON and BILLY
14 SMITH II, individually, on behalf of
15 himself and all others similarly situated,

16 Plaintiffs,

17 vs.

18 NAVY FEDERAL CREDIT UNION,
19 Defendant.

Case No. **3:23-CV-01851-WQH-KSC**

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT
AND PROVISIONAL CLASS
CERTIFICATION**

Hon. William Q. Hayes
Hon. Karen S. Crawford

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Jeffrey Stephenson and Billy Smith II submit this Memorandum of Points and Authorities in Support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement and Provisional Class Certification (the “Motion”). Defendant Navy Federal Credit Union does not oppose the relief sought. The terms and conditions of the proposed class action settlement are set forth in the Parties’ Class Action Settlement Agreement¹ (the “Agreement”), a copy of which is attached as Exhibit 1 to the Declaration of Class Counsel (“Class Counsel Decl.”).

Plaintiffs filed this Action after Stephenson reported unauthorized charges on his son’s debit card, Billy Smith II reported unauthorized charges made through the Navy Federal app on his phone, and Navy Federal denied their claims. They allege Navy Federal’s policy and practice of denying consumers’ claims with letters stating “no error occurred” violates the Electronic Fund Transfer Act (the “EFTA”), 15 U.S.C. §§ 1693, *et seq.* and Regulation E of the EFTA, 12 C.F.R. §§ 1005.1, *et seq.*, which require financial institutions to comply with specific error resolution procedures and limit consumer liability for reported unauthorized transactions.² Plaintiffs further allege Navy Federal’s conduct breaches the express terms of its Account Disclosures, including the Debit Card Disclosure, and violates the implied covenant of good faith and fair dealing. Navy Federal denies the allegations in the Action. But given the risks, uncertainties, and burdens of continued litigation, the Parties agreed to settle according to the terms of the Agreement.

¹ The capitalized terms used herein are defined and have the same meaning as those used in the Agreement unless otherwise stated.

² These statutes require financial institutions to reimburse accountholders for unauthorized transfers, 15 U.S.C. §§ 1693g(a), (b); to investigate in good faith reported claims of error; *id.* § 1693f(c), 12 C.F.R. § 1005.11(c)(4); to provide “a written explanation of the institution’s findings” upon denying account-holders’ claims, *id.* § 1693f(d), 12 C.F.R. §§ 1005.11(d)(4)(ii); and, upon request, to provide the “documents that the institution relied on in making its determination” in connection with those denials, 15 U.S.C. §§ 1693f(d), 12 C.F.R. § 1005.11(d)(1).

1 The Settlement achieved by the Parties through experienced counsel—reached
2 via arm’s-length negotiations with the assistance of a respected mediator—guarantees
3 substantial benefit for the Settlement Class Members. In exchange for a release of
4 certain claims against Navy Federal, the Parties agree that Navy Federal will:

- 5 • provide \$1,700,000 to Settlement Class Members to fund (a) payments or
6 Account credits to Settlement Class Members who file a valid and timely
7 Claim Form; and (b) any award of attorneys’ fees, costs, and expenses.
8 Settlement Class Members will receive a *pro rata* share of the Net Settlement
9 Fund (with the opportunity for a second *pro rata* share for Settlement Class
10 Members who also are members of the Document Request Settlement
11 Subclass);
- 12 • separately pay \$5,000 to each Plaintiff to settle their individual claims for
13 actual damages and \$5,000 Service Awards to Plaintiffs for serving as Class
14 Representatives; and
- 15 • Settlement Administration Costs paid to the Settlement Administrator, to be
16 reimbursed in whole or in part if there are uncashed checks after payments to
17 Settlement Class Members.

18 An additional benefit to all Settlement Class Members, and current and future
19 Navy Federal accountholders is that Defendant has agreed to revise its written
20 explanation sent to members whose claims are denied and to bolster its procedures
21 for responding to member requests for documents in connection with such denials.
22 Navy Federal’s promise to implement changes to its policies and procedures for
23 handling account-holders’ claims for unauthorized transfers promotes EFTA
24 compliance and adds meaningful Settlement value.

25 The Settlement does not release Settlement Class Members’ actual-damages
26 claims based on Navy Federal’s purported improper denial of a claim of unauthorized
27 transfers. Instead, Settlement Class Members release claims of statutory damages
28 only, which are capped under the EFTA. 15 U.S.C. § 1693m(a)(2)(B).

The Parties have agreed to a robust direct Notice Program designed to afford
all Settlement Class Members due process and advise them of their rights.

As such, Plaintiffs respectfully request that this Court enter the Preliminary
Approval Order submitted herewith that would, among other things:

- Grant preliminary approval of the Agreement, finding the terms to be fair, adequate, and reasonable;
- Provisionally certify the Settlement Classes under Rule 23(a) and (b)(3) for settlement purposes only;
- Appoint the law firms of Edelsberg Law, P.A., Shamis & Gentile, P.A., and Kaliel Gold PLLC as Class Counsel, and appoint Plaintiffs as Class Representatives for the Settlement Classes;
- Approve the Claim Form and the form and content of the Notices, and direct that the Settlement Administrator provide Notice to the Settlement Classes;
- Establish deadlines for members of the Settlement Class to file claims, object to, or exclude themselves from the Settlement; and
- Set a Final Approval Hearing date per the schedule below.

Plaintiffs ask the Court to grant the Motion because the Agreement meets all requirements for preliminary approval and certifying the Settlement Classes.

II. BACKGROUND OF THE LITIGATION

A. Litigation History

On October 10, 2023, Stephenson filed his putative class action complaint in this Court against Navy Federal arising out of its handling of electronic fund transfers disputed by members as unauthorized and/or fraudulent. Class Counsel Decl. ¶ 7. The Complaint alleged claims on behalf of a nationwide class for breach of contract, breach of the implied covenant of good faith and fair dealing, violations of the EFTA, and violation of California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 (the "UCL"). *Id.* Stephenson filed his First Amended Complaint on January 22, 2024, in lieu of responding to Defendant's motion to dismiss. *Id.*

On February 21, 2024, Defendant filed a motion to dismiss the First Amended Complaint under Rule 12(b)(6). *Id.* ¶ 8. After briefing, the Court entered its order denying in part and granting in part Defendant's motion to dismiss, allowing Plaintiffs' EFTA and breach of contract claims to proceed. *Id.* Plaintiffs filed their Second Amended Complaint (SAC), which added Smith II to the Action; Defendant filed its answer to the SAC, asserting seven affirmative defenses. *Id.*

1 The Parties began written discovery, which included the exchange of Rule
2 26(a)(1) initial disclosures, requests for production and interrogatories, engaging in
3 meet-and-confer conferences regarding the same, issuing third-party subpoenas, and
4 production of documents. *Id.* ¶ 9.

5 On December 11, 2024, the Parties participated in an Early Neutral Evaluation
6 with Magistrate Judge Karen S. Crawford, which did not result in settlement. *Id.* ¶
7 10. Then, on February 26, 2025, the Parties requested, and the Court granted a stay
8 of the case to allow the Parties to participation in a mediation to see if they could
9 resolve the case without further litigation. *Id.* On June 4, 2025, the Parties attended a
10 full-day in-person mediation before Judge Diane M. Welsh (Ret.), which resulted in
11 an agreement to the material terms of this Settlement. *Id.* ¶ 11. On June 6, 2025, the
12 Parties notified the Court that they had reached an agreement to settle in principle on
13 a class-wide basis and stipulated to stay the case. *Id.* The Parties then negotiated the
14 Agreement now pending preliminary approval. *Id.*

15 **B. Settlement Negotiations**

16 The Settlement was aggressively negotiated with the assistance of retired Judge
17 Welsh, a well-respected mediator experienced in mediating class actions alleging
18 EFTA claims. Class Counsel Decl. ¶ 11. Judge Welsh presided over an arm's-length
19 mediation between capable and experienced class action counsel on both sides. *Id.* ¶¶
20 2–6, 15. The Parties engaged in a significant amount of informal and formal discovery
21 to assist Class Counsel in assessing the Settlement Class claims and Navy Federal's
22 defenses before reaching this Agreement. *Id.* ¶¶ 13–14, 21. This information included
23 documents regarding Navy Federal's internal policies and practices on handling
24 account-holders' claims of unauthorized or fraudulent transactions and efforts to
25 comply with federal error resolution requirements; letters denying claims during the
26 Class Period; each Plaintiff's transaction history; and the approximate number of
27 accountholders whose claims were denied (a subset of which claim not to have
28 received supporting documentation upon request). *Id.* ¶ 21. The Parties did not

1 discuss attorneys' fees and costs, nor any potential service awards, until they first
2 agreed on the material Settlement terms, including the Settlement Class definitions,
3 the Notice and Notice Program, the claims process and Claim Form, benefits for
4 Settlement Class Members, and scope of the Releases. *Id.* ¶ 17.

5 **III. THE SETTLEMENT**

6 **A. The Settlement Agreement**

7 The Agreement, which resolves the Action in its entirety, includes the
8 following pertinent terms:

9 **1. The Settlement Classes**

10 Plaintiffs propose, for settlement purposes only, that this Court certify
11 Settlement Classes defined as:

12 **Written Explanation Settlement Class:** All Accountholders whose
13 claims of unauthorized electronic fund transfers were denied by Navy
14 Federal Credit Union between October 10, 2022, and the date the Court
grants preliminary approval of the Settlement.

15 **Document Request Settlement Subclass:** All Accountholders in the
16 Written Explanation Settlement Class who requested documents Navy
Federal relied on in making its determination and who did not receive
17 them.

Agreement §§ 1.42(a), (b).

18 **2. Settlement Benefits**

19 Class Counsel believes that the contemplated benefits addressed below
20 adequately compensate the Settlement Classes for the claims they are releasing and,
21 in light of the risks of continued litigation, represent an excellent result for the
22 Settlement Classes. Class Counsel Decl. ¶ 12.

23 **i. Injunctive Relief**

24 Navy Federal has agreed to provide prospective relief to the Settlement Classes
25 by implementing changes to its policies and procedures relating to the handling of
26 claims concerning unauthorized electronic fund transfers. *See* Agreement, 2.2(a).
27 Specifically, Navy Federal has agreed to revise its written explanation sent to
28

1 members whose claims are denied and enhance its procedures for responding to
2 member requests for documents in connection with such denials. *Id.*

3 **ii. Settlement Class Member Payments and Plan of**
4 **Allocation**

5 Navy Federal shall deposit the \$1,700,000 Settlement Fund less the amount of
6 Settlement Class Member Payments to be credited to the accounts of Current
7 Accountholders. Agreement § 2.1(a). The Settlement Fund shall be used to pay any
8 Fee Award to Class Counsel as well as payments and Account credits to Settlement
9 Class Members. *Id.*

10 Each Settlement Class Member may submit a Claim Form to request a
11 Settlement Class Member Payment in the amount of a *pro rata* portion of the Net
12 Settlement Fund. *Id.* § 2.1(b). The Net Settlement Fund will be allocated based on
13 class membership as follows: Settlement Class Members who are members of the
14 Written Explanation Class will be assigned one (1) Approved Claim, while
15 Settlement Class Members who are also members of the Document Request
16 Settlement Subclass will be assigned two (2) Approved Claims. *Id.* The value of each
17 *pro rata* portion of the Net Settlement Fund will be calculated by dividing the total
18 number of Approved Claims by the amount of the Net Settlement Fund. *Id.*

19 **iii. Claims Process and Distribution.**

20 The Settlement provides an easy claim-submission process. The Claim Forms
21 are accessible via one click in the Email Notice and Settlement Website, as well as
22 available in paper format, pre-filled with a unique claim ID and the Settlement Class
23 Member name provided as part of the Postcard Notice with return postage prepaid.
24 Agreement §§ 4.1(g), (h); 1.35. The Claim Forms do not require Settlement Class
25 Members to submit any supporting documentation. *See* Agreement, Ex. A. Settlement
26 Class Members can check a box to indicate that they are also members of the
27 Document Request Settlement Subclass to be assigned an additional Approved
28 Claim. *Id.* § 2.1(b)(ii).

1 To receive a Settlement Class Member Payment, Settlement Class Members
2 must submit a valid Claim Form postmarked or submitted online by the Claims
3 Deadline. *Id.* § 1.6. The Claims Deadline will be clearly set forth in the Preliminary
4 Approval Order, as well as in the Notice and the Claim Form, and will be no later
5 than sixty (60) days after the Notice Date. *Id.*

6 Upon the Effective Date, within ten (10) business days of receipt of funds from
7 Navy Federal, the Settlement Administrator will mail Settlement Class Member
8 Payments to Former Accountholders via check and Navy Federal will credit accounts
9 of Current Accountholders. *Id.* § 2.1(d). After the check cashing deadline (stated on
10 the checks), the Settlement Administrator will attempt to identify updated addresses
11 and re-mail or re-issue a distribution check. *Id.* If any Remaining Residual Funds
12 exist at that time, such funds will be payable for reimbursement of Settlement
13 Administrative Costs, and if any remain, next to a *cy pres* recipient proposed by the
14 Parties (subject to Court approval). *Id.* § 2.1(j).

15 **3. Settlement of Plaintiffs' Individual Claims.**

16 To settle Plaintiff Stephenson and Smith's individual claims for actual
17 damages (alleged in the SAC), Navy Federal has agreed to pay each Plaintiff \$5,000
18 in exchange for a general release of claims. Agreement § 2.1(a)(i). The General
19 Release and waiver of California Code Section 1542 relate to the Plaintiffs'
20 individual claims. *Id.* §§ 3.3; 1.31, 1.48.

21 **4. The Notice Program**

22 The Parties retained Kroll Settlement Administration LLC ("Kroll") to serve
23 as the Settlement Administrator. Agreement § 1.41. No later than sixty (60) days
24 following entry of the Preliminary Approval Order, the Settlement Administrator will
25 provide direct Email Notice and Postcard Notice via the e-mail addresses and mailing
26 addresses identified in the Settlement Class List, respectively. *Id.* § 4.1.

27 In the event any Email Notices and/or Postcard Notices are returned as
28 undeliverable within thirty (30) days after the Initial Mailed Notice is completed, the

1 Settlement Administrator shall complete the Notice Re-Mailing Process by mailing a
2 Postcard Notice to those Settlement Class Members whose new addresses were
3 identified during the reasonable tracing procedure. *Id.* § 4.1(f). No later than thirty
4 (30) days after the Notice Date, the Settlement Administrator shall also send a second
5 Email Notice to those Settlement Class Members who have not yet made a claim,
6 requested to opt out, or made an objection. *Id.* § 4.1(g).

7 The Settlement Administrator will also establish and maintain the Settlement
8 Website, which will include the Long Form Notice, the Claim Form (including the
9 ability to file Claim Forms online), the Agreement, the Preliminary Approval Order,
10 Plaintiff's Application for Fees and Costs and for Service Awards, and the date of the
11 Final Approval Hearing. *Id.* § 4.1(h). The Settlement Administrator shall also
12 maintain a toll-free telephone system containing recorded answers to frequently
13 asked questions as agreed to by the Parties and the ability to reach a live operator,
14 including to request a copy of the Claim Form or the Long-Form Notice. *Id.* § 4.1(i).

15 The Long Form Notice includes: a) a description of the case, Settlement Class
16 Members' legal rights and options, answers to frequently asked questions, the
17 Agreement and the Settlement benefits, contact information for Counsel, and the
18 attorneys' fees and costs that Class Counsel intends to request and the Service Awards
19 to be sought by Plaintiffs; b) instructions on how to opt out of or object to the
20 Settlement; and c) information about the Final Approval Hearing. *Id.* at Ex. D.

21 **5. Settlement Releases**

22 The Agreement includes a narrow release by Plaintiffs and all Settlement Class
23 Members of the Released Claims that reasonably arise out of or relate to the claims
24 alleged in the Action regarding Navy Federal's improper denial of a claim for
25 reimbursement of unauthorized electronic fund transfers. Agreement § 3.2. The
26 Released Claims exclude any claims for actual damages based on or related to Navy
27 Federal's purported improper denial of a claim of unauthorized electronic transfer(s).
28

1 **6. Class Counsel’s Attorneys’ Fees and Reimbursement of**
2 **Expenses, Plaintiffs’ Service Awards, and Settlement**
3 **Administration Costs**

4 Subject to Court approval, Plaintiffs will request the following payments from
5 the Settlement Fund: Class Counsel’s attorneys’ fees of up to one-third of the
6 Settlement Value and reimbursement of expenses. Agreement § 9.1. Subject to Court
7 approval, Plaintiffs will also request \$5,000 Service Awards to each Plaintiff for
8 serving as Class Representative.

9 **IV. LEGAL STANDARD FOR PRELIMINARY APPROVAL**

10 Rule 23(e)(2) requires that class action settlements be “fair, reasonable, and
11 adequate.” The Ninth Circuit recognizes the “strong judicial policy that favors
12 settlement, particularly where complex class action litigation is concerned.” *In re*
13 *Hyundai & Kia Fuel Econ. Litig.*, 926 F.3d 539, 556 (9th Cir. 2019). Approval of a
14 class action settlement “involves a two-step process in which the Court first
15 determines whether a proposed class action settlement deserves preliminary approval
16 and then, after notice is given to class members, whether final approval is warranted.”
17 *Morey v. Louis Vuitton N. Am., Inc.*, 2013 WL 12069021, at *4 (S.D. Cal. 2013)
18 (Hayes, J.).³ At the preliminary approval stage, the focus is on whether the “proposed
19 settlement falls within the range of possible judicial approval.” *Grant v. Capital*
20 *Mgmt. Services, L.P.*, 2013 WL 6499698, at *2 (S.D. Cal. 2013) (Hayes, J.).
21 “Essentially, the court is only concerned with whether the proposed settlement
22 discloses grounds to doubt its fairness or other obvious deficiencies such as unduly
23 preferential treatment of class representatives or segments of the class, or excessive
24 compensation of attorneys.” *Morey*, 2013 WL 12069021, at *7. Indeed, “[t]he court’s
25 intrusion upon what is otherwise a private consensual agreement negotiated between
26 the parties to a lawsuit must be limited to the extent necessary to reach a reasoned

27
28 ³ Unless otherwise stated herein, all internal citations, quotation marks, and
alterations are omitted, and all emphasis is added.

1 judgment that the agreement is not the product of fraud or overreaching by, or
2 collusion between, the negotiating parties, and that the settlement, taken as a whole,
3 is fair, reasonable and adequate to all concerned.” *Officers for Justice v. Civil Serv.*
4 *Comm’n of City and County of San Francisco*, 668 F.2d 615, 625 (9th Cir. 1982).

5 Ultimately, the standard inquiry the trial court explores is whether the proposed
6 settlement “is fundamentally fair, adequate, and reasonable.” *Hanlon v. Chrysler*
7 *Corp.*, 150 F.3d 1101, 1026 (9th Cir. 1998); Fed. R. Civ. P. 23(e). “It is the settlement
8 taken as a whole, rather than the individual component parts, that must be examined
9 for overall fairness.” *Hanlon*, 150 F.3d at 1026. Accordingly, the court does not have
10 “the ability to delete, modify or substitute certain provisions.” *Id.* In other words, the
11 “settlement must stand or fall in its entirety.” *Id.*

12 Rule 23(e)(2) permits a district court to approve a class action settlement upon
13 considering whether: “(A) the class representatives and class counsel have adequately
14 represented the class; (B) the proposal was negotiated at arm’s length; (C) the relief
15 provided the class is adequate ... and (D) the proposal treats class members equitably
16 relative to each other.” *Martinez v. University of San Diego*, No. 3:20-cv-01946-
17 RBM-VET, 2024 WL 4713891, at *10 (S.D. Cal. Nov. 7, 2024). In addition to the
18 Rule 23(e)(2) requirements, courts in the Ninth Circuit generally assess a settlement’s
19 fairness in weighing several factors, as set forth in *In re Bluetooth Headset Prods.*
20 *Liab. Litig.*, 654 F.3d 935, 946 (9th Cir. 2011) (quoting *Churchill Vill. v. Gen. Elec.*,
21 361 F.3d 566 (9th Cir. 2004)) (the “Churchill factors”). The *Churchill* factors, which
22 largely overlap with the Rule 23(e)(2) factors, include:

23 (1) the strength of the plaintiff’s case; (2) the risk, expense, complexity,
24 and likely duration of further litigation; (3) the risk of maintaining class
25 action status throughout the trial; (4) the amount offered in settlement;
26 (5) the extent of discovery completed and the stage of the proceedings;
27 (6) the experience and views of counsel; (7) the presence of a
28 governmental participant; and (8) the reaction of the class members of
the proposed settlement.

1 *Bluetooth*, 654 F.3d at 946.⁴ For the reasons set forth in detail below, the proposed
2 Settlement is fundamentally fair, adequate, and reasonable—thereby, falling squarely
3 into the range of preliminary approval.

4 **V. PRELIMINARY SETTLEMENT APPROVAL IS WARRANTED**

5 Plaintiffs and the Settlement Classes faced significant risks in this case. Given
6 these risks, highly experienced counsel for the parties diligently engaged in arm’s-
7 length negotiations, conducted in good faith, and driven by a substantial amount of
8 discovery and investigation, as well as significant and complex motion practice. A
9 settlement that provides Settlement Class Members with a valuable cash benefit and
10 meaningful injunctive relief falls within the range of possible approval. Accordingly,
11 each of the Rule 23(e)(2) factors, as well as the *Churchill* factors, weigh in favor of
12 finding that the proposed Settlement is fair, adequate, and reasonable.

13 **A. The Proposed Settlement is Fair, Adequate, and Reasonable**

14 **1. The Rule 23(e)(2) Requirements**

15 Plaintiffs and Class Counsel have adequately and vigorously represented the
16 Settlement Classes throughout the 2.5-year litigation, which involved significant
17 formal and informal discovery, contentious motion practice, and settlement
18 negotiations with the assistance of a third-party neutral mediator. Class Counsel Decl.
19 ¶ 13. Further, Plaintiffs, through their counsel, engaged in a lengthy, independent
20 investigation of their claims, as well as the potential claims of other Settlement Class
21 Members, to properly weigh the pros and cons of continued litigation versus the
22 proposed nationwide settlement of all claims for statutory damages. *Id.* ¶ 14.
23 Additionally, the entire settlement process was negotiated in good faith and at arm’s-
24

25 _____
26 ⁴ As this Court explained, “the Court need not conduct a full settlement fairness
27 appraisal before granting preliminary approval” and in fact, “cannot fully assess
28 many of these factors prior to notice and an opportunity for objection.” *Morey*, 2013
WL 12069021 at *7. This Motion does not discuss the seventh *Churchill* factor—
presence of a governmental participant—because it is inapplicable. And the eighth
Churchill factor—reaction of the settlement class—will be revisited at final approval.

length by highly knowledgeable counsel experienced in complex class action litigation, including consumer disputes against financial institutions. *Id.* ¶ 15. *See Grant*, 2013 WL 6499698, at *5 (finding “the procedure reaching the settlement was fair and reasonable” where it “was the product of arms-length negotiations” and “reached with the assistance of” a mediator).

Next, the adequacy of the relief provided to the Settlement Class Members is substantial and each Settlement Class Member is treated equitably relative to all other members of the Settlement Classes based on the *pro rata* distribution amongst the number of Approved Claims as set forth in the Agreement § 2.1. *See Morgan v. Rohr, Inc.*, 2025 WL 1285830, at *14 (S.D. Cal. May 1, 2025) (finding “there is little risk of unequal treatment” where each settlement class member payment is “calculated pro rata”). And the scope of the Release applies equally to all Settlement Class Members and does not affect the apportionment of relief. *Id.* § 3.2. The Release is tailored to the Released Claims as defined in the Agreement and protects Settlement Class Members’ rights to individually pursue claims for actual damages. *Id.* § 1.36.

Lastly, Class Counsel has not been paid for their extensive efforts or reimbursed for litigation costs incurred over the last two and a half years. Class Counsel Decl. ¶ 16. Under the Agreement, Class Counsel are entitled to request attorneys’ fees representing up to one-third of the value of the Settlement, as well as reimbursement of litigation costs incurred in the Action. Agreement § 9.1. The Parties negotiated and reached agreement regarding fees and costs only after agreeing to the material terms of the Settlement. Class Counsel Decl. ¶ 17. That award remains subject to this Court’s approval and will compensate Class Counsel for the time, risk, and expenses incurred in pursuing claims on Settlement Class Members’ behalf. Accordingly, this Court should find that this factor will weigh in favor of granting final approval and should reserve a full analysis of this factor for final approval. *Kendall v. Odonate Therapeutics, Inc.*, 2022 WL 188364, at *7 (S.D. Cal. Jan. 18,

2022) (33.33% of the settlement “is within the range of acceptable attorneys’ fees in Ninth Circuit cases”).

At this stage, there is no reason to doubt that the proposed Fee Award supports settlement approval. Class Counsel’s fees and costs will be paid from the same Settlement Fund as Settlement Class Member Payments and thus, Class Counsel were incentivized to negotiate the largest fund possible. Agreement § 9.1. Further, the Fee Award is subject to final Court approval, and if any requested fees are not approved by the Court, those funds will be distributed to Settlement Class Members. *Id.*

2. The *Churchill* Factors

i. Strength of Plaintiffs’ Case and Further Litigation Risk

As this Court has noted, “the Court must balance against the risks of continued litigation (including the strengths and weaknesses of Plaintiff’s case), the benefits afforded to members of the Class, and the immediacy and certainty of a substantial recovery.” *Morey v. Louis Vuitton N.A.*, No. 11cv1517 WQH (BLM), 2014 WL 109194, at *5 (S.D. Cal. Jan. 9, 2014) (Hayes, J.).

The SAC alleges claims for statutory damages under the EFTA and actual damages for the EFTA and breach of contract. Plaintiffs believed their EFTA claims for statutory damages were meritorious based on both the alleged facts and court decisions involving similar claims challenging financial institutions’ error resolution procedures like Navy Federal’s alleged here. *See, e.g., Garcia v. Navy Federal Credit Union*, No. 23-cv-2017-MMA-BLM, 2025 WL 1100898, at *19 (S.D. Cal. Apr. 14, 2025) (denying Defendant’s motion for summary judgment as to whether Navy Federal complied with the EFTA’s reasonable investigation provision); *Nguyen v. Wescom Central Credit Union*, No. SACV 22-01520-CJC (JDEx), 2023 WL 9019022, at *4 (C.D. Cal. Nov. 15, 2023) (“Summary judgment is inappropriate on Plaintiff’s EFTA claim because a reasonable jury could determine that Defendant’s investigation of Plaintiff’s claim was not reasonable.”); *see also Sparkman v. Comerica Bank*, No. 23-CV-02028-DMR, 2023 WL 5020269, at *10 (N.D. Cal. Aug.

1 4, 2023) (denying motion to dismiss based on allegations of insufficient form letters
2 denying fraud claims and facts showing transactions were unauthorized).

3 But “in the case of a class action ... the total recovery” for statutory damages
4 under the EFTA “shall not be more than the lesser of \$500,000 or 1 per centum of the
5 net worth of the defendant[.]” 15 U.S.C. § 1693m(a)(2)(B)(ii). Thus, even if the
6 EFTA claims for alleged insufficient denial letters and failure to provide documents
7 upon request were meritorious, they provide a limited ground for recovery of putative
8 class damages. Further, while Plaintiffs believe in the merits of their EFTA and
9 breach of contract claims for actual damages, they recognize that certification of such
10 claims under Rule 23(b)(3) was risky due to Navy Federal’s arguments that the
11 elements of causation and damages could not be determined on a class-wide basis.
12 *See, e.g., Moriarty v. Am. Gen. Life Ins. Co.*, No. 3:17-CV-1709-BTM-WVG, 2022
13 WL 6584150, at *5 (S.D. Cal. Sept. 27, 2022) (denying motion for class certification
14 on claim for breach of contract in part due to “substantial concerns as to whether the
15 issues of the individual claims such as actual damages and causation would
16 predominate”).

17 The parties weighed these considerations when they agreed to settle only the
18 statutory damages claims, but to not release Settlement Class Members’ claims for
19 actual damages under the EFTA, their contracts, or any other legal theory. This is like
20 other settlements that recently received final approval from district courts, where only
21 statutory claims under the EFTA were released in exchange for a settlement payment.
22 *See Almon v. Conduent Bus. Servs., LLC*, No. 5:19-cv-01075-XR, ECF No. 110
23 (W.D. Tex. Nov. 1, 2024) (granting final approval of class action settlement regarding
24 EFTA claims); *Shelby v. Two Jinns, Inc.*, No. CV 15-03794-AB (GJSx), 2017 WL
25 6347090 (C.D. Cal. Aug. 2, 2017) (same)

26 While Plaintiffs are confident in their claims’ merits, establishing liability is
27 challenging, as shown by the dispute over whether Navy Federal’s procedures satisfy
28 the EFTA requirements, the discovery needed, and challenges in determining whether

1 Navy Federal erred in denying any particular claim. Navy Federal maintains that its
2 practices and procedures related to the investigation and determination of claimed
3 fraudulent electronic transfers, including explanations for denial and provision of
4 documents to members upon request, complied with all applicable laws and
5 regulations, including the terms of its Deposit Account Agreement with consumers.
6 Indeed, “[t]here is limited guidance as to what constitutes a reasonable investigation
7 under § 1693f.” *Nguyen*, 2023 WL 9019022 at *3 (citing cases).

8 Although the Court allowed Plaintiffs’ EFTA and contract claims to proceed
9 on the motion to dismiss, the risks in prosecuting a class action through trial cannot
10 be disregarded. Plaintiffs’ claims would need to survive additional forthcoming
11 motion practice, and they would have to succeed in certifying a class. Class Counsel
12 Decl. ¶ 18. The delay in continuing to litigate this case also favors approval of the
13 Settlement. *Id.* Significant time and additional costs would be required for the Parties
14 and the Court to complete discovery, brief and rule on class certification, participate
15 in pre-trial proceedings, brief and rule on summary judgment, etc. *Id.* And the Parties
16 could appeal the Court’s class certification and summary judgment decisions as well
17 as any verdict at trial, which could take years to resolve and could result in reversal
18 on appeal. *Id.* Plainly, litigation “would likely continue for many years, especially
19 given that EFTA law is not well settled.” *Granados v. OnPoint Community Credit*
20 *Union*, 2025 WL 1640204, at *7 (D. Or. June 10, 2025). Given that the Settlement
21 provides immediate compensation for the Settlement Classes now, in light of the risks
22 and delay of receiving any monetary relief at all, these considerations support
23 approval of the Settlement.

24 **ii. The Risk of Maintaining Class Action Status**
25 **Throughout Trial**

26 The third *Churchill* factor, which considers the risk of Plaintiffs maintaining
27 class status through the duration of the case, also supports preliminary approval. At
28 the time this Settlement was reached, no class was certified. As discussed above, there

are undoubtedly risks involved in pursuing this case as a class action, especially given that “the type of fraud that generates these claims on a broad scale is a new phenomenon.” *Nelipa v. TD Bank, N.A.*, No. 21-CV-1092, 2024 WL 3017141 at *8 (E.D.N.Y. June 17, 2024). This risk is especially acute regarding claims for actual damages, which Navy Federal argued could never be certified due to a lack of predominance on the elements of breach and damages. Class Counsel Decl. ¶ 19. And even if the Court were to grant class certification, the real risk of later decertification supports settlement approval. *See In re Netflix Privacy Litig.*, No. 5:11-cv-00379 EJD, 2013 WL 1120801, at *6 (N.D. Cal. Mar. 18, 2013) (“The notion that a district court could decertify a class at any time is one that weighs in favor of settlement”).

iii. The Amount Offered in the Settlement

The Settlement provides exceptional monetary benefits. Settlement Class Members who submit a timely and valid Claim Form will receive payment of their *pro rata* share of a \$1,700,000 Settlement Fund net of attorneys’ fees and Service Awards awarded by the Court. The Net Settlement Fund will be distributed to Settlement Class Members based on the number of Approved Claims divided by the Net Settlement Fund.

This Settlement does not release any Settlement Class Members’ claims for actual damages based on Navy Federal’s alleged improper denial of claims. Class Counsel Decl. ¶ 20. Instead, the Agreement reflects a settlement of statutory damages claims, which do not require proof of actual damages, but are capped under the EFTA. *See* 15 U.S.C. § 1693m(a)(2)(A)-(B). Although the recovery for each Settlement Class Member will depend on the number of Approved Claims, the Settlement Fund is more than three times the maximum class recovery if successful in litigation. This sizable monetary recovery weighs in favor of preliminary approval. *See e.g., Greenley v. Mayflower Transit, LLC*, No. 21-cv-339-WQH-MDD2022 WL 3161908, at *3 (S.D. Cal. Aug. 8, 2022) (Hayes, J.) (approving settlement fund of 41.9% of maximum potential statutory damages under CIPA as “fair and reasonable”).

The substantial amount offered in this Settlement is also an excellent recovery when compared with the limited universe of similar EFTA class action settlements that have received approval. *See, e.g., Almon*, No. 5:19-cv-01075-XR, ECF No. 110 (granting final approval to class action settlement that certified three classes—each relating to a different alleged violation of the EFTA—in exchange for a \$1,200,000 cash fund); *Shelby*, 2017 WL 6347090, at *2 (approving \$475,000 common fund for EFTA violations). The reasonableness of the \$1,700,000 common fund is strongly supported by the fact that statutory damages under the EFTA for class actions are capped at \$500,000. Moreover, while prior cases only obtained cash funds, here Navy Federal has agreed to implement changes to its policies and procedures relating to the handling of claims concerning unauthorized transfers that will benefit Settlement Class Members (and many other Navy Federal customers) for years to come.

iv. The Extent of Discovery and Stage of the Proceedings

In assessing sufficiency of discovery, “a court need not possess evidence to decide the merits of the issues, because compromise is proposed in order to avoid further litigation.” Newberg & Conte, *Newberg on Class Actions*, § 11.45 (4th ed. 2008). Rather, a court needs only sufficient information “to raise its decision above mere conjecture.” *Id.* In analyzing this factor, the Court evaluates “whether the parties have sufficient information to make an informed decision about settlement.” *Hunter v. Nature’s Way Products, LLC*, No. 3:16-cv-532-WQH-AGS, 2020 WL 71160, at *5 (S.D. Cal. Jan. 6, 2020) (Hayes, J.).

Here, the Parties engaged in both formal and informal discovery prior to settling, which included Defendant’s production of information regarding Navy Federal’s policies and procedures and training. Class Counsel Decl. ¶ 21. The Parties aggressively litigated this case through contentious motion practice and settlement negotiations driven by the exchange of discovery, including with the assistance of a mediator. *Id.* ¶ 22. Thus, the Parties had sufficient information to assess the merits and weigh the settlement benefits before entering into the Agreement. *See e.g.,*

1 *Hunter*, 2020 WL 71160 at *5 (finding “parties’ extensive investigation, discovery,
2 and subsequent settlement discussions” supported approval).

3 **v. The Experience and Views of Counsel**

4 The Ninth Circuit “has long deferred to the private consensual decision of the
5 parties.” *Rodriguez v. West Publ’g Corp.*, 563 F.3d 948, 965 (9th Cir. 2009). “Parties
6 represented by competent counsel are better positioned than courts to produce a
7 settlement that fairly reflects each party’s expected outcome in litigation.” *Id.* at 967.
8 Class Counsel are highly experienced in complex class action litigation, including
9 consumer disputes against financial institutions. Class Counsel Decl. ¶¶ 2–6, 25–26,
10 Exs. 2–4 (firm resumes). Collectively, Class Counsel have secured hundreds of
11 millions of dollars on behalf of consumers because of their efforts in evoking large-
12 scale reform of unlawful and unfair business practices through class action
13 settlements nationwide. *See id.* Counsel for both Parties, as highly experienced trial
14 attorneys and class counsel, are confident in the terms of the Settlement after
15 engaging in informed negotiations. *Id.* Thus, Class Counsel’s experience and
16 considered judgment weighs heavily in favor of finding the Settlement to be fair,
17 adequate, and reasonable. *See e.g., Grant*, 2013 WL 6499698 at *5.

18 In sum, all factors weigh in favor of finding that the proposed Settlement is
19 fair, reasonable, and adequate, and therefore, a grant of preliminary approval of the
20 Settlement is warranted.

21 **VI. THE PROPOSED CLASSES SHOULD BE PROVISIONALLY**
22 **CERTIFIED FOR SETTLEMENT PURPOSES**

23 Settlement approval under Rule 23(e) requires certification of a settlement
24 class for settlement purposes only. *Greenley*, 2022 WL 3161908 at *3. The Ninth
25 Circuit recognizes the propriety of certifying a settlement class to resolve consumer
26 lawsuits. *See Hanlon*, 150 F.3d at 1019. At the preliminary approval stage, the
27 Court’s threshold task is to determine whether the proposed class satisfies the Rule
28 23(a) requirements: (1) numerosity, (2) commonality, (3) typicality, and (4)

1 adequacy, and the requirements set forth in Rule 23(b)(3). *Id.* Here, the provisional
2 certification of the proposed Classes for settlement purposes is warranted because
3 Plaintiffs satisfy all requirements set forth in Rule 23.

4 **A. The Proposed Settlement Classes Satisfy Rule 23(a)**

5 **1. Numerosity**

6 Numerosity is satisfied if “the class is so numerous that joinder of all members
7 is impracticable.” Fed. R. Civ. P. 23(a)(1). “Joinder need not be impossible, as long
8 as potential class members would suffer a strong litigation hardship or inconvenience
9 if joinder were required.” *Rannis v. Rechhia*, 380 Fed. Appx. 646, 651 (9th Cir. May
10 27, 2010). Numerosity is clearly established here as there are approximately 350,000
11 Settlement Class Members (as of a date before the mediation). Class Counsel Decl. ¶
12 23. Accordingly, because the Settlement Class Members are certainly too numerous
13 to join as plaintiffs, the numerosity requirement is met.

14 **2. Commonality**

15 Commonality is satisfied if “there are any questions of law or fact common to
16 the class.” Fed. R. Civ. P. 23(a)(2). The inquiry regarding commonality involves
17 whether Plaintiffs can show a common contention such that “determination of its
18 truth or falsity will resolve an issue that is central to the validity of each one of the
19 claims in one stroke.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). “The
20 existence of shared legal issues with divergent factual predicates is sufficient, as is a
21 common core of salient facts coupled with disparate legal remedies within the class.”
22 *Hanlon*, 150 F.3d at 1019. All Settlement Class Members suffered the same statutory
23 injury and assert claims depending on the same contention: that Defendant’s denial
24 letters were inadequate and that Defendant failed to provide all relevant records upon
25 request. *See Beaver v. Omni Hotels Mgmt. Corp.*, 2023 WL 6120685, at *5 (S.D. Cal.
26 2023). Thus, the commonality requirement is readily satisfied.

27 **3. Typicality**

Typicality is satisfied if the class representatives' claims or defenses are typical to those of the settlement class. Fed. R. Civ. P. 23(a)(3). The Ninth Circuit applies the typicality requirement liberally: "representative claims are typical if they are reasonably coextensive with those of absent class members; they need not be substantially identical." *Hanlon*, 150 F.3d at 1020. The "typicality" requirement is essential to ensure that the claims of the class representative is aligned with those of the class as a whole. *Wolin v. Jaguar Land Rover N.A., LLC*, 617 F.3D 1168, 1175 (9th Cir. 2010). Here, Plaintiffs' claims are typical to those of the absent Settlement Class Members because they are based upon materially similar facts and identical legal and remedial theories. *See Ellis v. Costco Wholesale Corp.*, 657 F.3d 970, 984 (9th Cir. 2011) (typicality exists when the class representative and the class are injured by the same course of conduct).

4. Adequacy

Adequacy is satisfied if the class representatives "will fairly and adequately protect the interests of the class." Fed. R. Civ. P. 23(a)(4). Two questions determine legal adequacy: "(1) do the named plaintiffs and their counsel have any conflicts of interest with other class members and (2) will the named plaintiffs and their counsel prosecute the action vigorously on behalf of the class?" *Hanlon*, 150 F.3d at 1020. Plaintiffs are adequate class representatives because they share the common goal to ensure Navy Federal meets its investigative obligations under the EFTA. *See e.g., Hoffman v. Dutch LLC*, 317 F.R.D. 566, 574 (S.D. Cal. 2016) (finding adequacy met where class representatives and members "share a common goal of protecting consumer's rights"). Neither Plaintiff harbors interests antagonistic to the interests of the Settlement Class. *See* Class Counsel Decl. ¶ 24. Plaintiffs have stayed abreast of the proceedings, attended the Early Neutral Evaluation, and if necessary, would sit for depositions and participate in discovery. *Id.* Further, Class Counsel are highly experienced consumer class action attorneys, have litigated many cases involving breach of contract and EFTA actions against financial institutions, and have

1 vigorously investigated and prosecuted this case since its inception. *Id.* ¶ 25.
2 Therefore, the adequacy requirement is satisfied.

3 **B. The Proposed Settlement Classes Satisfy Rule 23(b)(3)**

4 Class actions under Rule 23(b)(3) must also satisfy the “predominance” and
5 “superiority” requirements: (1) “the questions of law and fact common to class
6 members predominate over any questions affecting only individual members, and”
7 (2) “that a class action is superior to other available methods for fairly and efficiently
8 adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3). Plaintiffs satisfy both.

9 **1. Common Questions Predominate**

10 Predominance inquires “whether proposed classes are sufficiently cohesive to
11 warrant adjudication by representation.” *Hanlon*, 150 F.3d at 1022. Although
12 predominance is inherently related to commonality it that it assumes a prerequisite of
13 common issues of law and fact, “Rule 23(b)(3) focuses on the *relationship* between
14 the common and individual issues.” *Id.* Where the core question driving the litigation
15 “would require the separate adjudication of each class member’s individual claim or
16 defense, a Rule 23(b) action would be inappropriate.” *Zinser v. Accufix Research*
17 *Institute, Inc.*, 253 F.3d 1180, 1189 (9th Cir. 2001). But “[w]hen common questions
18 present a significant aspect of the case and they can be resolved for all members of
19 the class in a single adjudication, there is clear justification for handling the dispute
20 on a representative rather than on an individual basis.” *Hanlon*, 150 F.3d 1022. This
21 Court has found predominance satisfied where the “claims have the potential be
22 proven based upon Defendant’s uniform [] policy, without the need for
23 individualized proof.” *Greenley*, 2022 WL 3161908 at *4.

24 As to Plaintiffs’ EFTA claim, the predominant common question is whether
25 Navy Federal’s denial letters and procedures for providing documents upon request
26 violated the EFTA, which can be proven with common evidence, including the letters
27 themselves and Navy Federal’s procedures. *See Almon v. Conduent Bus. Servs., LLC*,
28 No. No. 5:19-cv-01075-XR, 2022 WL 4545530, at *15 (W.D. Tex. Sept. 28, 2022)

(finding predominance satisfied on EFTA claim because “individual inquiries are not necessary to determine whether an investigation was timely completed, whether a provisional credit was properly given, or whether or not Defendants timely provided a cardholder with their investigative documents”); *Shelby*, 2017 WL 6347090, at *4 (“Common factual and legal issues predominate because the single claim at issue here depends on Defendant's electronic withdrawal of funds from Class members’ accounts, and whether the EFTA permits that conduct.”). Predominance is met here.

2. A Class Action is the Superior Method of Adjudication.

Superiority examines whether the class action device “is superior to other available methods for fairly and efficiently adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3). In evaluating superiority, courts consider the following factors: “(A) the class members’ interests in individually controlling the prosecution or defense of separate actions; (B) the extent and nature of any litigation concerning the controversy already begun by or against class members; (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and (D) the likely difficulties in managing a class action.” *Id.* “Where recovery on an individual basis would be dwarfed by the cost of litigating on an individual basis, this factor weighs in favor of class certification.” *Wollin*, 617 F.3d at 1175-76. In the settlement context, manageability of the class action device is not a concern. *See Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997).

Because each Settlement Class Member’s claim is common to the class and relatively small in amount given the cap on statutory damages in the EFTA, a class action is the superior method for efficiently adjudicating Plaintiffs’ claims for statutory damages and injunctive relief.

VII. THE COURT SHOULD APPROVE THE PROPOSED CLASS NOTICE AND NOTICE PROGRAM

Rule 23(e) requires the trial court to “direct notice in a reasonable manner to all class members who would be bound by the proposal.” Fed. R. Civ. P. 23(e)(1).

1 Class notice must be “reasonably calculated to adequately apprise Class Members of
2 (a) the pending lawsuit, (b) the proposed settlement, and (c) their rights, including the
3 right to either participate in the settlement, exclude themselves from the settlement,
4 or object to the settlement.” *Morey*, 2013 WL 12069021 at *9. A class action
5 settlement notice is “satisfactory if it generally describes the terms of the settlement
6 in sufficient detail to alert those with adverse viewpoints to investigate and to come
7 forward and to be heard.” *Churchill*, 361 F.3d at 575. “However, Rule 23(e) ‘does
8 not require a detailed analysis of the statutes or causes of action forming the basis for
9 the plaintiff class’s claims, and it does not require an estimate of the potential value
10 of those claims.’” *In re Online DVD-Rental*, 779 F.3d at 946.

11 The content of the Email Notice, Postcard Notice, and Long Form Notice
12 provides sufficient information to meet these standards. *See* Agreement Exs. B–D.
13 Each Notice clearly and conspicuously describes: who is a Settlement Class Member;
14 the factual background of the litigation and the Parties; Settlement Class legal rights,
15 including to participate, opt out, or object, and deadlines for each option; the benefits
16 and details of the relief; the requested percentage of the value of the Settlement
17 Plaintiff will seek in attorneys’ fees and the Service Award amount; how to contact
18 the Settlement Administrator. *Id.*

19 The Long Form Notice uses a “frequently asked questions” format and
20 includes answers to questions such as, “How do I know if I’m a Member of the
21 Settlement Classes?”; “If I am a Settlement Class Member, What Are My Options?”;
22 and “If I Do Not Exclude Myself from the Settlement, What Claims Am I Giving
23 Up?” *See* Settlement Agreement, Exhibit D. This format constitutes adequate notice.
24 4 Newberg on Class Actions § 11:53, at p. 167 (4th ed. 2013) (“[N]otice is adequate
25 if it may be understood by the average class member.”).

26 Moreover, the method of providing Notice is adequate and reasonably likely
27 to ensure members of the Settlement Class apprised of the Settlement and given an
28 opportunity to be heard. Within sixty (60) calendar days after entry of the Preliminary

1 Approval Order, the Settlement Administrator will post and/or send Email Notice if
2 Navy Federal has a valid email address, Postcard Notice if Navy Federal does not
3 have a valid email address. The Long Form Notice will be available on the Settlement
4 Website and upon request.

5 In addition, the Settlement Administrator will maintain a toll-free number and
6 a Settlement Website where class members can obtain further information and copies
7 of key documents. *See* Agreement at § 4.1.

8 Accordingly, both the procedure and content of the Notice constitutes the best
9 notice practicable under the circumstances. *See In re Online DVD-Rental*, 779 F.3d
10 at 946 (describing adequate notice); *See e.g., Morey*, 2013 WL 12069021 at *9
11 (finding that disseminating notice via methods including email, postcard, and a
12 settlement website constituted proper forms and methods of notice).

13 **VIII. THE COURT SHOULD APPOINT PLAINTIFFS AS CLASS**
14 **REPRESENTATIVES AND PLAINTIFFS' COUNSEL AS CLASS**
15 **COUNSEL FOR SETTLEMENT PURPOSES**

16 Plaintiffs also request that the Court designate Plaintiffs Stephenson and Smith
17 II as Class Representatives. As detailed above, Plaintiffs will fairly and adequately
18 represent and protect the interests of the Settlement Classes.

19 Plaintiffs also seek to appoint Scott Edelsberg and Adam Schwartzbaum of
20 Edelsberg Law, P.A.; Edwin E. Elliott of Shamis & Gentile, P.A.; and Sophia Gold
21 and Jeffrey D. Kaliel of Kaliel Gold PLLC as Class Counsel for the Settlement
22 Classes. In appointing Class Counsel pursuant to Rule 23(g), the Court “must
23 consider: (i) the work counsel has done in identifying or investigating potential claims
24 in the action; (ii) counsel’s experience in handling class actions, other complex
25 litigation, and the types of claims asserted in the action; (iii) counsel’s knowledge of
26 the applicable law; and (iv) the resources that counsel will commit to representing the
27 class.” Fed. R. Civ. P. 23(g)(1)(A). Class Counsel is experienced and knowledgeable
28 in complex consumer class action litigation and well-equipped to vigorously and
efficiently represent the proposed Settlement Class. *See* Class Counsel Decl. ¶ 26.

Moreover, Class Counsel has expended a substantial amount of time investigating Navy Federal's handling of unauthorized electronic fund transfers disputed by members and researching the viability of Plaintiffs' claims. *Id.* Accordingly, the Court should appoint Class Counsel for the Settlement Classes.

IX. THE PROPOSED SETTLEMENT ADMINISTRATION SCHEDULE THROUGH FINAL APPROVAL HEARING

Based on the date of entry of the Preliminary Approval Order and the date the Court sets for the Final Approval Hearing, the following represents the Parties' anticipated Settlement-related deadlines:

Event	Date
Deadline for Navy Federal to provide Settlement Class List to Class Counsel and the Settlement Administrator	No later than 30 calendar days after entry of the Preliminary Approval Order
Deadline for commencing emailing and mailing of the Notice to Settlement Class Members and posting the Notice and Claim Form on the Settlement website (the "Notice Date")	No later than 60 calendar days after entry of the Preliminary Approval Order
Deadline for Plaintiffs to file application for attorneys' fees and expenses and Service Awards	30 calendar days after the Notice Date (up to 90 calendar days after entry of the Preliminary Approval Order)
Deadline for submitting of exclusion requests or objections	Postmarked no later than 45 calendar days after the Notice Date (up to 105 calendar days after entry of the Preliminary Approval Order)
Deadline for submitting Claim Forms	Postmarked or electronically filed no later than 60 calendar days after the Notice Date (up to 120 calendar days after entry of the Preliminary Approval Order)
Deadline for any response to any timely and valid objections and any supplemental brief re: final approval	70 days after the Notice Date (up to 130 calendar days after entry of the Preliminary Approval Order)
Deadline for Settlement Administrator to Submit Declaration Identifying Opt Outs and Confirming Compliance with Notice Plan	At least 10 days before Final Approval Hearing.
Final Approval Hearing	At least 5 months after entry of the Preliminary Approval Order

X. CONCLUSION

Plaintiffs respectfully request that the Court grant Plaintiffs' unopposed Motion and enter the proposed Preliminary Approval Order, attached to the Agreement as Exhibit E and submitted with this Motion.

1 Dated: July 22, 2025

Respectfully submitted,

2
3 /s/ Scott Edelsberg
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18 **Admitted Pro Hac Vice*

19 *Counsel for Plaintiffs and the*
20 *Proposed Class*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of July 2025, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record via transmission of Notice of Electronic Filing generated by CM/ECF.

Respectfully submitted,
/s/ Scott Edelsberg

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Counsel for Plaintiffs and Proposed Classes

10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 JEFFREY STEPHENSON and BILLY
13 SMITH II, individually, on behalf of
14 themselves and all others similarly
situated,

15 Plaintiffs,

16 v.

17 NAVY FEDERAL CREDIT UNION,

18 Defendant,

Case No.: 3:23-cv-01851-WQH-KSC

**DECLARATION OF CLASS
COUNSEL IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT
AND PROVISIONAL CLASS
CERTIFICATION**

Assigned to Hon. William Q. Hayes

Action Filed: October 10, 2023

1 We, Scott Edelsberg, Adam Schwartzbaum, Edwin Elliott, Sophia Gold and
2 Jeffrey Kaliel, declare as follows:

3 1. We are counsel of record for Plaintiffs and the proposed Class Counsel
4 for the Settlement Class in the above-captioned matter. We submit this declaration in
5 support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action
6 Settlement and Provisional Class Certification. Unless otherwise noted, we have
7 personal knowledge of the facts set forth in this declaration and could and would testify.

8 **Class Counsel Experience and Expertise**

9 2. Class Counsel are highly experienced in complex class action litigation,
10 including consumer disputes against financial institutions. Collectively, Class Counsel
11 has secured hundreds of millions of dollars on behalf of consumers because of their
12 efforts in evoking large-scale reform of unlawful and unfair business practices through
13 class action settlements reached with financial institutions nationwide. Counsel for
14 both Parties, as highly experienced trial attorneys and class counsel, are confident in
15 the terms of the Settlement after engaging in informed negotiations.

16 **KalielGold PLLC**

17 3. KalielGold PLLC ("KG") has extensive experience in consumer
18 protection class actions in both state and federal court and has represented
19 accountholders in hundreds of class actions against financial institutions.

20 4. Jeffrey Kaliel is a graduate of Yale Law School and a member of good
21 standing of the District of Columbia and State Bar of California. Sophia Gold is a
22 graduate of the University of California, Berkeley, School of Law and a member in
23 good standing of the District of Columbia Bar and the State Bar of California. Ms. Gold
24 and Mr. Kaliel have substantial experience with consumer class actions in both state
25 and federal courts. They have won contested motions for class certification; briefed,
26 argued, and overturned dispositive lower court rulings at the federal appellate level;
27 and worked extensively with economics and information technology experts to build

1 damages models. They have also successfully resolved numerous class actions by
2 settlement, resulting in hundreds of millions of dollars in relief for millions of class
3 members. KalieGold PLLC has extensive class action experience and has been
4 appointed as class counsel in numerous class actions in which courts have recognized
5 the firm’s expertise in the area of class action litigation in particular. *See, e.g., Hinton*
6 *v. Atlantic Union Bank*, No. 20-cv-00651 (E.D. Va.) (“Class Counsel’s expertise,
7 perseverance, and skill allowed them to obtain an excellent result for the Settlement
8 Class.”); *Kelly v. Community Bank*, No. 18-cv-00919 (N.D.N.Y.) (determining Class
9 Counsel to be “qualified, experienced, and able to conduct the litigation of this
10 Action”); *Gonzalez v. Banner Bank*, No. 20- cv-05151 (E.D. Wash.) (Class counsel
11 “were diligent in their representation of the Class”); *Lambert v. Navy Federal Credit*
12 *Union*, No. 19-cv-00103 (E.D. Va.) (Class Counsel’s “tenacity in the face of significant
13 risk and complexity allowed to achieve an outstanding recovery that provides
14 substantial benefits to Settlement Class Members.”); *Walters v. Target Corporation*,
15 No. 16-cv-01678 (S.D. Cal.) (“It is undisputed that Class Counsel achieved this result
16 through tenacity and skill in presenting novel and complex legal issues.”); *Figueroa v.*
17 *Capital One, N.A.*, No. 18-cv- 00692 (S.D. Cal.) (praising Class Counsel for the “very
18 positive result achieved for the class” in a case involving a “novel legal issue”); *White*
19 *v. Members 1st Credit Union*, No. 19-cv-00556 (M.D. Pa.) (finding Class Counsel to
20 be “highly trained in class action law and procedure” and noting their “ability to
21 negotiate the instant Settlement at the early stages of this litigation demonstrates their
22 high level of skill and efficiency”); *Perks v. Activehouse d/b/a Earnin*, No. 19-cv-
23 05543 (N.D. Cal.) (“Class Counsel have substantial experience in litigating and settling
24 consumer class actions.”). KG’s tenacity is frequently reflected in the results it achieves
25 for the classes it represents, especially in cases involving similar bank fees. *See, e.g.,*
26 *Roberts v. Capital One*, No. 16-cv-04841 (S.D.N.Y.) (\$17 million settlement approved
27 for the class); *Perks v. TD Bank*, Case No. 18-cv-11176 (S.D.N.Y) (\$41.5 million

1 settlement approved for the class); *Morris et al. v. Bank of America, N.A.*, No. 18-cv-
2 00157 (W.D.N.C.) (\$75 million settlement approved for the class). KG's experience is
3 further detailed in the firm's resume, attached hereto as **Exhibit 2**.

4 **Edelsberg Law**

5 5. Edelsberg Law is a rapidly growing class action law firm that, since its
6 2019 founding, has distinguished itself in the successful litigation and settlement of
7 hundreds of class actions. Edelsberg Law attorneys have served in important class
8 leadership positions providing relevant experience to be appointed Class Counsel here.
9 Scott Edelsberg has litigated class actions in state and federal courts across the country
10 and has extensive experience with multi-district litigation proceedings. He has
11 successfully obtained more than 10 contested class certification orders, defeated
12 dispositive motions, managed complex discovery involving large datasets, and
13 collaborated with leading experts in economics and information technology to develop
14 sophisticated damages models. His work has led to numerous favorable class-wide
15 settlements, securing millions of dollars in relief for consumers nationwide. Most
16 recently, Mr. Edelsberg and his team have secured notable settlements in the insurance
17 arena: *Volino*, No. 21 Civ. 6243, ECF No. 400 (S.D.N.Y. Mar. 7, 2025); (granting final
18 approval to class settlement securing \$48 million for class members, representing over
19 50% of their actual damages); *Brown*, No. 3:2021-cv-00175, ECF No. 246 (N.D. Ga.
20 Feb. 18, 2025) (granting final approval to class settlement secure \$43 million for class
21 members, representing nearly 40% of their actual damages); *South*, Nos. 19-cv-21760,
22 ECF No. 291 (Mar. 31, 2023) (granting final approval to class settlement secure \$38
23 million for class members); *Ubillus*, No. 19-000741-CK (Mich Cir. Ct. Nov. 21, 2024)
24 (granting final approval to class settlement secure \$61 million for class members).
25 Other representative matters include *Gattinella v. Michael Kors*, Case No. 1:14-cv-
26 05731 (S.D.N.Y. 2016) (class settlement for \$4.875 million); *Wildstein v. Seventh*
27 *Generation, Inc.*, Case No. 3:15-cv-00205 (N.D. Cal. 2016) (class settlement for \$4.75

million); and *Gottlieb v. CITGO Petroleum Corporation*, Case No. 9:16-cv-81911 (S.D. Fla. 2017) (class settlement for \$8.3 million). Mr. Schwartzbaum is an Edelsberg Law Partner and Chair of Litigation and has been involved in the leadership of several multidistrict litigations and other large, complex matters. As partner to co-lead counsel in the *In re Champlain Towers South Collapse Litigation*, No. 2021-015089-CA-01 (Fla. 11th Jud. Cir.), he was deeply involved in many significant aspects of that historic and shocking building collapse litigation which settled for over \$1.1 billion. Additionally, Mr. Schwartzbaum was a member of the team that handled the motions for class certification and summary judgment in *In re FieldTurf Artificial Turf Marketing & Sales Practice Litigation*, No. 3:17-md-2779 (MAS) (TJB) (D.N.J.), a multi-district litigation which recently settled after the district court granted plaintiffs' motion for certification of an issue class. As partner to co-lead counsel in *In re Erie Covid-19 Business Interruption Protection Insurance Litigation*, No. 1:21-mc-00001 (W.D. Pa.), Mr. Schwartzbaum worked as an ad hoc member of the steering committee to advance that multidistrict litigation for many years. Schwartzbaum also helped achieve a \$44 million settlement on behalf of Ponzi scheme victims. See *Gleinn v. Wassgren*, No. 8:20-cv-01677-MSS-CPT (M.D. Fla.). Mr. Schwartzbaum has been appointed class counsel in many class actions, including cases where he obtained class certification prior to settlement, and brings a wealth of trial and appellate court experience on both the plaintiff and defense sides. Edelsberg Law's experience is further detailed in the firm's resume, attached hereto as **Exhibit 3**.

Shamis & Gentile, P.A.

6. Edwin Elliott is a partner at Shamis & Gentile, P.A. where his practice focuses on high-level, consumer class actions. Mr. Elliott represents clients in federal and state courts across the nation in class actions involving consumer fraud, deceptive and unfair trade practices, predatory financial services, false advertising, digital

1 privacy, and complex insurance disputes. Mr. Elliott and Shamis & Gentile attorneys
2 are routinely certified class counsel which has resulted in many favorable class
3 settlements. Shamis & Gentile's extensive experience in civil litigation has helped
4 recover over 1 billion dollars for consumers and plaintiffs throughout the country
5 through their relentlessness, expertise, and calculated approach. Some of Shamis &
6 Gentile's successes include the following: *Jones v. Washington State Employee's*
7 *Credit Union*, No. 20-2-06596-5 (Wash. Super. Ct. (Pierce Cnty.) (\$2,400,000 Class
8 Settlement); *Soto-Melendez v. Banco Popular de Puerto Rico*, No. 3:20-cv-01057
9 (D.P.R.) (\$5,500,000 Class Settlement); *Bruin v. Bank of America, N.A.*, No. 3:22-cv-
10 140 (W.D.N.C.) (\$8,000,000 Class Settlement and cease assessing ACH First Party
11 Fees for five years); *Albrecht v. Oasis Power, LLC*, No. 1:18-cv-1061 (N.D. Ill.)
12 (\$7,000,000 Class Settlement); *DeFranks v. Nastygal.com USA Inc.*, No. 19-cv-23028-
13 DPG (S.D. Fla.) (\$4,025,000 Class Settlement); *South v. Progressive Select Ins. Co.*,
14 No. 19-cv-21760 (S.D. Fla.) (\$48,800,000.00 Class Settlement); *Dipuglia v. US*
15 *Coachways, Inc.*, No. 17-23006-Civ, 2018 U.S. Dist. LEXIS 72551 (S.D. Fla.)
16 (\$2,600,000 Class Settlement); *Eisenband v. Schumacher Automotive, Inc.*, No. 18-cv-
17 01061 (S.D. Fla.) (\$5,000,000 Class Settlement); *Gottlieb v. Citgo Corporation*, No.
18 16-cv-81911 (S.D. Fla.) (\$8,300,000 Class Settlement); *Jacques, et. al. v. Security*
19 *National Insurance Company*, No. CACE-19-002236 (Fla. 17th Cir. Ct.) (\$6,000,000
20 Class Settlement); *Volino v. Progressive Casualty Ins. Co.*, No. 1:21-cv-06243
21 (S.D.N.Y.) (\$48,000,000 Class Settlement); *Brown v. Progressive Mountain Ins. Co.*,
22 No. 3:21-cv-00175 (N.D. Ga.) (\$43,000,000 Class Settlement); *Sellers v. Bleacher*
23 *Report, Inc.*, No. 2024-003537-CA-01 (Fla. 11th Cir. Ct.) (\$4,800,000 Class
24 Settlement. Shamis & Gentile's experience is further detailed in the firm's resume,
25 attached hereto as **Exhibit 4**.

26 **Factual Background**

27 7. On October 10, 2023, Stephenson filed his putative class action complaint

1 in this Court against Navy Federal arising out of its handling of electronic fund transfers
2 disputed by members as unauthorized and/or fraudulent. The Complaint alleged claims
3 on behalf of a nationwide class for breach of contract, breach of the implied covenant
4 of good faith and fair dealing, violations of the EFTA, and violation of California's
5 Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 (the "UCL"). ECF. No. 1.
6 Stephenson filed his First Amended Complaint on January 22, 2024, in lieu of
7 responding to Defendant's motion to dismiss. ECF No. 17.

8 8. On February 21, 2024, Defendant filed a motion to dismiss the First
9 Amended Complaint under Rule 12(b)(6). ECF No. 19. After briefing, the Court
10 entered its order denying in part and granting in part Defendant's motion to dismiss,
11 allowing Plaintiffs' EFTA and breach of contract claims to proceed. ECF No. 25.
12 Plaintiffs filed their Second Amended Complaint (SAC), which added Smith II to the
13 Action; Defendant filed its answer to the SAC, asserting seven affirmative defenses.
14 ECF Nos. 28, 32.

15 9. The Parties began written discovery, which included the exchange of Rule
16 26(a)(1) initial disclosures, requests for production and interrogatories, engaging in
17 meet-and-confer conferences regarding the same, issuing third-party subpoenas, and
18 production of documents.

19 10. On December 11, 2024, the Parties participated in an Early Neutral
20 Evaluation with Magistrate Judge Karen S. Crawford, which did not result in
21 settlement. Then, on February 26, 2025, the Parties requested, and the Court granted a
22 stay of the case to allow the Parties to participation in a mediation to see if they could
23 resolve the case without further litigation. ECF. No. 54.

24 11. On June 4, 2025, the Parties attended a full-day in-person mediation
25 before retired Judge Diane M. Welsh—a well-respected mediator experienced in
26 mediating class actions alleging EFTA claims—which resulted in an agreement to the
27 material terms of this Settlement. Class Counsel Decl. On June 6, 2025, the Parties

1 notified the Court that they had reached an agreement to settle in principle on a class-
2 wide basis and stipulated to stay the case. ECF No. 55. The Parties then negotiated the
3 Agreement now pending preliminary approval, a copy of which is attached to this
4 declaration as **Exhibit 1**.

5 **Settlement**

6 12. Class Counsel believes that the contemplated benefits addressed below
7 adequately compensate the Settlement Classes for the claims they are releasing and, in
8 light of the risks of continued litigation, represent an excellent result for the Settlement
9 Classes.

10 13. Plaintiffs and Class Counsel have adequately and vigorously represented
11 the Settlement Classes throughout the 2.5-year litigation, which involved significant
12 formal and informal discovery, contentious motion practice, and settlement
13 negotiations with the assistance of a third-party neutral mediator.

14 14. Further, Plaintiffs, through their counsel, engaged in a lengthy,
15 independent investigation of their claims, as well as the potential claims of other
16 Settlement Class Members, to properly weigh the pros and cons of continued litigation
17 versus the proposed nationwide settlement of all claims for statutory damages.

18 15. Additionally, the entire settlement process was negotiated in good faith
19 and at arm's-length by highly knowledgeable counsel experienced in complex class
20 action litigation, including consumer disputes against financial institutions.

21 16. Class Counsel has not been paid for their extensive efforts or reimbursed
22 for litigation costs incurred over the last two and a half years.

23 17. The Parties did not discuss attorneys' fees and costs, nor any potential
24 service awards, until they first agreed on the material Settlement terms, including the
25 Settlement Class definitions, the Notice and Notice Program, the claims process and
26 Claim Form, benefits for Settlement Class Members, and scope of the Releases.

18. The risks in prosecuting a class action through trial and the potential delay in continuing to litigate this case also favors approval of the Settlement. Plaintiffs' claims would need to survive additional forthcoming motion practice, and they would have to succeed in certifying a class. Significant time and additional costs would be required for the Parties and the Court to complete discovery, brief and rule on class certification, participate in pre-trial proceedings, brief and rule on summary judgment, etc. And the Parties could appeal the Court's class certification and summary judgment decisions as well as any verdict at trial, which could take years to resolve and could result in reversal on appeal.

19. This risk is especially acute regarding claims for actual damages, which Navy Federal argued could never be certified due to a lack of predominance on the elements of breach and damages.

20. This Settlement does not release any Settlement Class Members' claims for actual damages based on Navy Federal's alleged improper denial of claims.

21. The Parties engaged in both formal and informal discovery prior to settling. This information included documents regarding Navy Federal's internal policies and practices on handling account-holders' claims of unauthorized or fraudulent transactions and efforts to comply with federal error resolution requirements; letters denying claims during the Class Period; each Plaintiff's transaction history; and the approximate number of accountholders whose claims were denied (a subset of which claim not to have received supporting documentation upon request).

22. The Parties aggressively litigated this case through contentious motion practice and settlement negotiations driven by the exchange of discovery, including with the assistance of a mediator.

23. Numerosity is clearly established here as there are approximately 350,000 Settlement Class Members (as of a date before the mediation).

24. Neither Plaintiff harbors interests antagonistic to the interests of the Settlement Class. Plaintiffs have stayed abreast of the proceedings, attended the Early Neutral Evaluation, and if necessary, would sit for depositions and participate in discovery.

25. Further, Class Counsel are highly experienced consumer class action attorneys, have litigated many cases involving breach of contract and EFTA actions against financial institutions, and have vigorously investigated and prosecuted this case since its inception.

26. Class Counsel is experienced and knowledgeable in complex consumer class action litigation and well-equipped to vigorously and efficiently represent the proposed Settlement Class. Moreover, Class Counsel has expended a substantial amount of time investigating Navy Federal's handling of unauthorized electronic fund transfers disputed by members and researching the viability of Plaintiffs' claims.

We declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 22nd day of July, 2025, at Oakland, California.

/s/ Sophia G. Gold

Sophia G. Gold

Executed this 22nd day of July, 2025, at Washington, D.C.

/s/ Jeffrey D. Kaliel

Jeffrey D. Kalief

Executed this 22nd day of July, 2025, at Aventura, Florida.

/s/ Scott A. Edelsberg

Scott A. Edelsberg

1 Executed this 22nd day of July, 2025, at Miami, Florida.

2

3 /s/ Adam A. Schwartzbaum
4 Adam A. Schwartzbaum

5

6 Executed this 22nd day of July, 2025, at Miami, Florida.

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8 /s/ Edwin Elliott
9 Edwin Elliott

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of July 2025, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record via transmission of Notice of Electronic Filing generated by CM/ECF.

Respectfully submitted,
/s/ Scott Edelsberg

EXHIBIT 1

CLASS ACTION SETTLEMENT AGREEMENT

This Settlement Agreement and Release (the “Settlement Agreement” or “Agreement”)¹ is made and entered into this 16th day of July, 2025, by and among (1) Plaintiffs, Jeffrey Stephenson and Billy Smith II, individually and on behalf of the Settlement Class, and (2) Navy Federal Credit Union, subject to Preliminary Approval and Final Approval as required by the Federal Rules of Civil Procedure. As provided herein, Plaintiffs, Class Counsel, and Navy Federal hereby stipulate and agree that, in consideration of the promises and covenants set forth in this Agreement and upon entry by the Court of a Final Order and Judgment, all claims of the Settlement Class against Navy Federal in the action titled *Jeffrey Stephenson and Billy Smith II v. Navy Federal Credit Union*, S.D. Cal. Case No. 3:23-cv-01851-WQH-KSC (the “Action”), shall be settled and compromised upon the terms and conditions contained herein.

RECITALS

1. This putative class action was originally filed on October 10, 2023, in the United States District Court for the Southern District of California against Navy Federal alleging breach of contract, breach of the implied covenant of good faith and fair dealing, violations of the Electronic Funds Transfer Act, 15 U.S.C. § 1693 *et seq.* (the “EFTA”), and violation of California’s Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 (the “UCL”). Plaintiff Stephenson brought claims individually and on behalf of a nationwide class of credit union members arising from Navy Federal’s handling of electronic fund transfers disputed by members as unauthorized and/or fraudulent. *Stephenson, et al. v. Navy Federal Credit Union*, No. 3:2023-cv-01851, ECF No. 1 (S.D. Cal. Oct. 10, 2023) (the “Action”).

¹ All capitalized terms herein have the same meanings as those given to them in Section I below.

2. On February 21, 2024, Defendant filed a motion to dismiss under Rule 12(b)(6), arguing, *inter alia*, that Plaintiff Stephenson failed to state a claim upon which relief could be granted. *Id.* at ECF No. 19. Plaintiff Stephenson filed his opposition brief on March 22, 2024, (*id.* at ECF No. 22), and Defendant filed its reply brief on April 5, 2024 (*id.* at ECF No. 24).

3. On September 20, 2024, the Court largely denied Defendant's motion to dismiss. *Id.* at ECF No. 25. Specifically, the Court upheld the claim for violations of the EFTA and also upheld the breach of express contract claim. The Court granted the motion with respect to the UCL claim, with leave to amend. Plaintiff Stephenson opted not to amend the UCL claim.

4. On October 4, 2024, Plaintiffs Stephenson and Smith II filed the Second Amended Complaint to add Plaintiff Smith. *Id.* at ECF No. 28.

5. Defendant thereafter answered Plaintiffs' Second Amended Complaint on November 1, 2024, by denying the allegations generally and raising seven (7) affirmative defenses. *Id.* at ECF No. 32.

6. Thereafter, the Parties engaged in written discovery, which included the exchange of initial disclosures pursuant to Rule 26(a)(1), requests for production and interrogatories, meet-and-confer conferences regarding the same, third-party subpoenas, and the production of documents.

7. On December 11, 2024, the parties participated in an Early Neutral Evaluation with Magistrate Judge Karen S. Crawford, which did not result in settlement.

8. On February 26, 2025, the Parties requested a stay of the case in order for the Parties to mediate. ECF No. 54.

9. On June 4, 2025, the Parties engaged in an in-person mediation with JAMS neutral retired Judge Diane M. Welsh (Ret.), a respected mediator experienced in mediating class actions

alleging EFTA claims. With the assistance of Judge Welsh, the parties agreed to the material terms of Settlement, which they memorialized in a term sheet executed on June 6, 2025.

10. The Parties stipulated to stay the case and extend deadlines pending the mediation and the Court granted that stipulation on March 3, 2025. ECF No. 55.

11. The Parties now agree to settle the Action in its entirety, without any admission of liability, with respect to all Released Claims of the Releasing Parties. The Parties intend this Agreement to bind the Plaintiffs, Navy Federal, and all Settlement Class Members.

NOW, THEREFORE, in light of the foregoing, for good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties agree, subject to approval by the Court, as follows:

1. DEFINITIONS.

As used in this Settlement Agreement, the following terms have the meanings specified below:

1.1 “Account” means the account for which a Navy Federal member has made a claim of an unauthorized electronic fund transfer that was denied during the Class Period.

1.2 “Accountholder” means any person who has or had any interest, whether legal or equitable, in an Account during the Class Period and includes Current Accountholders and Former Accountholders.

1.3 “Action” means *Jeffrey Stephenson, et al. v. Navy Federal Credit Union*, Case No. 3:23-cv-01851, pending in the United States District Court for the Southern District of California.

1.4 “Approved Claim” means a Claim Form submitted by a Settlement Class Member that: (a) is submitted timely and in accordance with the directions on the Claim Form and the provisions of the Settlement Agreement; (b) is fully and truthfully completed by a Settlement Class

Member; (c) is signed by the Settlement Class Member, physically or electronically; and (d) is approved by the Settlement Administrator pursuant to the provisions of this Agreement.

1.5 “Claim Form” means the document substantially in the form attached hereto as Exhibit A, or as approved by the Court. The Claim Form, to be completed by Settlement Class Members who wish to file a claim for a payment, shall be available in electronic and paper format in the manner described below.

1.6 “Claims Deadline” means the date by which all Claim Forms must be postmarked or received to be considered timely. The Claims Deadline, proposed to the Court, shall be no later than sixty (60) days after the Notice Date. The Claims Deadline shall be clearly set forth in the Preliminary Approval Order as well as in the Notice and the Claim Form.

1.7 “Class Counsel” means:

EDELSBERG LAW, P.A.
Scott Edelsberg
Adam Schwartzbaum
1925 Century Park East, Suite 1700
Los Angeles, CA 90067

SHAMIS & GENTILE, P.A.
Edwin E. Elliott
14 NE 1st Avenue, Suite 705
Miami, FL 33132

KALIEL GOLD PLLC
Jeffrey D. Kaliei
Sophia Goren Gold
490 43rd Street, No. 122
Oakland, CA 94609

1.8 “Class Period” means the period beginning from October 10, 2022, to the date the Court enters the Preliminary Approval Order of the Settlement.

1.9 “Class Representatives” means the named Plaintiffs Jeffrey Stephenson and Billy Smith II.

1.10 “Court” means the United States District Court for the Southern District of California.

1.11 “Current Accountholder” means a Settlement Class Member who continues to have his or her Account or any other open account with Navy Federal as of the date that the Net Settlement Fund is distributed to Settlement Class Members pursuant to this Agreement.

1.12 “Defendant” or “Navy Federal” means Navy Federal Credit Union.

1.13 “Defendant’s Counsel” means Defendant’s counsel of record in the Action.

1.14 “Effective Date” means the 10th business day after which all of the following events have occurred;

(a) The Court has entered without material change the Final Approval Order and Final Judgment; and

(b) The time for seeking rehearing or appellate or other review has expired, and no appeal or petition for rehearing or review has been timely filed; or the Settlement is affirmed on appeal or review without material change, no other appeal or petition for rehearing or review is pending, and the time period during which further petition for hearing, review, appeal, or certiorari could be taken has finally expired and relief from a failure to file same is not available.

1.15 “EFTA Dispute” means each Settlement Class Member’s electronic funds transaction reported as unauthorized or fraudulent under Regulation E and denied by Defendant, and which allegedly supports a claim for violation of the Electronic Funds Transfer Act (“EFTA”), 15 U.S.C. §§ 1693, *et seq.*, and Regulation E of the EFTA, 12 C.F.R. §§1005.1, *et seq.*

1.16 “Email Notice” means a short form of notice that shall be sent by email to Class Members for whom Navy Federal has a valid email address in the form attached as Exhibit B. The Email Notice shall contain an electronic link to the Settlement Website where a Settlement Class

Member can access an online Claim Form pre-filled with the Settlement Class Member's unique claim ID, if possible.

1.17 "Escrow Account" means the escrow account established by the Settlement Administrator under terms acceptable to all Parties at a depository institution insured by the Federal Deposit Insurance Corporation to receive and maintain funds contributed on behalf of Defendant for the benefit of the Settlement Classes. The Escrow Account shall be maintained by the Settlement Administrator.

1.18 "Fee Award" means the amount of attorneys' fees and reimbursement of expenses awarded by the Court to Class Counsel, which will be paid out of the Settlement Fund.

1.19 "Final Approval" means the date that the Court enters an Order granting final approval to the Settlement, issues a final judgment, and determines the amount of attorneys' fees, costs, and expenses awarded to Class Counsel. The proposed Final Approval Order shall be in the form of Exhibit F. In the event that the Court issues separate orders addressing the foregoing matters, then Final Approval means the date of the last such orders.

1.20 "Final Approval Hearing" means the hearing set by the Court to determine the fairness of the Settlement and whether to approve its terms.

1.21 "Final Judgment" means the Final Approval Order and Judgment that the Court enters upon Final Approval, which shall be substantially in the form attached as Exhibit F. In the event that the Court issues separate Orders addressing the matters constituting Final Judgment, then the Final Judgment includes all such Orders.

1.22 "Former Accountholder" means a Settlement Class Member who no longer has his or her Account or any other Navy Federal checking or savings account as of the date that the Net Settlement Fund is distributed to Settlement Class Members pursuant to this Agreement.

1.23 “Long Form Notice” means the form of notice that shall be posted on the Settlement Website and shall be available to the Settlement Class by mail on request made to the Settlement Administrator in the form attached as Exhibit D.

1.24 “Net Settlement Fund” means the Settlement Fund, minus (a) Settlement Administration Costs and (b) Court-approved attorneys’ fees, costs, and expenses.

1.25 “Notice” means the notice of this proposed Class Action Settlement Agreement, which is to be sent to the Settlement Class substantially in the manner set forth in this Agreement, is consistent with the requirements of Due Process, Federal Rule of Civil Procedure 23, and is substantially in the form of Exhibit B (the “Email Notice”), Exhibit C (the “Postcard Notice”), and Exhibit D (the “Long Form Notice”) hereto as well as the processes of sending Notice set out in Section Four below (collectively, the “Notice Program”).

1.26 “Notice Date” means the date of no later than sixty (60) days following entry of the Preliminary Approval Order by which the Settlement Administrator must commence emailing and mailing of the Notice to Settlement Class Members.

1.27 “Objection/Exclusion Deadline” means the date by which a written objection to this Settlement Agreement or a request for exclusion submitted by a Person within the Settlement Class must be made, which shall be designated as a date no later than forty-five (45) days after the Notice Date, or such other date as ordered by the Court.

1.28 “Parties” means Plaintiffs and Navy Federal.

1.29 “Person” means a natural person, firm, association, organization, partnership, business, trust, limited liability company, corporation, or public entity.

1.30 “Plaintiffs” means Jeffrey Stephenson and Billy Smith II.

1.31 “Plaintiffs’ General Release” means that as of the Effective Date, Plaintiffs, and each of their successors, assigns, heirs, personal representatives, and all those who claim through them or who assert claims on each of their behalf, shall each be deemed to have, and by operation of the Final Approval Order and Judgment shall have, expressly released, waived, and relinquished any and all claims, demands, rights, liabilities, and causes of action each of them has or has ever had against any of the Released Parties, whether for economic damages, noneconomic damages, exemplary damages, penalties, restitution, injunctive or declaratory relief, interest, attorneys’ fees, costs, or any other forms of monetary or non-monetary relief in any way arising out of or relating to any facts, transactions, events, policies, occurrences, acts, disclosures, statements, omissions, or failures to act from the beginning of time to the date each of them signs this Agreement, including but not limited to any claims arising from or related to Navy Federal’s denial of their claims for reimbursement of unauthorized electronic fund transfers. This general release by Plaintiffs shall include all statutory claims, common law claims (including but not limited to those sounding in contract, tort, and equity), claims for compensation to the fullest extent permitted by law, and Unknown Claims (as defined in this Agreement). Plaintiffs each further agree not to sue or otherwise make a claim against any of the Released Parties for any of the claims that are released pursuant to this paragraph.

1.32 “Plan of Allocation” means the manner in which the Net Settlement Fund shall be allocated to Settlement Class Members, as specified in paragraph 2.1(b).

1.33 “Preliminary Approval” means the Court’s certification of the Settlement Class for settlement purposes, preliminary approval of this Settlement Agreement, and approval of the form and manner of the Notice.

1.34 “Preliminary Approval Order” means the order preliminarily approving the Settlement Agreement, certifying the Settlement Class for settlement purposes, and directing notice thereof to the Settlement Class, which will be agreed upon by the Parties and submitted to the Court in conjunction with Plaintiffs’ motion for preliminary approval of the Agreement, which shall be substantially in the form of Exhibit E.

1.35 “Postcard Notice” means the short form of notice that shall be sent by mail to Class Members for whom Navy Federal does not have an email address, or for whom the Settlement Administrator is unable to send Email Notice using the email address provided by Navy Federal, in the form attached as Exhibit C. The Claim Forms provided with Postcard Notice will be pre-filled with a unique claim ID and the Settlement Class Member name.

1.36 “Released Claims” means any and all claims to statutory damages or injunctive relief, regardless of legal basis and on account of any and all claims, suits, obligations, causes of action of every kind and/or nature, liabilities, rights, claims, actions, causes of action, and demands, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, based on contract, tort or any other theory, that result from, arise out of, are based upon, or relate to the conduct, omissions, duties or matters during the Class Period that were or could have been alleged in the Action. The Released Claims exclude any claims for actual damages based on or related to Navy Federal’s purported improper denial of a claim of unauthorized electronic transfer(s). Nothing herein is intended to release any claims any governmental agency or governmental actor may have against Defendant.

1.37 “Released Parties” means Defendant Navy Federal Credit Union, as well as any and all of its respective present or past or future heirs, executors, estates, administrators, predecessors, successors, assigns, parent companies, subsidiaries, licensors, licensees, associates,

affiliates, employers, employees, agents, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and companies, firms, trusts, and corporations.

1.38 “Releasing Parties” means Plaintiffs, those Settlement Class Members who do not timely opt out of the Settlement Class, and all of their respective present or past or future heirs, executors, estates, administrators, predecessors, successors, assigns, parent companies, subsidiaries, associates, affiliates, employers, employees, agents, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and companies, firms, trusts, and corporations.

1.39 “Service Award” means any Court-ordered payment to Plaintiffs for serving as Class Representatives.

1.40 “Settlement Administration Costs” means the costs and expenses incurred by the Settlement Administrator in providing Notice, processing claims, responding to inquiries from members of the Settlement Class, mailing checks for Approved Claims, and related services, including notices required by the Class Action Fairness Act. Navy Federal will pay Settlement Administration Costs separate and apart from payment of the Settlement Fund and payments to the Plaintiffs.

1.41 “Settlement Administrator” means Kroll Settlement Administration LLC (Kroll) or such other administration company that has been selected by the Parties and approved by the

Court to oversee the distribution of Notice, as well as the processing and payment of Approved Claims to the Settlement Class as set forth in this Agreement.

1.42 “Settlement Class” or “Settlement Classes” means the following:

(a) **Written Explanation Settlement Class.** All Accountholders whose claims of unauthorized electronic fund transfers were denied by Navy Federal Credit Union between October 10, 2022, and the date the Court grants preliminary approval of the Settlement.

(b) **Document Request Settlement Subclass.** All Accountholders in the Written Explanation Settlement Class who requested documents Navy Federal relied on in making its determination and who did not receive them.

1.43 “Settlement Class List” means the list of all Settlement Class Members and their email addresses (to the extent available) and last known postal addresses provided by Navy Federal to the Settlement Administrator for the purposes of disseminating Notice.

1.44 “Settlement Class Member” means any person who falls within the definition of the Settlement Classes as set forth above and who does not submit a valid request for exclusion.

1.45 “Settlement Class Member Payment” means the distribution that will be made from the Net Settlement Fund to each Settlement Class Member who files an Approved Claim by the Settlement Administrator, pursuant to the Plan of Allocation.

1.46 “Settlement Fund” means the amount of one million seven hundred thousand dollars (\$1,700,000.00 USD), which Defendant will be obligated to pay to the Settlement Administrator on behalf of the Settlement Classes, as described herein. From the Settlement Fund, the Settlement Administrator shall pay all Approved Claims made by Settlement Class Members and any Fee Award to Class Counsel.

1.47 “Settlement Website” means the website that the Settlement Administrator will use as a means for Settlement Class Members to obtain notice of and information about the Settlement, through and including hyperlinked access to this Agreement, the Long Form Notice, the Preliminary Approval Order, the Claim Form, and such other documents as the Parties agree to post or that the Court orders posted on the website. These documents shall remain on the Settlement Website at least until the Settlement Administrator has distributed the Net Settlement Fund. The URL of the Settlement Website shall be www.stephensoneftalitigation.com, or such other URL as Class Counsel and Navy Federal agree upon in writing.

1.48 “Unknown Claims” means claims that could have been raised in the Action arising out of or related to EFTA Dispute that Plaintiffs do not know or suspect to exist, which, if known by him or her, might affect their agreement to release the Released Parties or the Released Claims or might affect their decision to agree, object or not to object to the Settlement. Upon the Effective Date, the Plaintiffs shall be deemed to have, and shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Upon the Effective Date, Plaintiffs also shall be deemed to have, and shall have, waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable or equivalent to Section 1542 of the California Civil Code. Plaintiffs acknowledge that they may discover facts in addition to or different from those that they now know

or believe to be true with respect to the subject matter of this release, but that it is their intention to finally and forever settle and release the Released Claims, notwithstanding any Unknown Claims they may have, as that term is defined in this Paragraph.

2. SETTLEMENT RELIEF.

2.1 Payments to Settlement Class Members and Plaintiffs.

(a) **Monetary Payments.** Subject to approval by the Court, under the Settlement, the total monetary consideration to be provided by Navy Federal shall be \$1,720,000:

a) \$1,700,000 for settlement of the Settlement Class Member Claims, inclusive of the amount paid to Settlement Class Members, any and all attorneys' fees, costs, and expenses awarded to Class Counsel; b) \$5,000 to each Plaintiff in settlement of their individual claims (as further specified in paragraph 2.1(a)(i), below); and (c) \$5,000 to each Plaintiff as a Service Award approved by the Court. Except as otherwise specified in this Agreement, Navy Federal shall not be responsible for any other payments under this Agreement. In accordance with the timing specified in paragraph 2.1(c), Navy Federal shall: a) deposit into the Escrow Account \$1,700,000 minus the amount of the Settlement Class Member Payments to be credited to the accounts of Current Accountholders; and b) after receipt of W9s from each Plaintiff, credit each Plaintiff's Account in the amount of \$10,000. Distribution of any funds remaining from uncashed checks for those settlement class members without active Navy Federal accounts is set forth in paragraph 2.1(j).

- i. As part of the Settlement, Navy Federal agrees to pay each Plaintiff \$5,000 in exchange for their release of the individual claims against Navy Federal, including their claims for actual damages under the EFTA and for breach of contract, including the implied covenant of good faith and fair dealing. Payments for Plaintiff's individual claims will be paid separate from the

Settlement Fund through a credit to each Plaintiff's Account within thirty (30) days after the Effective Date.

(b) **Plan of Allocation.** Settlement Class Members shall have until the Claims Deadline to submit an Approved Claim. Each Settlement Class Member with an Approved Claim shall be entitled to a *pro rata* portion of the Net Settlement Fund, distributed by an electronic payment method approved by the Settlement Administrator or by check. Pursuant to the following Plan of Allocation, Settlement Class Members who are members of the Written Explanation Settlement Class will be assigned one (1) Approved Claim for purposes of allocating the Net Settlement Fund, while Settlement Class Members who are also members of the Document Request Settlement Subclass will be assigned two (2) Approved Claims for purposes of allocating the Net Settlement Fund. The value of each *pro rata* portion of the Net Settlement Fund will be calculated by dividing the total number of Approved Claims by the amount of the Net Settlement Fund.

- i. Members of the Written Explanation Settlement Class who timely submit a valid Claim Form, and whose class membership is confirmed by the Settlement Administrator, will be assigned one (1) Approved Claim for purposes of allocating the Net Settlement Fund.
- ii. Individuals who warrant they are members of the Document Request Settlement Subclass may indicate this fact by checking the appropriate box on the Claim Form. The Settlement Administrator will compile a list identifying all individuals who selected this option and will provide that list to Defendant within seven (7) days after the Claims Deadline. Defendant may, at its sole discretion, review its claim files to determine whether any of these

individuals are not, in fact, members of the Document Request Settlement Subclass. If Defendant determines that any individual is not a member of the Document Request Settlement Subclass, it must provide supporting documentation to the Settlement Administrator within twenty-one (21) days, who will review and confirm Defendant's determination. Settlement Class Members who are confirmed to be members of the Document Request Settlement Subclass will be assigned two (2) Approved Claims for purposes of allocating the Net Settlement Fund.

(c) **Settlement Payment Amount Chart.** Within five (5) business days of the Effective Date, the Settlement Administrator will provide Navy Federal with a chart of the payment amount for each Settlement Class Member Account. Within fifteen (15) business days of receipt, Navy Federal will identify the Former Accountholders for the Settlement Administrator and will wire to the Settlement Administrator an amount equal to \$1,700,000 minus the total amount of credits to Current Accountholders.

(d) **Distribution of Settlement Payments.** Within ten (10) business days of receipt of funds from Navy Federal, the Settlement Administrator will mail Settlement Class Member Payments to Former Accountholders via check and Navy Federal will credit accounts of Current Accountholders.

(e) **Credits.** Navy Federal will credit the Settlement Class Member Payments to accounts of Current Accountholders. If the Current Accountholder's Account is no longer open, Navy Federal will credit the Settlement Class Member Payment to any other open savings or checking account maintained by the Current Accountholder at the time of issuing the credit. Navy

Federal will bear any costs associated with implementing the credits and notification to the Settlement Administrator discussed in this paragraph.

(f) If by the deadline for Navy Federal to apply credits of Settlement Class Member Payments to Current Accountholders, Navy Federal is unable to complete certain credits, or it is not feasible or reasonable to make the payment by a credit, Navy Federal shall deliver the total amount of such unsuccessful Settlement Class Member Payment credits to the Settlement Administrator to be paid by check in accordance with paragraphs 2.1(g)-(h) below.

(g) **Checks.** Settlement Fund Payments will be made by check with an appropriate legend, in a form approved by Class Counsel and Navy Federal's counsel, to indicate that it is from the Settlement Fund. Checks will be cut and mailed by the Settlement Administrator and will be sent to the addresses that the Settlement Administrator identifies as valid. Checks shall be valid for ninety (90) days. For jointly held Accounts, checks will be payable to all Accountholders, and will be mailed to the first Accountholder listed on the Account.

(h) The Settlement Administrator will make reasonable efforts to locate the proper address for any intended recipient of Settlement Funds whose check is returned by the Postal Service as undeliverable (such as by running addresses of returned checks through the Lexis/Nexis database that can be used for such purpose), and will re-mail the check once to the updated address, or, in the case of a jointly held Account, and in the Settlement Administrator's discretion, to an Accountholder other than the one listed first. In the event of any complications arising in connection with the issuance or cashing of a check, the Settlement Administrator shall provide written notice to Class Counsel and Navy Federal's counsel. Absent specific instructions from Class Counsel and Navy Federal's counsel, the Settlement Administrator shall proceed to

resolve the dispute using its best practices and procedures to ensure that the funds are fairly and properly distributed to the person or persons who are entitled to receive them.

(i) **Residual Funds.** The amount of the Net Settlement Fund attributable to uncashed or returned checks sent by the Settlement Administrator (the “Residual Funds”) shall be held by the Settlement Administrator for thirty days after the checks become invalid in accordance with sub-paragraph (g) above. During this time, the Settlement Administrator shall make a reasonable effort to locate intended recipients of settlement funds whose checks were returned (such as by running addresses of returned checks through the Lexis/Nexis database that can be utilized for such purpose) to effectuate delivery of such checks. The Settlement Administrator shall make only one such additional attempt to identify updated addresses and re-mail or re-issue a distribution check to those for whom an updated address was obtained.

(j) **Residual Funds Distribution.** Any Residual Funds remaining after the Settlement Administrator completes the process described in the previous subparagraph (the “Remaining Residual Funds”) will be distributed as follows:

i. First, any Remaining Residual Funds will be payable to Navy Federal for the amount that it paid for Settlement Administrative Costs.

ii. Second, if any Residual Funds remain, the Settlement Administrator will distribute these funds to a *cy pres* recipient. The Parties shall identify the proposed *cy pres* recipient in the Motion for Final Approval and seek the Court’s approval. In the Motion for Final Approval, the Parties shall propose as a *cy pres* recipient an entity that works to promote financial literacy, including for members of the military or veterans.

(k) **Taxes.** If required under applicable law, IRS Forms 1099-MISC will be issued in connection with the payments under this Agreement. The payments will also be reported,

if required under applicable law, to any applicable state and local taxing authorities. The Parties acknowledge that no tax advice has been offered or given by any Party, their attorneys, agents, or any other representatives, in the course of these negotiations, and each Party is relying upon the advice of its own tax consultant with regard to any tax consequences that may arise as a result of the execution of this agreement. The Parties and their respective counsel have made no representation with respect to the tax treatment of any payment or transfer made under this Agreement to any Settlement Class Member. Each Class Representative and Settlement Class Member shall be solely responsible for the federal, state, and local tax consequences to him or her of the receipt of funds under this Agreement.

2.2 Injunctive Relief.

(a) **Prospective Relief.** As part of the Settlement, Navy Federal agrees to implement changes to its policies and procedures relating to the handling of claims concerning unauthorized electronic fund transfers. These changes will include revisions to the written explanation sent to members whose claims are denied and enhancements to the procedures for responding to member requests for documents in connection with such denials.

3. RELEASE.

3.1 The obligations incurred pursuant to this Settlement Agreement shall be a full and final disposition of the claims asserted in the Action and any and all Released Claims, as against all Released Parties.

3.2 Upon the Effective Date, the Releasing Parties and each of them, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Parties, and each of them.

3.3 Upon the Effective Date, the Plaintiffs shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever agreed to Plaintiffs' General Release.

3.4 Bar to Future Suits. Upon the Effective Date, and to the fullest extent permitted by law, each Settlement Class Member, shall, either directly, indirectly, representatively, or in any capacity, be permanently barred and enjoined from filing, commencing, prosecuting, intervening in, or participating (as a class member or otherwise) in any lawsuit, action, or other proceeding in any jurisdiction (other than participation in the Settlement as provided herein) against any Released Party based on the Released Claims.

4. NOTICE TO THE CLASS.

4.1 The Notice shall consist of the following:

(a) *Settlement Class List.* No later than thirty (30) days after Preliminary Approval, Defendant shall produce an electronic list from its records that includes the following information: a) Settlement Class Member Name; b) relationship of Settlement Class Member to each Account so the Settlement Administrator can determine which Settlement Class Member(s) are associated with each Account; c) email address(es) associated with each Account, if any; and d) mailing address(es) associated with each Settlement Class Member. This electronic document shall be called the “Settlement Class List,” and shall be provided to the Settlement Administrator. The Settlement Administrator shall not use the Settlement Class List, or any information contained within it, for any other purposes other than administering the settlement, and shall take reasonable measures to protect the information from any third-party disclosure.

(b) *Direct Notice.* The Settlement Administrator shall send Email Notice to all Class Members for whom it has an email address. For Settlement Class Members for whom the Settlement Administrator does not have an email address, the Settlement Administrator shall run the physical addresses through the National Change of Address Database and shall mail Postcard Notice to all such Settlement Class Members. The initial mailed Postcard and Email Notice shall be referred to as “Initial Mailed Notice.”

(c) The Notices shall include, among other information: a description of the material terms of the Settlement; a date by which Settlement Class Members may exclude themselves from, or opt out of, the Settlement Class; a date by which Settlement Class Members may object to the Settlement; the date on which the Final Approval Hearing is scheduled to occur; and the address of the Settlement Website at which Settlement Class Members may access this Agreement and other related documents and information. Class Counsel and Navy Federal shall work with the Settlement Administrator to insert the correct dates and deadlines in the Notice before the Notice Program commences, based upon those dates and deadlines set by the Court in the Preliminary Approval Order. Notices and publications provided under or as part of the Notice Program shall not bear or include the Navy Federal logo or trademarks or the return address of Navy Federal, or otherwise be styled to appear to originate from Navy Federal.

(d) The Long-Form Notice, which will be written in both English and Spanish, will be available on the Settlement Website and/or by mail upon a Settlement Class Member's request.

(e) The Settlement Administrator shall utilize best practices designed to avoid spam filters, blockers, or any tool designed to prevent receipt of e-mails, and to otherwise design and implement the sending of the e-mail to increase the likelihood that Email Notice will be successfully received into the e-mail inboxes of Settlement Class Members.

(f) *Notice Re-Mailing Process.* The Settlement Administrator shall perform reasonable address traces for all Postcard Notices that are returned as undeliverable. A reasonable tracing procedure would be to run addresses of returned postcards through the Lexis/Nexis database that can be used for such purpose. No later than thirty (30) days after the Notice Date, the Settlement Administrator shall complete one re-mailing of Postcard Notice to those Settlement

Class Members whose new addresses were identified as of that time through address traces or forwarding addresses on returned Postcard Notices (“Notice Re-Mailing Process”). The Settlement Administrator shall also send one Postcard Notice to all Settlement Class Members whose emails were returned as undeliverable and complete such Notice under the deadlines described herein as they relate to the Notice Re-Mailing Process.

(g) The Settlement Administrator shall send a second E-Mail Notice with a hyperlink to the Settlement Website, where a Settlement Class Member can access an electronic Claim Form pre-filled with the Settlement Class Member’s claim ID, if possible, to all Settlement Class Members who, according to the Settlement Administrator’s records, have not made a claim, requested to opt out, or made an objection. The second E-Mail Notice shall occur no later than thirty (30) days after the Notice Date.

(h) *Settlement Website.* On or before the Notice Date, Long Form Notice shall be provided on a website which shall be administered and maintained by the Settlement Administrator and shall include the ability to file Claim Forms on-line. The Long Form Notice provided on the Settlement Website shall be substantially in the form of **Exhibit D** hereto.

(i) *Toll-Free IVR Telephone System.* The Settlement Administrator shall maintain a toll-free IVR telephone system containing recorded answers to frequently asked questions. The recorded answers to frequently asked questions are to be agreed to by the Parties. In the event a Settlement Class Member has a question that is not addressed by the Parties in the frequently asked questions, the Settlement Administrator is to contact counsel for both Parties and a response will be agreed to by the Parties.

(j) *Contact from Class Counsel.* Class Counsel, in their capacity as counsel to Settlement Class Members, may from time-to-time contact Settlement Class Members to provide

information about the Settlement Agreement and to answer any questions Settlement Class Members may have about the Settlement Agreement. Defendant retains the right to communicate with and respond to inquiries from Settlement Class Members orally and/or in writing within the normal course of business, and the Defendant will instruct its employees and agents to direct inquiries about the Settlement to the Settlement Administrator and Settlement Website.

5. PROCEDURES FOR OPT-OUTS AND OBJECTIONS.

5.1 The Notice shall advise the Settlement Class of their rights, including the right to be excluded from and/or object to the Settlement Agreement or any of its terms. To be effective, any request for exclusion or objection to the Settlement must be mailed to the Settlement Administrator at the address provided in the Notice postmarked no later than the Objection/Exclusion Deadline approved by the Court and specified in the Notice.

5.2 Objections from Settlement Class Members. A Settlement Class Member who does not request exclusion but instead wishes to object to this Settlement may do so by submitting the objection to the Settlement Administrator in writing postmarked on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice. To object to the Settlement, a Person in the Settlement Class must timely send a written notice of intent to object to the Settlement Administrator as specified in the Notice, and it must include: (1) the name of the case and case number; (2) the objector's full name, address, telephone number, and e-mail address; (3) grounds for the objection, including any legal support; (4) the name and contact information of any and all attorneys representing, advising, or in any way assisting the objector in connection with the preparation or submission of the objection or who may benefit from the pursuit of the objection (the "Objecting Attorneys"); (6) a statement indicating whether the objector intends to appear and/or address the Court at the Final Approval Hearing (either personally or through

counsel; and (6) the signature of the objector. No other person may sign on behalf of the objector, including an objector's attorney.

5.3 To the extent any Settlement Class Member objects to the Settlement, and such objection is overruled in whole or in part, such Settlement Class Member will be forever bound by the Final Order and Judgment of the Court. Settlement Class Members can avoid being bound by any judgment of the Court by complying with the exclusion provisions set forth herein.

5.4 The Settlement Administrator shall timely provide Class Counsel and Navy Federal a copy of any objections received by the Settlement Administrator.

5.5 Requests for Exclusion or Opt-Out. A Settlement Class Member may request to be excluded from the Settlement Class by sending a written request postmarked on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice. To exercise the right to be excluded, a Person in the Settlement Class must timely send a written request for exclusion to the Settlement Administrator as specified in the Notice, and must include: (1) the name of the case; (2) his/her full name; (3) current address; (4) an affirmative statement that he or she wishes to be excluded from the Settlement Class for purposes of this Settlement; and (6) his/her signature. The request for exclusion must be personally signed by the Person requesting exclusion. No other person may sign on behalf of the Person seeking exclusion, including the Person's attorney. So-called "mass" or "class" opt-outs shall not be allowed.

5.6 A request to be excluded that does not include all of this information, or that is sent to an address other than that designated in the Notice, or that is not postmarked within the time specified, shall be invalid, and the Person(s) serving such a request shall be a member(s) of the Settlement Class and shall be bound as a Settlement Class Member by this Agreement, if approved. Any member of the Settlement Class who validly elects to be excluded from this Agreement shall

not: (i) be bound by any orders or the Final Judgment; (ii) be entitled to relief under this Settlement Agreement; (iii) gain any rights by virtue of this Agreement; or (iv) be entitled to object to any aspect of this Agreement.

5.7 Any Settlement Class Member who does not timely and validly request to opt-out shall be bound by the terms of this Agreement. If an Account has more than one Accountholder, and if one Accountholder opts-out himself or herself from the Settlement Class, then all Accountholders on that Account shall be deemed to have opted-out of the Settlement with respect to that Account, and no Accountholder shall be entitled to a payment under the Settlement.

5.8 The Settlement Administrator shall promptly log and prepare a list of all Accountholders who properly requested exclusion from the Settlement Class and all other individuals with an interest in the Accounts who are deemed to have opted out and shall submit a declaration to the Court, which includes and attests to the accuracy of the opt-out list no later than ten (10) days prior to the Final Approval Hearing set by the Court.

5.9 The Final Approval Hearing shall be no earlier than five months after entry of the Preliminary Approval Order.

5.10 Any Settlement Class Member who does not, using the procedures set forth in this Agreement and the Notice, either seek exclusion from the Settlement Class or timely file a valid Claim Form shall not be entitled to receive any payment or benefits pursuant to this Agreement, but will otherwise be bound by all of the terms of this Agreement, including the terms of the Final Judgment to be entered in the Action and the Releases provided for in the Agreement, and will be barred from bringing any action against any of the Released Parties concerning the Released Claims.

6. SETTLEMENT ADMINISTRATION.

6.1 The Settlement Administrator shall, under the supervision of the Court, administer the relief provided by this Settlement Agreement by processing Claim Forms in a rational, responsive, cost effective, and timely manner. The Settlement Administrator shall maintain reasonably detailed records of its activities under this Agreement. The Settlement Administrator shall maintain all such records as are required by applicable law in accordance with its normal business practices and such records will be made available to Class Counsel and Defendant's Counsel upon request. The Settlement Administrator shall also provide reports and other information to the Court as the Court may require. The Settlement Administrator shall provide Class Counsel and Defendant's Counsel with information concerning Notice, administration, and implementation of the Settlement Agreement. Without limiting the foregoing, the duties of the Settlement Administrator, in addition to other responsibilities that are described in this paragraph and elsewhere in this Agreement, are as follows:

(a) Use the name, address, and email information for Settlement Class Members provided by Navy Federal in connection with the Notice process approved by the Court, for the purpose of mailing the Postcard Notice and sending the Email Notice, and later mailing distribution checks to Former Accountholder Settlement Class Members, and to Current Accountholders where it is not feasible or reasonable for Navy Federal to make the payment by a credit to the Settlement Class Members' Accounts or any other account they have with Navy Federal;

(b) Establish and maintain a Post Office box for the receipt of opt out requests and objections;

(c) Establish and maintain the Settlement Website;

(d) Establish and maintain an automated toll-free IVR line for Settlement Class Members to call with Settlement-related inquiries, and answer the frequently asked question of Settlement Class members who call with or otherwise communicate such inquiries, as described in paragraph 4.1(i);

(e) Respond to any mailed Settlement Class Member inquiries;

(f) Process all requests for exclusion from the Settlement Class;

(g) Process Claim Forms, as described herein, and determine whether each Claim Form submitted is valid;

(h) Provide weekly reports to Class Counsel and Defendant's Counsel that summarize the number of Claim Forms submitted, the number of Approved Claims, the total number of exclusion requests and/or objections received to date, and other pertinent information;

(i) Forward to Defendant's Counsel and Class Counsel the number of Claim Forms the Settlement Administrator found to be valid and copies of any Claim Forms found to be invalid as of the Claims Deadline. If the Settlement Administrator receives any Claim Forms after the Claims Deadline, it will forward them to Defendant's Counsel and Class Counsel on a rolling basis prior to the Final Approval Hearing;

(j) Receive requests to be excluded from the Settlement Class and other requests and promptly provide to Class Counsel and Defendant's Counsel copies thereof. If the Settlement Administrator receives any exclusion forms or other requests after the deadline for the submission of such forms and requests, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Defendant's Counsel;

(k) Provide weekly reports to Class Counsel and Defendant's Counsel, including without limitation, that summarize the number of requests for exclusion and/or

objections received that week, the total number of exclusion requests and/or objections received to date, the number of Claim Forms received, the number approved by the Settlement Administrator, and the categorization and description of Claim Forms rejected, in whole or in part, by the Settlement Administrator, and other pertinent information;

(l) In advance of the Final Approval Hearing, prepare a declaration to submit to the Court at least 10 days before the Final Approval Hearing confirming that the Notice Program was completed and that the Class Action Fairness Act notice requirements have been met, describing how the Notice Program, the process of Approved Claims, and the Plan of Allocation were completed, and providing the names of each Settlement Class Member who timely and properly opted out from the Settlement Class, as well as those Settlement Class Members who timely filed objections, and other information as may be necessary to allow the Parties to seek and obtain Final Approval;

(m) In accordance with the Plan of Allocation, provide Navy Federal with a chart of the payment amount for each Settlement Class Member Account;

(n) Perform all tax-related services for the Escrow Account as provided in the Agreement;

(o) Pay invoices, expenses, and costs upon approval by Class Counsel and Navy Federal, as provided in this Agreement;

(p) Make available for inspection by Class Counsel or Defendant's Counsel certain identified Claim Forms received by the Settlement Administrator upon reasonable notice; and

(q) Any other Settlement-administration-related function at the instruction of Class Counsel and Defendant's Counsel, including but not limited to, verifying that the Settlement Fund has been distributed.

6.2 The Settlement Administrator shall be obliged to employ reasonable procedures to screen claims for abuse or fraud and deny Claim Forms where there is evidence of abuse or fraud. The Settlement Administrator will reject any claim that does not comply in any material respect with the instructions on the Claim Form or the terms of Paragraph 2.1(b), above, or is submitted after the Claims Deadline.

6.3 Defendant's Counsel and Class Counsel shall have the right to challenge the acceptance or rejection of a Claim Form submitted by Settlement Class Members and to obtain and review supporting documentation relating to such Claim Form. The Settlement Administrator shall follow any agreed decisions of Class Counsel and Defendant's Counsel as to the validity of any disputed submitted Claim Form. To the extent Class Counsel and Defendant's Counsel are not able to agree on the disposition of a challenge, the disputed claim shall be submitted to the Honorable Diane M. Welsh of JAMS for binding determination.

6.4 In the exercise of its duties outlined in this Agreement, the Settlement Administrator shall have the right to reasonably request additional information from the Parties or any Settlement Class Member.

7. TERMINATION OF SETTLEMENT.

7.1 Subject to Paragraphs 10.1-10.4 below, Defendant or the Class Representatives on behalf of the Settlement Class, shall have the right to terminate this Agreement by providing written notice of the election to do so ("Termination Notice") to all other Parties hereto within twenty-one (21) days of any of the following events: (i) the Court's refusal to grant Preliminary Approval of this Agreement in any material respect; (ii) the Court's refusal to grant final approval

of this Agreement in any material respect; (iii) the Court's refusal to enter the Final Judgment in connection with the class action settlement in any material respect; (iv) the date upon which the Final Judgment is modified or reversed in any material respect by the Court of Appeals or the Supreme Court; (v) the date upon which an Alternative Judgment, as defined in Paragraph 10.1(d) of this Agreement, is modified or reversed in any material respect by the Court of Appeals or the Supreme Court.

7.2 The Parties agree that the Court's failure to approve, in whole or in part, the attorneys' fees payment to Class Counsel and/or the Service Award set forth in Section 9 below shall not prevent the Agreement from becoming effective, nor shall it be grounds for termination. The procedures for any application for approval of attorneys' fees, expenses, or Service Awards are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement.

8. PRELIMINARY APPROVAL ORDER AND FINAL APPROVAL ORDER.

8.1 Promptly after the execution of this Settlement Agreement and by any deadline set by the Court, Class Counsel shall submit this Agreement together with its Exhibits to the Court and shall move the Court for Preliminary Approval of the settlement set forth in this Agreement; certification of the Settlement Class for settlement purposes only; appointment of Class Counsel and the Class Representatives; and entry of a Preliminary Approval Order, which order shall set a Final Approval Hearing date and approve the Notice and Claim Form for dissemination substantially in the form of Exhibits A, B, C, and D hereto. Defendant shall have no obligation to make separate filings in support of the Motion for Preliminary Approval. The Preliminary Approval Order, which shall be substantially similar to Exhibit E, shall also authorize the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of the Settlement Agreement and its implementing documents (including all

exhibits to this Agreement) so long as they are consistent in all material respects with the terms of the Settlement Agreement and do not limit or impair the rights of the Settlement Class.

8.2 For Settlement purposes only, Plaintiffs and Navy Federal agree to ask the Court to certify the Written Explanation Settlement Class and the Document Request Settlement Subclass. Defendant retains all of its objections, arguments, and defenses with respect to class certification and any other issue, and reserves all rights to contest class certification and any other issue if the Settlement set out in this Agreement does not result in entry of the Final Approval Order and Final Judgment, if the Court's approval is reversed or vacated on appeal, if this Settlement is terminated as provided herein, or if the Settlement set forth in this Settlement otherwise fails to become effective. The Parties acknowledge that there has been no stipulation to any classes or certification of any classes for any purpose other than effectuating the Settlement, and that if the Settlement set forth in this Settlement Agreement is not finally approved, if the Court's approval is reversed or vacated on appeal, if this Settlement Agreement is terminated as provided herein, or if the Settlement set forth in this Settlement Agreement otherwise fails to become effective, this agreement as to certification of the Settlement Class becomes null and void ab initio, and this Settlement Agreement or any other settlement-related statement may not be cited regarding certification of the Class, or in support of an argument for certifying any class for any purpose related to the Actions or any other proceeding.

8.3 At the time of the submission of this Agreement to the Court as described above, Class Counsel shall request that, after Notice is given, the Court hold a Final Approval Hearing and approve the settlement of the Actions as set forth herein. At the Final Approval Hearing, the Court will hear argument on Plaintiffs' Motion for Final Approval of the Settlement, and on Class Counsel's application for attorneys' fees, costs, and expenses, and for the Service Award for the

Class Representatives. In the Court's discretion, the Court also will hear argument at the Final Approval Hearing from any Settlement Class Members (or their counsel) who object to the Settlement or to Class Counsel's application for attorneys' fees, costs, expenses, or the Service Awards application.

8.4 Class Counsel shall draft the final approval papers and send Navy Federal's counsel a draft of the papers to review and comment on at least three (3) court days before they are filed. The Final Approval Order and Final Judgment will (among other things):

(a) find that the Court has personal jurisdiction over all Settlement Class Members and that the Court has subject matter jurisdiction to approve the Agreement, including all exhibits thereto;

(b) approve the Settlement Agreement and the proposed settlement as fair, reasonable, and adequate as to, and in the best interests of, the Settlement Class Members; direct the Parties and their counsel to implement and consummate the Agreement according to its terms and provisions; and declare the Agreement to be binding on, and have *res judicata* and preclusive effect in all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and Releasing Parties;

(c) find that the Notice implemented pursuant to the Agreement (1) constitutes the best practicable notice under the circumstances; (2) constitutes notice that is reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of the Action, their right to object to or exclude themselves from the proposed Agreement, and to appear at the Final Approval Hearing; (3) is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice; and (4) meets all applicable requirements of applicable rules

of civil procedure, the Due Process Clause of the United States Constitution, and the rules of the Court;

(d) find that the Class Representatives and Class Counsel adequately represent the Settlement Class for purposes of entering into and implementing the Agreement;

(e) dismiss the remaining action (including all individual claims and Settlement Class claims presented thereby) on the merits and with prejudice, without fees or costs to any party except as provided in the Settlement Agreement;

(f) incorporate the Releases set forth above, make the Releases effective as of the date of the Effective Date, and forever discharge the Released Parties as set forth herein;

(g) permanently bar and enjoin all Settlement Class Members who have not been properly excluded from the Settlement Classes from filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in, any lawsuit or other action in any jurisdiction based on the Released Claims;

(h) without affecting the finality of the Final Judgment for purposes of appeal, retain jurisdiction as to all matters relating to administration, consummation, enforcement, and interpretation of the Settlement Agreement and the Final Judgment, and for any other necessary purpose; and

(i) incorporate any other provisions, as the Court deems necessary and just.

9. CLASS COUNSEL'S ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES; SERVICE AWARD.

9.1 Defendant agrees that Class Counsel shall be entitled to an award of reasonable attorneys' fees and costs out of the Settlement Fund in an amount determined by the Court as the Fee Award. Counsel will limit its petition for attorneys' fees to no more than one-third (33.33%) of the Settlement Value in addition to reasonable costs and expenses. Payment of the Fee Award

shall be made from the Settlement Fund and should the Court award less than the amount sought by Class Counsel, the difference in the amount sought and the amount ultimately awarded pursuant to this Paragraph shall remain in the Settlement Fund for distribution to eligible Settlement Class Members. Class Counsel's entitlement, if any, to a Fee Award will be determined by the Court. The Parties agree that the Court's failure to approve, in whole or in part, any award for attorneys' fees shall not prevent the Settlement Agreement from becoming Effective, nor shall it be grounds for termination. The terms of any such awards, fees, costs, or expenses were not negotiated until after all material elements of the Settlement were resolved, and the terms of this Settlement are not conditioned upon any attorneys' fee award.

9.2 All Court-approved attorneys' fees, costs, and expenses shall be payable from the Escrow Account by the Settlement Administrator to Class Counsel within fifteen (15) days of receipt of funds by Navy Federal.

9.3 Allocation. The payment of attorneys' fees, costs, and expenses of Class Counsel shall be made as designated by Class Counsel. After the fees, costs, and expenses have been paid, Class Counsel shall be solely responsible for distributing each Plaintiff's firm's allocated share of such fees, costs, and expenses to that firm. Navy Federal shall have no responsibility for any allocation, and no liability whatsoever to any person or entity claiming any share of the funds to be distributed for payment of attorneys' fees, costs, or expenses, or any other payments from the Settlement Fund not specifically described herein.

9.4 Class Counsel intends to file a motion for Court approval of an award of \$5,000 to each of the as Service Awards for their role as Class Representatives, to be paid by Defendant and separate from and addition to the Settlement Fund. These payments are in addition to any funds the Class Representative are otherwise eligible to receive from the Settlement if they submit valid

Claim Forms. The Class Representatives will seek no more than \$5,000.00 each as a Service Award. Such awards shall be paid separate from the Settlement Fund through a credit to each Plaintiff's Account within thirty (30) days after the Effective Date. The Parties agree that the Court's failure to approve the Service Award, in whole or in part, shall not prevent the Settlement Agreement from becoming Effective, nor shall it be grounds for termination.

10. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL, CANCELLATION OR TERMINATION.

10.1 Termination. This Settlement may be terminated by either Class Counsel or Navy Federal by serving on counsel for the opposing Party and filing with the Court a written notice of termination within fifteen (15) days (or such longer time as may be agreed in writing between Class Counsel and Navy Federal) after any of the following occurrences:

- (a) Class Counsel and Navy Federal agree to termination;
- (b) the Court rejects, materially modifies, materially amends or changes, or declines to preliminarily or finally approve the Settlement;
- (c) an appellate court vacates or reverses the Final Approval Order, and the Settlement is not reinstated and finally approved without material change by the Court on remand within three hundred and sixty (360) days after such reversal;
- (d) any court incorporates into, or deletes or strikes from, or modifies, amends, or changes, the Preliminary Approval Order, Final Approval Order, or the Settlement in a way that Class Counsel or Navy Federal seeking to terminate the Settlement reasonably considers material (entering an "Alternative Judgment");
- (e) the Effective Date does not occur; or
- (f) any other ground for termination provided for elsewhere in this Agreement.

10.2 Navy Federal also shall have the right to terminate the Settlement by serving on Class Counsel and filing with the Court a notice of termination within ten (10) business days after its receipt from the Settlement Administrator of any report indicating 15% or more of the Settlement Class Members timely requested exclusion.

10.3 Effect of a Termination. The grounds upon which this Agreement may be terminated are set forth herein above. In the event of a termination, this Agreement shall be considered null and void; all of Plaintiffs', Class Counsel's, and Navy Federal's obligations under the Settlement shall cease to be of any force and effect; any amounts in the Escrow Account shall be returned to Navy Federal; and the Parties shall return to the status quo ante in the Action as if the Parties had not entered into this Agreement. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement rights, claims, and defenses will be retained and preserved.

10.4 In the event of termination, Navy Federal shall have no right to seek reimbursement from Plaintiffs, Class Counsel, or the Settlement Administrator for Settlement Administration Costs paid by Navy Federal.

10.5 The Settlement shall become effective on the Effective Date unless earlier terminated in accordance with the provisions hereof.

10.6 Certification of the Settlement Class shall have no bearing in deciding whether the claims asserted in the Action are or were appropriate for class treatment in the absence of settlement. If this Agreement terminates or is nullified, the provisional class certification shall be vacated by its terms, and the Action shall revert to the status that existed before execution of this Settlement Agreement. Thereafter, Plaintiffs shall be free to pursue any claims available to them, and Navy Federal shall be free to assert any defenses available to it, including but not limited to,

denying the suitability of this case for class treatment. Nothing in this Agreement shall be argued or deemed to estop any Party from the assertion of such claims and defenses.

10.7 In the event the Settlement is terminated in accordance with the provisions of this Agreement, any discussions, offers, or negotiations associated with this Settlement shall not be discoverable or offered into evidence or used in the Action or any other action or proceeding for any purpose. In such event, all Parties to the Action shall stand in the same position as if this Agreement had not been negotiated, made, or filed with the Court.

11. NO ADMISSION OF LIABILITY

11.1 Navy Federal continues to dispute its liability for the claims alleged in the Action, and maintains that its practices and procedures related to its investigation and determination of claimed fraudulent electronic transfer(s), including explanations for denials and provision of documents to members upon request, complied, at all times, with applicable laws and regulations and the terms of the account agreements with its members. Navy Federal has agreed to enter into this Agreement to avoid the further expense, inconvenience, and distraction of burdensome and protracted litigation, and to be completely free of any further claims that were asserted or could possibly have been asserted in the Action.

11.2 Class Counsel believe that the claims asserted in the Action have merit, and they have examined and considered the benefits to be obtained under the proposed Settlement set forth in this Agreement, the risks associated with the continued prosecution of this complex, costly and time-consuming litigation, and the likelihood of success on the merits in the Action. Class Counsel fully investigated the facts and law relevant to the merits of the claims, conducted significant discovery, and conducted independent investigation of the challenged practices. Class Counsel concluded that the proposed Settlement set forth in this Agreement is fair, adequate, reasonable, and in the best interests of the Settlement Class members.

11.3 The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgement or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever.

11.4 Neither the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (a) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by the Plaintiffs or Settlement Class Members, or of any wrongdoing or liability of the Released Parties; or (b) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission of any of the Released Parties, in the Action or in any proceeding in any court, administrative agency, or other tribunal.

11.5 In addition to any other defenses Navy Federal may have at law, in equity, or otherwise, to the extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit or other proceeding that may be instituted, prosecuted or attempted in breach of this Agreement or the Releases contained herein.

12. NO PRESS RELEASE OR PUBLICITY

12.1 Each Party agrees not to make any statements, written or oral, or cause or encourage others to make any statements, written or oral, that defame, disparage or in any way criticize the personal or business reputation, or conduct of the other party, including affiliates, parents, direct and indirect subsidiaries, agents, insurers, and any company or companies under common control with any of them. Before entry of Final Judgment by the Court, neither Plaintiffs nor Class Counsel shall directly or indirectly issue or cause to be issued any statements to the media or

engage in any other press, publicity or disclosure regarding this Settlement Agreement or the settlement of the Action. If contacted by the media after the entry of Final Judgment by the Court, the Party may respond generally by stating that they are happy that the Settlement was reached and that it is a fair and reasonable result. No Party shall issue any press release or shall otherwise initiate press coverage of the Settlement.

13. MISCELLANEOUS PROVISIONS

13.1 Gender and Plurals. As used in this Agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

13.2 Binding Effect. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Releasing Parties and the Released Parties.

13.3 Cooperation of Parties. The Parties agree to cooperate in good faith to prepare and execute all documents, to seek Court approval, uphold Court approval, and do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

13.4 Obligation To Meet And Confer. Before filing any motion in the Court raising a dispute arising out of or related to the Agreement, the Parties shall consult with each other and certify to the Court that they have consulted.

13.5 Integration. The Agreement constitutes a single, integrated written contract expressing the entire agreement of the Parties relative to the subject matter hereof. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party hereto, except as provided for herein.

13.6 No Conflict Intended. Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

13.7 Governing Law. Except as otherwise provided herein, the Agreement shall be construed in accordance with, and be governed by, the laws of the State of Virginia, without regard to the principles thereof regarding choice of law.

13.8 Jurisdiction. The Court shall retain exclusive jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall also have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain exclusive jurisdiction with respect to the administration, consummation, and enforcement of the Agreement. The Court shall also retain exclusive jurisdiction over all questions and/or disputes related to the Notice Program and the Settlement Administrator. As part of the agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose. The Court shall retain exclusive jurisdiction over the enforcement of the Court's injunction barring and enjoining all Releasing Parties from asserting any of the Released Claims and from pursuing any Released Claims against Navy Federal or its affiliate at any time, including during any appeal from the Final Approval order.

13.9 Notices. All notices to Class Counsel provided for herein, shall be sent by email with a hard copy sent by overnight mail to:

EDELSBERG LAW, P.A.
Scott Edelsberg
Adam Schwartzbaum
1925 Century Park East, Suite 1700
Los Angeles, CA 90067
Email: scott@edelsberglaw.com
adam@edelsberglaw.com

SHAMIS & GENTILE, P.A.
Andrew J. Shamis
Edwin E. Elliott
14 NE 1st Avenue, Suite 705

Miami, FL 33132
Email: Ashamis@shamisgentile.com
Edwine@shamisgentile.com

KALIEL GOLD PLLC
Jeffrey D. Kaliel
Sophia Goren Gold
490 43rd Street, No. 122
Oakland, CA 94609
Email: jkaliel@kalielpllc.com
sgold@kalielpllc.com

Class Counsel

DAVIS WRIGHT TREMAINE LLP
Fred Burnside
920 Fifth Avenue, Suite 3300
Seattle, Washington
Email: fredburnside@dwt.com

Nancy R. Thomas
350 South Grand Avenue, 27th Floor
Los Angeles, CA 90071-3487
Email: nancythomas@dwt.com

Counsel for Navy Federal Credit Union

The notice recipients and addresses designated above may be changed by written notice. Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filings received as a result of the Notice program.

13.10 Modification and Amendment. This Agreement may not be amended or modified, except by a written instrument signed by Class Counsel and counsel for Navy Federal and, if the Settlement has been approved preliminarily by the Court, approved by the Court.

13.11 No Waiver. The waiver by any Party of any breach of this Agreement by another Party shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Agreement.

13.12 Authority. Class Counsel, and counsel for Navy Federal, represent and warrant that the persons signing this Agreement on their behalf have full power and authority to bind every person, partnership, corporation or entity included within the definitions of Plaintiffs and Navy Federal to all terms of this Agreement. Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.

13.13 Agreement Mutually Prepared. Neither Navy Federal nor Plaintiffs, nor any of them, shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

13.14 Independent Investigation and Decision to Settle. The Parties understand and acknowledge that they: (a) have performed an independent investigation of the allegations of fact and law made in connection with this Action; and (b) that even if they may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Action as reflected in this Agreement, that will not affect or in any respect limit the binding nature of this Agreement. It is the Parties' intention to resolve their disputes in connection with this Action pursuant to the terms of this Agreement now and thus, in furtherance of their intentions, the Agreement shall remain in full force and effect notwithstanding the discovery of any additional facts or law, or changes in law, and this Agreement shall not be subject to rescission or modification by reason of any changes or differences in fact or law, subsequently occurring or otherwise.

13.15 Settlement Purpose of Agreement. This Settlement Agreement is governed by the terms of Federal Rule of Evidence 408 and is for settlement purposes only, and neither the fact

of, nor any provision contained in this Settlement Agreement or any attachments, nor any action taken hereunder shall constitute, be construed as, or be admissible in evidence as, any admission of the validity of any claim, defense, or any fact alleged by any of the Parties in the Action or in any other pending or subsequently filed action or of any wrongdoing, fault, violation of law, or liability of any kind on the part of any Party, or admission by any Party of any claim, defense, or allegation made in the Action or any other action, nor as an admission by any of Navy Federal, Plaintiffs, or Settlement Class Members of the validity of any fact or defense asserted against them in the Action or any other action.

13.16 If the Court should for any reason fail to approve this Agreement in the form agreed to by the Parties, decline to enter the Settlement Order and Final Judgment in the form described in this Settlement Agreement, or impose any condition to approval of the settlement to which the Parties do not consent, or if the Final Approval Order or Final Judgment are reversed or rendered void, then (a) this Settlement Agreement shall be considered null and void, (b) neither this Settlement Agreement nor any of the related negotiations shall be of any force or effect, and (c) all Parties to this Settlement Agreement shall stand in the same position, without prejudice, as if the Settlement Agreement had been neither entered into nor filed with the Court. Invalidity of any portion of this Settlement Agreement shall invalidate this Settlement Agreement in its entirety unless the Parties agree in writing that the remaining provisions shall remain in full force and effect. This includes that the provisional certification of the Settlement Class shall have no bearing in deciding whether the claims asserted in the Action are or were appropriate for class treatment in the absence of settlement. If this Agreement terminates or is nullified, the provisional class certification shall be vacated by its terms, and the Action shall revert to the status that existed before the execution of this Settlement Agreement. Upon nullification of this Settlement

Agreement, Plaintiffs shall be free to pursue any claims available to them, and Navy Federal shall be free to assert any defenses available to it, including but not limited to, denying the suitability of this case for class treatment. Nothing in this Agreement shall be argued or deemed to estop any Party from asserting such claims or defenses. In the event the Court should for any reason fail to approve this Settlement Agreement in the form agreed to by the Parties, decline to enter the Final Approval Order or Final Judgment in the form described in this Settlement Agreement, or impose any condition to approval of the settlement to which the Parties do not consent, or if the Final Approval Order or Final Judgment are reversed or rendered void, the Parties will negotiate in good faith to address the issues raised by said events.

13.17 Assignment: Third Party Beneficiaries. None of the rights, commitments, or obligations recognized under this Settlement Agreement may be assigned by any member of the Settlement Class without the express written consent of the other Parties.

13.18 Receipt of Advice of Counsel. Each Party acknowledges, agrees, and specifically warrants that he, she, or it has fully read this Agreement and the Release contained herein, received independent legal advice with respect to the advisability of entering into this Agreement and the Release and the legal effects of this Agreement and the Release, and fully understands the effects of this Agreement and the Release.

13.19 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all Parties do not sign the same counterparts. Original signatures are not required. Any signature or electronic signature submitted through email of an Adobe PDF or through an electronic signature program such as DocuSign or Adobe Acrobat Sign shall be deemed an original.

IT IS SO AGREED TO BY THE PARTIES:Dated: July 18, 2025**JEFFREY STEPHENSON**

By: 
Jeffrey Stephenson (Jul 18, 2025 18:45 GMT+1)
Jeffrey Stephenson, individually and as
representative of the Class

Dated: July 16, 2025**BILLY SMITH II**

By: 
Billy Smith II (Jul 16, 2025 14:52 PDT)
Billy Smith II, individually and as
representative of the Class

Dated: July , 2025**NAVY FEDERAL CREDIT UNION**

By: _____

Name: _____

Title: _____

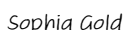
IT IS SO STIPULATED BY COUNSEL:Dated: July 11, 2025**EDELSBERG LAW, P.A.**

By: 
/s/
Scott Edelsberg

Dated: July 11, 2025**SHAMIS & GENTILE, P.A.**

By: 
/s/
Andrew J. Shamis

Dated: July 16, 2025**KALIEL GOLD PLLC**

By: 
/s/
Sophia Gold

Class Counsel

IT IS SO AGREED TO BY THE PARTIES:

Dated: July ____, 2025

JEFFREY STEPHENSON

By: _____
Jeffrey Stephenson, individually and as
representative of the Class

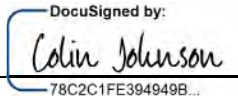
Dated: July ____, 2025

BILLY SMITH II

By: _____
Billy Smith II, individually and as
representative of the Class

Dated: July 16, 2025

NAVY FEDERAL CREDIT UNION

By:  _____
78C2C1FE394949B...

Name: _____ Colin Johnson

Title: _____ Associate General Counsel

IT IS SO STIPULATED BY COUNSEL:

Dated: July ____, 2025

EDELSBERG LAW, P.A.

By: /s/ _____
Scott Edelsberg

Dated: July ____, 2025

SHAMIS & GENTILE, P.A.

By: /s/ _____
Andrew J. Shamis

Dated: July ____, 2025

KALIEL GOLD PLLC

By: /s/ _____
Sophia Gold

Class Counsel

Dated: July 25, 2025

DAVIS WRIGHT TREMAINE LLP

By: /s/ Fred Burnside

Attorney for Defendant

SCHEDULE OF EXHIBITS

Exhibit	Name of Document
A	Settlement Claim Form
B	Email Notice
C	Postcard Notice
D	Long Form Notice
E	Proposed Preliminary Approval Order
F	Proposed Final Approval Order and Final Judgment

EXHIBIT A

EXHIBIT A**SETTLEMENT CLAIM FORM*****Stephenson, et al. v. Navy Federal Credit Union***

United States District Court for the Southern District of California

Case No. 3:2023-cv-01851

If you are a Settlement Class Member and wish to receive a payment, your completed Claim Form must be submitted online no later than [____], or postmarked on or before [____].

Please read the full notice of this settlement (available at www.stephensoneftlitigation.com) carefully before filling out this Claim Form.

ONLINE: Submit this Claim Form.

MAIL: [ADDRESS]

PART ONE: CLAIMANT INFORMATION

Provide your name and contact information below. It is your responsibility to notify the Settlement Administrator of any changes to your contact information after the submission of your Claim Form.

FIRST NAME**LAST NAME****STREET ADDRESS****CITY****STATE****ZIP CODE****EMAIL ADDRESS**

PART TWO: ATTESTATION UNDER PENALTY OF PERJURY

By signing this form, I attest that, to the best of my knowledge, the following information is true and correct: I submitted a claim of fraudulent transaction(s) on my Navy Federal account that was denied between October 10, 2022 and [Preliminarily Approval Date]. I certify that the information on this Claim Form is true and correct.

Check this box if you made a request to Navy Federal for the documents Navy Federal relied upon to deny your fraud claim but you did not receive the documents: ☐

SIGNATURE**DATE**

Please keep a copy of your Claim Form for your records.

EXHIBIT B

EXHIBIT B

To: <<Class Member Email>>

From: Settlement Administrator <xxxx@XXXXXXXXX.com>

Subject: Notice of Class Action Settlement

Unique ID: <<UniqueID>>

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Jeffrey Stephenson, et al. v. Navy Federal Credit Union

United States District Court for the Southern District of California

Case No. 3:23-CV-01851

If You Had an Account with Navy Federal Credit Union and Submitted a Claim for Unauthorized and/or Fraudulent Transactions That Was Denied Between October 10, 2022, and [Preliminary Approval Date], You May Be Entitled to a Payment from a Class Action Settlement.

A court authorized this notice. This is not a solicitation from a lawyer.

File a Claim Form [here](#) to be eligible.

IMPORTANT: You must file a claim for your potential payment by Month XX, 20YY.

What is this Notice About? The parties have reached a proposed settlement in a class action lawsuit in which Plaintiffs claim that Navy Federal Credit Union (Navy Federal) violated the Electronic Funds Transfer Act by: a) improperly denying claims by credit union members of unauthorized electronic fund transfer(s), b) failing to provide sufficient explanation regarding the basis for its denial; and c) failing to provide, upon request of a member, documents relied on in making its determination. Navy Federal denies that it did anything wrong, but it agreed to the Settlement to avoid the uncertainties and expenses associated with continuing the case. The Court has not decided which side is right. **This Settlement does not release any claims for actual damages based on or related to Navy Federal's purported improper denial of a claim of unauthorized electronic transfer(s).**

Am I a Settlement Class Member? Our records indicate you may be a Settlement Class member. Settlement Class members are all Accountholders whose claims of unauthorized electronic fund transfers were denied by Navy Federal between October 10, 2022, and [Preliminary Approval Date] (the "Written Explanation Settlement Class"). You may also be a member of the Document Request Settlement Subclass if you requested documents Navy Federal relied on in making its determination and did not receive them.

What are the Settlement Benefits? If approved by the Court, Navy Federal has agreed to provide \$1,700,000 ("Settlement Fund") to fund: (a) payments or account credits to Settlement Class Members who file a valid and timely Claim Form, and (b) any award of attorneys' fees, costs, and

expenses. Navy Federal has also agreed to pay Settlement Administration Costs and Service Awards to the Plaintiffs separate from the Settlement Fund. Settlement Administration Costs are subject to reimbursement in whole or in part if there are uncashed checks remaining after the initial payments and account credits to Settlement Class Members

In addition to this monetary relief, Navy Federal has also agreed to implement changes to its policies and procedures relating to the handling of claims concerning unauthorized electronic fund transfers, including changes to the written communications sent to members whose claims of unauthorized electronic fund transfer(s) are denied and enhancements to the procedures for responding to member requests for documents in connection with such denials.

How Do I Get a Payment? You must submit a timely and complete Claim Form **no later than [claims deadline]**. You can file a claim by clicking [[here](#)].

What are My Other Options? If you do not want to be legally bound by the Settlement, you must exclude yourself from the Class postmarked no later than [**objection/exclusion deadline**]. If you exclude yourself, you cannot get a settlement payment, but you keep any rights you may have to sue Navy Federal for the legal claims that are the subject of the lawsuit at your own expense. You and/or your lawyer have the right to appear before the Court and/or object to the proposed settlement, request for attorneys' fees & costs, or the Service Awards. Your written objection must be postmarked no later than [**objection/exclusion deadline**]. Specific instructions about how to object to, or exclude yourself from, the Settlement are available at www.stephensoneftalitigation.com.

If you do nothing, and if the Settlement becomes final, you will not be eligible for a Settlement Payment and you will give up your right to sue Navy Federal for the claims released by Settlement Class Members (see the next section below).

If I Do Not Exclude Myself, What Claims Am I Giving Up? Unless you exclude yourself from the Settlement by submitting a timely and valid request for exclusion, you are agreeing to stay in the Settlement Classes, and you give up any right to sue Navy Federal as part of any other lawsuit about the claims resolved in this Settlement. This means that on the Effective Date of the Settlement, you and related parties (the “**Releasing Parties**”) shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all **Released Claims** against the **Released Parties**. The terms in bold are explained in the Settlement Agreement, which you can review by clicking [[here](#)].

Who Represents Me, How Will the Lawyers Be Paid, What Will the Plaintiffs Receive? The Court has appointed lawyers from the law firms of Edelsberg Law, P.A., Shamis & Gentile, P.A., and KalieGold PLLC to represent you. These attorneys are called Class Counsel. You will not be charged for these lawyers, they will be paid from the Settlement Fund. If you want to be represented by your own lawyer in this case, you may hire one at your own expense.

Class Counsel will be filing a motion seeking attorneys' fees of up to one-third of the value of the Settlement and reimbursement of litigation costs to be paid out of the Settlement Fund. The Court will determine how much Class Counsel will be paid for fees and expenses.

Class Counsel will also seek a Service Award for Plaintiff Stephenson and Plaintiff Smith as the Class Representatives in the amount of 5,000 each, subject to Court approval. The Service Award will be paid separate and apart from the Settlement Fund. It is intended to compensate the Class Representatives for the time spent participating in the lawsuit and prosecuting the legal claims for the benefit of the Settlement Classes

Navy Federal and the Plaintiffs have reached a settlement of the Plaintiffs' individual claims for actual damages. Under that settlement, Navy Federal will pay each Plaintiff \$5,000, to be paid separately from the Settlement Fund and separately from the Service Award.

When Will the Court Decide Whether to Approve the Settlement? The Court will hold the Final Approval Hearing at [a/p].m. on [Month 00], 2025 at the United States District Court for the Southern District of California, James M. Carter and Judith N. Kep United States Courthouse, 333 West Broadway, Courtroom 14B, San Diego, CA 92101. At that hearing, the Court will: consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will also decide whether to approve Class Counsel's request for attorneys' fees and costs; and decide whether to award the Class Representatives a Service Award.

How Do I Get More Information? For more information, including the full Notice, Claim Form and Settlement Agreement go to www.stephensoneftalitigation.com, contact the Settlement Administrator at 1-[]-[]-[] [address], or visit www.shamisgentile.com.

EXHIBIT C

Stephenson, et al. v. Navy Federal Credit Union
Settlement Administrator
PO Box XXXX
[City, State] xxx-xxxx

**BARCODE
NO-PRINT
ZONE**

FIRST-CLASS MAIL
U.S. POSTAGE
PAID
[city, state]
PERMIT NO. xxxx

Court-Approved Legal Notice

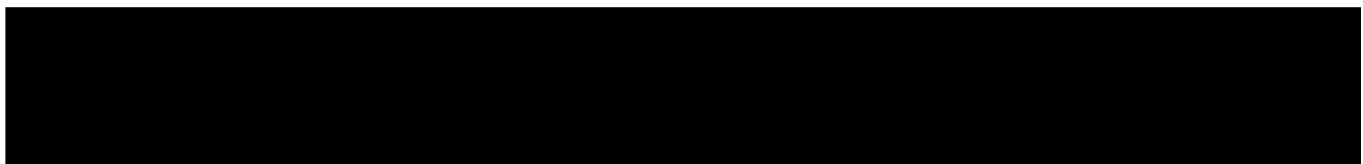
Stephenson, et al. v. Navy Federal Credit Union,
Case No. 3:23-CV-01851, United States District
Court for the Southern District of California

*This is **not** a solicitation from a lawyer.*

www.XXXXXXXXXXXXXX.com
1-XXX-XXX-XXXX

**If You Had an Account with Navy Federal
Credit Union and Submitted a Claim for
Unauthorized and/or Fraudulent
Transactions That Was Denied Between
October 10, 2022, and [Preliminary
Approval Date], You May Be Entitled to a
Payment from a Class Action Settlement.**

A Court has authorized this notice.



<<MAIL ID>>
<<NAME 1>>
<<NAME 2>>
<<ADDRESS LINE 1>>

<<ADDRESS LINE 2>>
<<ADDRESS LINE 3>>
<<ADDRESS LINE 4>>
<<ADDRESS LINE 5>>
<<CITY, STATE ZIP>>
<<COUNTRY>>

Complete and postmark the attached Claim Form by **Month __, 20YY to be eligible to receive a payment. (Postage is prepaid)**

What does the Settlement Provide? There is a proposed settlement a class action lawsuit alleging Navy Federal violated the Electronic Funds transfer Act by a) improperly denying credit union members' claims for unauthorized transactions, failing to provide sufficient explanation of the basis for its denial, and failing to provide, upon the member's request, documents it relied on in making its determination. If approved by the Court, Navy Federal will provide \$1,700,000 (the "Settlement Fund") for class member payments and any award of attorney's fees and costs. **This Settlement does not release any claims for actual damages related to Navy Federal's purported improper denial of a claim of unauthorized electronic fund transfer(s).**

Other Options. If you do not want to be bound by the Settlement, you must opt-out of the Settlement by **Month XX, 20YY**. If you do not opt-out, you and related parties will give up the right to sue and will release Navy Federal and the Released Parties from the Released Claims in the Action. If you do not opt out, you may object to the Settlement, attorneys' fees & costs request, and Service Awards by **Month XX, 20YY**. The Settlement Website explains how to opt-out or object. If you do nothing, you will get no payment, and you will be bound by the Settlement and any judgments and orders.

Who represents me? The Court has appointed lawyers from Edelsberg Law, P.A.; Shamis & Gentile, P.A.; and KalieGold PLLC to serve as Class Counsel. You do not have to pay them to participate. Instead, if they

recover money for the Settlement Class, the lawyers will ask the Court to be paid from the Settlement Fund. Visit www.stephensoneftalitigation.com to review the attorneys' fee & expense request.

The Court will hold a Final Approval Hearing on **Month XX, 20YY**, to consider whether to approve the Settlement, request for attorneys' fees and expenses, Service Awards, and any objections. You or your lawyer may attend and speak at the hearing, but you are not required to do so.

This notice is a summary. Learn more at www.stephensoneftalitigation.com, or contact the Administrator at 1-XXX-XXX-XXXX] or Class Counsel at www.shamisgentile.com.

<<UNIQUE ID>>

CLAIM FORM

Claims must be postmarked or submitted online by **Month Day, 20YY**.

First Name: <<NAME 1>>

Last Name: <<NAME 2>>

Mailing Address:

<<ADDRESS LINE 1>>

<<ADDRESS LINE 2>>

<<ADDRESS LINE 3>>

<<CITY, STATE ZIP>>

Please update your information below if it is different than above:

First Name:

[illegible]

MI:



Last Name:

[illegible]

Mailing Address:

[illegible]

City:

[illegible]

State:

ZIP Code:

By signing this form, I attest that, to the best of my knowledge, the following information is true and correct: I submitted a claim of fraudulent transaction(s) on my Navy Federal account that was denied between October 10, 2022, and [Preliminarily Approval Date]. I certify that the information on this Claim Form is true and correct.

Check this box if you made a request to Navy Federal for the documents Navy Federal relied upon to deny your fraud claim but you did not receive the documents: ☐

Signature:

Date:

**BARCODE
NO-PRINT
ZONE**

PREPAID
POSTAGE

*Stephenson, et al. v. Navy Federal Credit
Union*
Settlement Administrator
PO Box XXXX
[City, State] xxx-xxxx

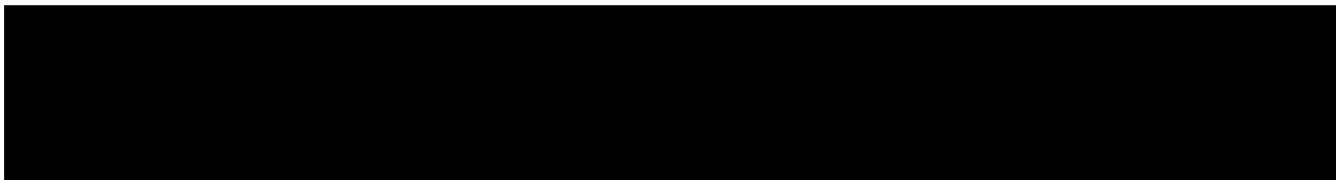


EXHIBIT D

EXHIBIT D**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA*****Jeffrey Stephenson, et al. v. Navy Federal Credit Union*****Case No. 3:23-cv-01851****If You Had an Account with Navy Federal Credit Union and Submitted a Claim for Unauthorized and/or Fraudulent Transactions That Was Denied Between October 10, 2022, and [Preliminary Approval Date], You May Be Entitled to a Payment from a Class Action Settlement.****A court authorized this Notice. This is not a solicitation from a lawyer. You are not being sued.****PLEASE READ THIS NOTICE CAREFULLY**

There is a proposed settlement in the class action lawsuit *Jeffrey Stephenson, et al. v. Navy Federal Credit Union*, Case No. 3:23-cv-01851 (the “Class Action”), which claims that Navy Federal Credit Union (Navy Federal) violated the Electronic Funds Transfer Act (EFTA) by: a) improperly denying claims by credit union members of unauthorized electronic fund transfer(s), (b) failing to provide sufficient explanation regarding the basis for its denial, and (c) failing to provide, upon request by a member, documents relied on in making its determination. Navy Federal denies that it did anything wrong, but it agreed to the settlement to avoid the uncertainties and expenses associated with continuing the case. The Court has not decided which side is right.

Settlement Class Members will be eligible to receive a *pro rata* (meaning equal) portion of the Settlement Fund if they submit a valid and timely Claim Form. As part of the Settlement, Navy Federal agreed to implement changes to its policies and procedures relating to the handling of claims concerning unauthorized electronic fund transfers. **This Settlement does not release any claims for actual damages based on or related to Navy Federal’s purported improper denial of a claim of unauthorized electronic transfer(s).**

The Court will hold a Final Approval Hearing on **MONTH DD, 20YY**. The motion for final approval and motion for attorney’s fees and costs will posted on the Settlement Website by **MONTH DD, 20YY**.

**IF YOU ARE A SETTLEMENT CLASS MEMBER, YOUR LEGAL RIGHTS ARE AFFECTED
WHETHER YOU ACT OR DON’T ACT**

Your Legal Rights & Options		Deadline
Submit a Claim Form	- Stay in the Settlement Class - Submit a timely and valid Claim Form to be eligible for payment or account credit. - Be bound by the Settlement. - Give up any rights to sue Navy Federal separately for the claims resolved in the Settlement.	Submitted Online or Postmarked by: MONTH DD, 20YY
Exclude Yourself (Opt Out)	- Remove yourself from the Settlement Class - Get no Settlement Class Member Payment. - Keep your right to sue Navy Federal separately about the claims resolved in the Settlement.	Postmarked by: MONTH DD, 20YY
Object to the Settlement	- Stay in the Settlement but tell the Court why you don't agree with the Settlement, the request for attorneys' fees and costs, or the Service Awards to the Plaintiffs. - You will be bound by the Settlement if the Court approves it. - To object, you must submit a timely written objection.	Postmarked by: MONTH DD, 20YY
Do Nothing	- Get no Settlement Class Member Payment. - Stay in the Settlement Class. - Give up any rights to sue Navy Federal separately about the claims resolved in the Settlement.	

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court must decide whether to approve the Settlement, attorneys' fees, expenses and service awards. No Settlement benefits will be provided unless the Court approves the Settlement.

Call 1-**XXX-XXX-XXXX** toll free or visit www.stephensoneftallitigation.com for more information.

What Is a Class Action?

A class action is a lawsuit in which one or more individuals called Plaintiffs sue on behalf of other persons or entities who have similar legal claims. These persons or entities are referred to as a class or class members. In a class action, one Court resolves the issues, legal claims, and/or defenses for all class members in a single lawsuit, except for those persons or entities who ask in writing to be excluded from the class.

What Is this Lawsuit About?

Plaintiffs Jeffrey Stephenson and Billy Smith II allege that Navy Federal violated certain provisions of the EFTA and the Navy Federal Account Agreement by: improperly denying their claims of unauthorized electronic fund transfer(s); b) failing to provide sufficient written explanation regarding the basis for the denial; and (c) failing to provide, on request by them, the documents it relied on in denying their claims. The Second Amended Complaint in this Action is posted on the Settlement Website and contains the allegations and claims asserted against Navy Federal.

Navy Federal denies that it violated any law or did anything wrong but has agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of litigation. The Settlement is not an admission of wrongdoing. The Court has not determined who is right.

Plaintiffs filed this case as a proposed class action. When the parties reached this proposed Settlement, the Court had not decided whether the case could proceed as a class action.

What benefits does the Settlement provide?

Settlement Class Members are eligible for the following benefits:

Monetary Relief: Navy Federal has agreed provide \$1,700,000) (Settlement Fund)to fund (a) payments or Account credits to Settlement Class Members who file a valid and timely Claim Form, and (b) any award of attorneys' fees, costs, and expenses.

Other Payments. Navy Federal has also agreed to pay Settlement Administration Costs and Service Awards to the Plaintiffs separate and apart from the Settlement Fund. Settlement Administration Costs are subject to reimbursement in whole or in part if there are uncashed checks remaining after the initial payments and credits to Settlement Class Members.

Prospective Changes: In addition to this monetary relief, Navy Federal has agreed to implement changes to its policies and procedures relating to the handling of claims concerning unauthorized electronic fund transfers, including changes to the written communications sent to members whose claims of unauthorized electronic fund transfers) are denied and enhancements to the procedures for responding to member requests for documents in connection with such denials.

A detailed description of the settlement benefits can be found in the Settlement Agreement. [\[insert hyperlink\]](#)

How Do I Know if I'm a Member of the Settlement Classes?

If you received Notice of the Settlement from a postcard or email addressed to you, then the Parties believe you may be in the Settlement Classes.

You are a member of the Settlement Classes if you fall into one of these two categories:

(1) Written Explanation Settlement Class. All Accountholders whose claims of unauthorized electronic fund transfers were denied by Navy Federal Credit Union between October 10, 2022, and [\[insert Preliminary Approval Date\]](#).

(2) Document Request Settlement Subclass. All Accountholders in the Written Explanation Settlement Class who requested documents Navy Federal relied on in making its determination and who did not receive them.

If I Am a Settlement Class Member, What Are My Options?

If you are a Settlement Class Member, you have four options.

Option 1: Submit a Claim Form for Payment.

To be eligible for a payment or account credit, you must submit a timely and valid Claim Form. Settlement Class Members who submit timely and valid Claim Forms will receive a pro rata (meaning equal) portion

of the Settlement Fund, after the deduction of Court-approved attorneys' fees, costs, and expenses. You can submit a claim by signing the Claim Form you receive in the mail, carefully tearing at the perforation, and putting the Claim Form in the mail. You can call 1-XXX-XXX-XXXX to ask the Settlement Administrator to send you a Claim Form or visit www.stephensoneftalitigation.com to access and submit the Claim Form online.

If you submit a Claim Form in the mail, it must be postmarked no later than **[CLAIMS DEADLINE]** and mailed to:

Stephenson, et al. v. Navy Federal Credit Union
Settlement Administrator
[ADDRESS]

If the address you submit on your Claim Form changes, you must contact the Settlement Administrator to provide a current address or you may not receive your Settlement Class Member Payment if it's made by check instead of account credit.

You can also submit a Claim Form online at www.stephensoneftalitigation.com by entering your Claimant ID. Online Claim Forms must be submitted by 11:59pm EST on **[Date]**. Your Claimant ID can be found on the postcard and/or email notice you received.

If you submit a Claim Form, even if the Settlement Administrator finds the Claim Form is invalid, you are agreeing to stay in the Settlement Class and give up any right to sue Navy Federal as part of any other lawsuit about the claims resolved in the Settlement.

Option 2. Exclude yourself from the Settlement.

You have the right to not be part of the Settlement by excluding yourself or "opting out" of the Settlement Classes. If you wish to exclude yourself, you must do so on or before **[OBJECTION/EXCLUSION DEADLINE]** as described below. You do not need to hire your own lawyer to request exclusion from the Settlement Classes. If you exclude yourself from the Settlement Classes, you give up your right to receive any monetary benefits as part of this Settlement, and you will not be bound by any judgments or orders of the Court, whether favorable or unfavorable. However, you will keep any rights you may have to sue Navy Federal separately for the same legal claims that are the subject of this lawsuit at your own expense.

To exclude yourself from this lawsuit and/or preserve any right you may have to bring a separate lawsuit, you must make a request to be excluded in writing and, with sufficient postage, mail the request to:

Stephenson, et al. v. Navy Federal Credit Union
Settlement Administrator
[ADDRESS]

A request for exclusion must be postmarked on or before **[OBJECTION/EXCLUSION DEADLINE]**.

Your request for exclusion must contain the following:

1. The name of the case, *Stephenson v Navy Federal Credit Union*;
2. Your name and address;
3. A statement that you wish to be excluded from the Settlement Classes, such as: "I request exclusion from the Settlement"; and
4. Your signature.

If an Account has more than one Account Holder, and one Account Holder opts out, then all Account Holders on that Account will be deemed to have opted out of the Settlement with respect to that Account, and no Account Holder will be entitled to a payment or credit under the Settlement.

The Settlement Administrator will file your request for exclusion with the Court. A request for exclusion must be exercised individually and not on behalf of a group.

Option 3: Object to the Settlement.

The full terms of the Settlement can be found www.stephensoneftlitigation.com. If you think the terms of the Settlement, the requested attorneys' fees and expenses, and/or the Service Awards to the Plaintiffs and costs are not fair, not reasonable, or not adequate to the Settlement Class Members, you may submit a written objection. If you object to the terms of the Settlement, you cannot request exclusion from the Settlement. If you object to the terms of the Settlement you will still be bound by the terms of the Settlement and all rulings and orders from the Court.

To object to the terms of the Settlement, Class Counsel's request for attorney's fees and costs or Service Awards to the Plaintiffs, you must send a written objection postmarked by **DATE** to the following:

Stephenson, et al. v. Navy Federal Credit Union
Settlement Administrator
[ADDRESS]

The objection should include:

1. The name of the case;
2. Your name, address, telephone number, and email (if any);
3. Information identifying you as a Settlement Class Member;
4. A written statement of the grounds for the objection, including any legal support;
5. The name, address, bar number, email address, and telephone number of any lawyer who represents you related to your objection;
6. A statement advising whether you and/or your lawyer intend to appear and/or address the Court at the Final Approval Hearing; and
7. Your signature.

If you submit an objection and the Court approves the Settlement, you will be bound by any decisions and orders from the Court and by the terms of the Settlement. If you do not want to be bound by the decisions and rulings by the Court, you must file a request for exclusion and not an objection.

Option 4. Do Nothing Now. Stay in the Lawsuit.

You have the right to do nothing. If you do nothing, and if the Settlement becomes final, you will not be eligible for a Settlement Payment and you will give up your right to sue Navy Federal for the claims released by Settlement Class Members (see the next section below).

If I Do Not Exclude Myself from the Settlement, What Claims Am I Giving Up?

Unless you exclude yourself from the Settlement by submitting a timely and valid request for exclusion, you are agreeing to stay in the Settlement Classes and you give up any right to sue Navy Federal as part of any other lawsuit about the claims resolved in this Settlement. This means that on the Effective Date of the Settlement, you and related parties (the "**Releasing Parties**") shall be deemed to have, and by

operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all **Released Claims** against the **Released Parties**.

The **Releasing Parties** means Plaintiffs, those Settlement Class Members who do not timely opt out of the Settlement Class, and all of their respective present or past or future heirs, executors, estates, administrators, predecessors, successors, assigns, parent companies, subsidiaries, associates, affiliates, employers, employees, agents, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and companies, firms, trusts, and corporations.

The **Released Claims** means any and all claims to statutory damages or injunctive relief, regardless of legal basis and on account of any and all claims, suits, obligations, causes of action of every kind and/or nature, liabilities, rights, claims, actions, causes of action, and demands, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, based on contract, tort or any other theory, that result from, arise out of, are based upon, or relate to the conduct, omissions, duties or matters during the Class Period that were or could have been alleged in the Action. **The Released Claims exclude any claims for actual damages based on or related to Navy Federal's purported improper denial of a claim of unauthorized electronic transfer(s).** Nothing herein is intended to release any claims any governmental agency or governmental actor may have against Defendant

The **Released Parties** means Defendant Navy Federal Credit Union, as well as any and all of its respective present or past or future heirs, executors, estates, administrators, predecessors, successors, assigns, parent companies, subsidiaries, licensors, licensees, associates, affiliates, employers, employees, agents, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and companies, firms, trusts, and corporations.

Bar to Future Suits. Upon the Effective Date, and to the fullest extent permitted by law, each Settlement Class Member, shall, either directly, indirectly, representatively, or in any capacity, be permanently barred and enjoined from filing, commencing, prosecuting, intervening in, or participating (as a class member or otherwise) in any lawsuit, action, or other proceeding in any jurisdiction (other than participation in the Settlement as provided herein) against any Released Party based on the Released Claims.

Who Is Representing the Settlement Class Members, How Will the Lawyers Be Paid, and What Will the Plaintiffs Receive?

The Court has appointed lawyers from the law firms of Edelsberg Law, P.A., Shamis & Gentile, P.A., and KalielGold PLLC to represent you and the other Settlement Class Members. These attorneys are called Class Counsel. These lawyers are experienced in handling class action lawsuits, including actions on behalf of accountholders at financial institutions. More information about Class Counsel is available on their websites. They believe, after conducting an extensive investigation, that the Settlement Agreement is fair, reasonable, and in the best interests of the Settlement Class. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

Class Counsel will be filing a motion seeking attorneys' fees of up to one-third of the value of the Settlement and reimbursement of litigation costs to be paid out of the Settlement Fund. The Court will determine how much Class Counsel will be paid for fees and expenses.

Class Counsel will also seek a Service Award for Plaintiff Stephenson and Plaintiff Smith as the Class Representatives in the amount of \$5,000 each, subject to Court approval. The Service Award will be paid separately from the Settlement Fund. It is intended to compensate the Class Representatives for the time spent participating in the lawsuit and prosecuting the legal claims for the benefit of the Settlement Classes, and in exchange for a general release of any and all of the Plaintiffs' individual claims against the Released Parties.

Navy Federal and the Plaintiffs have also reached a settlement of the Plaintiffs' individual claims for actual damages. Under that settlement, Navy Federal will pay each Plaintiff \$5,000 total, to be paid separately from the Settlement Fund and separately from the Service Award.

When and Where will the Court Decide Whether to Approve the Settlement?

The Court will hold a **Final Approval Hearing** on **[HEARING DATE]**, at **[HEARING TIME]** EST at the United States District Court for the Southern District of California, James M. Carter and Judith N. Kep United States Courthouse, 333 West Broadway, Courtroom 14B, San Diego, CA 92101. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will also decide Class Counsel's application for attorneys' fees and expenses and the Class Representatives' application for Service Awards. We do not know how long these decisions will take. The Court may change the date or time of the Final Approval Hearing without further notice, so please check the Settlement Website for any changes.

Do I need to Attend the Final Approval Hearing?

No. Settlement Class Members are not required to attend the Final Approval Hearing, but you may attend and speak at the hearing if you wish. Class Counsel will answer any questions the Court may have at the Final Approval Hearing. However, you may come at your own expense if you would like to attend the hearing. You may also pay your own lawyer to attend, but it is not necessary.

If you submit a written objection, you do not have to come to the Court to talk about it. As long as you mailed your written objection on time and followed the instructions above, the Court will consider it.

How Do I Find Out More About This Lawsuit?

This Notice only summarizes the Settlement. The Settlement Agreement includes additional details. You can review or download a copy of the Settlement Agreement, the Claim Form, and other important documents from the Settlement website at www.stephensoneftallitigation.com. You can also call the Settlement Administrator toll-free at 1-XXX-XXX-XXXX or write to **[INSERT ADDRESS]**.

PLEASE DO NOT CONTACT THE COURT, THE CLERK OF THE COURT, NAVY FEDERAL, OR NAVY FEDERAL'S COUNSEL REGARDING THIS NOTICE.

EXHIBIT E

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JEFFREY STEPHENSON and BILLY SMITH II, individually, on behalf of himself and all others similarly situated,

Plaintiffs,

vs.

NAVY FEDERAL CREDIT UNION,

Defendant.

Case No. **3:23-CV-01851-WQH-KSC**

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Hon. William Q. Hayes
Hon. Karen S. Crawford

Before the Court is Plaintiffs' unopposed motion to grant preliminary approval of a proposed class action settlement and direct class notice in this action, the terms of which are set forth in a Class Action Settlement Agreement with accompanying exhibits (the "Agreement").¹

The Court has considered the Agreement, Plaintiffs' Motion for Preliminary Approval of Class Action Settlement and exhibits thereto, and all papers filed in support of the motion and the entire docket in this matter. Having fully considered the matter, pursuant to Federal Rule of Civil Procedure 23(e), it is hereby ORDERED that:

¹ All defined terms have the same meaning as set forth in the Agreement, which is attached to the Declaration of _____ as Exhibit ____ (ECF No. ____.)

1 1. The Court has jurisdiction over this action’s subject matter and has
2 personal jurisdiction over the Parties and the Settlement Class members defined and
3 described below.
4

5 **Preliminary Approval of Proposed Settlement**
6

7 2. Subject to the Final Approval Hearing and any objections lodged by
8 Settlement Class Members, the Court will likely be able to approve the Settlement as
9 set forth in the Agreement as fair, reasonable, adequate under Rule 23(e), including
10 the releases contained therein, the Claims process, and the proposed Plan of
11 Allocation described therein.
12

13 3. The Court further finds that the Settlement substantially fulfills the
14 purposes and objectives of the class action and provides beneficial relief to the
15 Settlement Classes, considering the risks and delay of continued litigation and all
16 other relevant factors. The Court finds the Settlement (a) is the result of arm’s-length
17 negotiations involving experienced counsel, with the assistance of a neutral mediator;
18 (b) is sufficient to warrant notice of the Settlement and the Final Approval Hearing
19 to the Settlement Classes; and (c) preliminarily meets all applicable requirements of
20 law, including Federal Rule of Civil Procedure 23 and the Class Action Fairness Act
21 (“CAFA”), 28 U.S.C. § 1715, for settlement purposes only.
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Preliminary Certification of Settlement Classes

4. Under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure, and in accord with the Settlement Agreement and solely for purposes of Settlement, the Court preliminarily approves the following Settlement Classes:

Written Explanation Settlement Class. All Accountholders whose claims of unauthorized electronic fund transfers were denied by Navy Federal Credit Union between October 10, 2022, and the date the Court grants preliminary approval of the Settlement

Document Request Settlement Subclass. All Accountholders in the Written Explanation Settlement Class who requested documents Navy Federal relied on in making its determination and who did not receive them.

5. Excluded from the Settlement Classes are (1) any judge presiding over this Action and members of their families; and (2) Defendant, its subsidiaries, parent companies, successors, predecessors, and any entity in which Defendant or its parents have a controlling interest and their current or former officers, directors, agents, attorneys, and employees.

6. All persons who are members of the Settlement Classes and who do not submit a valid request for exclusion are referred to collectively as “Settlement Class Members” or individually as a “Settlement Class Member.”

7. For purposes of the settlement only, the Court preliminarily finds that the Settlement Classes satisfy the requirements of Rule 23(a) and (b)(3) in that: (1) the number of Settlement Class Members is so numerous that joinder is impracticable; (2) there are questions of law and fact common to the Settlement Class members; (3) the claims of the Class Representatives are typical of the claims of the

1 Settlement Class members; (4) the Class Representatives are adequate representatives
2 for the Settlement Class, and have retained experienced counsel to represent them;
3
4 (5) the questions of law and fact common to the Settlement Class members
5 predominate over any questions affecting any individual Settlement Class member;
6
7 and (6) a class action is superior to the other available methods for the fair and
8 efficient adjudication of the controversy.

9 8. The Court appoints Plaintiffs Jeffrey Stephenson and Billy Smith II as
10 Class Representatives for the Settlement Classes and the following counsel are hereby
11 appointed as Class Counsel for the Settlement Classes: Scott Edelsberg and Adam
12 Schwartzbaum of Edelsberg Law, P.A.; Edwin E. Elliott of Shamis & Gentile, P.A.;
13 and Sophia Gold and Jeffrey D. Kalien of Kalien Gold PLLC.
14
15

16 9. The Court preliminarily finds for purposes of settlement only that the
17 above attorneys are competent and capable of exercising the responsibilities of Class
18 Counsel, and that Plaintiffs and Class Counsel will adequately protect the interests of
19 the Settlement Classes within the meaning of Fed. R. Civ. P. 23(a)(4) and (g).
20

21 **Notice and Administration**

22 10. The Court approves Kroll Settlement Administration LLC (Kroll) as the
23 Settlement Administrator and directs Kroll to perform the functions and duties of the
24 Settlement Administrator set forth in the Settlement—including providing notice to
25 the Settlement Classes and effectuating the Notice Program—and to provide such
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1 other administration services as are reasonably necessary to facilitate the completion
2 of the Settlement.
3

4 11. The Court has carefully considered the forms and methods of notice to
5 the Settlement Classes as set forth in the Settlement. The Court finds the Notice
6 Program satisfies the requirements of due process and complies with Rule 23 of the
7 Federal Rules of Civil Procedure. Namely, the Notice Program described in Section
8 Four of the Settlement Agreement is reasonably calculated to apprise Settlement
9 Class members of the nature of this Action, the scope of the Settlement Classes, the
10 terms of the Settlement Agreement, the rights of Settlement Class members to submit
11 a claim, object to or opt out of the Settlement and the process for doing so, and the
12 date, time, and location of the Final Approval Hearing. The Court therefore approves
13 the Notice Program and directs the Parties and the Settlement Administrator to
14 proceed with providing notice to Settlement Class members pursuant to the terms of
15 the Settlement Agreement and this Order.
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20 12. The Court hereby approves the Notice Program and the form, content,
21 and requirements of the Notices annexed as exhibits to the Agreement.² The Court
22 finds the Notice Program fully satisfies the requirements of Federal Rule of Civil
23 Procedure 23 and due process, constitutes the best notice practicable under the
24

25
26 ² The Parties, by agreement, may revise the Notices in ways that are not material, or in ways that
27 are appropriate to update those documents for purposes of accuracy or formatting, consistent with
28 this Order.

1 circumstances, and shall constitute due and sufficient notice to all persons entitled
2 thereto.

3
4 13. The Settlement Administrator shall send the agreed-upon Notices to the
5 Settlement Class within sixty (60) calendar days following the entry of this Order (the
6 “Notice Date”) and will carry out all requirements of the Notice Program set out in
7 Section Four of the Agreement. The Settlement Administrator shall maintain the
8 Settlement Website to provide full information about the Settlement.
9

10
11 14. No later than 10 days before the Final Approval Hearing, Class Counsel
12 shall file with the Court a declaration executed by the Settlement Administrator
13 attesting to the timely completion of the Notice Program, describing how the Notice
14 Program and the Claim Form process were completed, and providing the names of
15 members of the Settlement Class who timely and properly opted out from the
16 Settlement Class, as well as those Settlement Class Members who timely filed
17 objections, and other information as may be necessary to allow the Parties to seek
18 and obtain Final Approval.
19
20

21 **Requests for Exclusion, Objections, and Appearances**

22
23 15. Any Settlement Class member who wishes to request to be excluded
24 from the Settlement must send a written request for exclusion to the Settlement
25 Administrator at the following address: *Stephenson, et al. v. Navy Federal Settlement*
26 Administrator, [address]. To be valid, the Request for Exclusion must be postmarked
27 on or before forty-five (45) days after the Notice Date; must include: the case name;
28

1 a statement indicating the Settlement Class member's desire to be excluded from the
2 Settlement Class, the Settlement Class member's name, current address, and
3 signature. If an Account has more than one Accountholder, and if one Accountholder
4 opts-out himself or herself from the Settlement Class, then all Accountholders on that
5 Account shall be deemed to have opted-out of the Settlement with respect to that
6 Account, and no Accountholder shall be entitled to a payment under the Settlement.
7

8
9 16. Settlement Class members who timely request exclusion from the
10 Settlement will relinquish their rights to benefits under the Settlement and will not
11 release any claims against Defendant.
12

13 17. If a request for exclusion is not postmarked on or before forty-five (45)
14 days after the Notice Date, it will be invalid and the Settlement Class Member will
15 be bound by the terms of the Settlement and the Final Approval Order and Final
16 Judgment even if the Settlement Class Member has previously initiated or
17 subsequently initiate individual litigation or any other proceedings against Defendant.
18
19 A Settlement Class member who does not file a timely request for exclusion shall be
20 bound by all subsequent proceedings, orders, and judgments in this Action.
21
22

23 18. The Settlement Administrator shall promptly provide counsel for all
24 Parties with copies of any request for exclusion.

25 19. Settlement Class Members have a right to object to approval of the
26 proposed Settlement, to the award of attorneys' fees and litigation expenses, or to the
27 Service Awards to the Class Representatives. Any Settlement Class Member who
28

1 wishes to do so must file with the Court a written statement (along with any
2 supporting papers), postmarked or filed on or before forty-five (45) days after the
3
4 Notice Date. To be valid, objections must contain materially the following
5 information: (i) the name of the Action, (ii) the objector's name, address, telephone
6 number, and e-mail address; (iii) grounds for the objection including any legal
7 support; (iv) the name and contact information of any attorneys representing,
8 advising, or assisting the objector in connection with the preparation or submission
9 of the objection or who may profit from the pursuit of the objection (the "Objecting
10 Attorneys"); (v) a statement advising whether the Settlement Class Member or his/her
11 attorney intends to appear and/or testify at the Final Approval Hearing; and (vi) the
12 objector's signature.
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16 20. Any Settlement Class Member who does not make an objection to the
17 Settlement in the manner provided herein or appear and state an objection at the Final
18 Approval Hearing shall be deemed to have waived and forfeited any and all rights he
19 or she may have to object, appear, present witness testimony, and/or submit evidence;
20 shall be precluded from seeking review of the Settlement by appeal or other means;
21 and shall be bound by all terms of the Settlement and by all proceedings, orders, and
22 judgments in the Action.
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25 **Final Approval Hearing**

26 21. The Court will hold a Final Approval Hearing on [date] at [time] at the
27 United States District Court for the Southern District of California, James M. Carter
28

1 and Judith N. Kep United States Courthouse, 333 West Broadway, Courtroom 14B,
2 San Diego, CA 92101, for the following purposes:

3
4 (a) to finally determine whether the applicable prerequisites for
5 settlement class action treatment under Federal Rules of Civil Procedure
6 23(a) and (b)(3) are met;

7
8 (b) to determine whether the Settlement is fair, reasonable, and adequate,
9 and should be granted final approval by the Court;

10
11 (c) to determine whether the Judgment as provided under the Settlement
12 Agreement should be entered dismissing the claims of the Settlement
13 Class Members with prejudice;

14
15 (d) to consider the application for an award of attorneys' fees and
16 litigation expenses of Class Counsel;

17
18 (e) to consider the application for service awards to the Settlement Class
19 Representatives; and

20 (g) to rule upon such other matters as the Court deems appropriate.

21 22. At least fifteen (15) days prior to the Exception/Exclusion Deadline,
22 Class Counsel shall file their motion for final approval and any application for
23 attorneys' fees, litigation expenses and Service Awards to the Class Representatives.
24 The Settlement Administrator is directed to post such fee petition to the Settlement
25 Website. At least fourteen days before the Final Approval Hearing, Class Counsel
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shall file any supplemental papers in support of Final Approval of the Settlement, including a response to any objections filed by Settlement Class Members, if any.

23. The Final Approval Hearing may be postponed, adjourned, transferred, or continued by order of the Court without further notice to the Settlement Classes, except that any postponement, rescheduling, continuation, or transfer shall be posted to the Settlement Website. At, or following the Final Approval Hearing, the Court may enter a Final Approval Order and Final Judgment in accordance with the Settlement Agreement that will adjudicate the rights of all Settlement Class Members.

24. For clarity, the deadlines the Parties and members of the Settlement Classes shall adhere to are as follows:

DEADLINES SUMMARY

Event	Date
Deadline for Navy Federal to provide Settlement Class List to Class Counsel and the Settlement Administrator	No later than 30 calendar days after entry of the Preliminary Approval Order
Deadline for commencing emailing and mailing of the Notice to Settlement Class Members and posting the Notice and Claim Form on the Settlement website (the "Notice Date")	No later than 60 calendar days after entry of the Preliminary Approval Order
Deadline for Plaintiffs to file application for attorneys' fees and expenses and Service Awards	30 calendar days after the Notice Date (up to 90 calendar days after entry of the Preliminary Approval Order)
Deadline for submitting of exclusion requests or objections	Postmarked no later than 45 calendar days after the Notice Date (up to 105 calendar days after entry of the Preliminary Approval Order)
Deadline for submitting Claim Forms	Postmarked or electronically filed no later than 60 calendar days after the Notice Date (up to 120 calendar days after entry of the Preliminary Approval Order)
Deadline for any response to any timely and valid objections and any supplemental brief re: final approval	70 days after the Notice Date (up to 130 calendar days after entry of the Preliminary Approval Order)

Deadline for Settlement Administrator to Submit Declaration Identifying Opt Outs and Confirming Compliance with Notice Plan	At least 10 days before Final Approval Hearing
Final Approval Hearing	At least 5 months after entry of the Preliminary Approval Order

25. Settlement Class Members do not need to appear at the Final Approval Hearing or take any other action to indicate their approval.

Further Matters

26. In order to protect its jurisdiction to consider the fairness of the Settlement and to enter a Final Approval order and Final Judgment having binding effect on all Settlement Class Members, the Court hereby enjoins all members of the Settlement Classes, and anyone who acts or purports to act on their behalf, from pursuing or continuing to pursue all other proceedings in any state or federal court or any other proceeding that seeks to address Releasing Parties' or any Settlement Class Member's rights or claims relating to, or arising out of, any of the Released Claims.

27. The Settlement does not constitute an admission, concession, or indication by the Parties of the validity of any claims or defenses in the Action or of any liability, fault, or wrongdoing of any kind by Defendant, which vigorously denies all the claims and allegations raised in the Action.

28. In the event that the Settlement is terminated under the terms of the Settlement Agreement, or if for any reason whatsoever the Settlement is not finally approved, is not upheld on appeal, or is otherwise terminated for any other reason, then: (i) the Settlement shall be null and void, including any provisions related to the

1 award of attorneys' fees and costs, shall have no further force and effect with respect
2 to any Party in this Action, and may not be referred to or used as evidence or for any
3 other purpose whatsoever in the Action or any other action or proceeding; (ii) all
4 negotiations, proceedings, documents prepared, and statements made in connection
5 therewith shall be without prejudice to any person or Party hereto, shall not be
6 deemed or construed to be an admission by any Party of any act, matter, or
7 proposition, and shall not be used in any manner of or for any purpose in any
8 subsequent proceeding in this Action or in any other action in any court or other
9 proceeding, provided, however, that the termination of the Settlement shall not shield
10 from subsequent discovery any factual information provided in connection with the
11 negotiation of this Settlement that would ordinarily be discoverable but for the
12 attempted settlement; (iii) this Order shall be vacated and of no further force or effect
13 whatsoever, as if it had never been entered; and (iv) any Party may elect to move the
14 Court to implement the provisions of this paragraph, and none of the non-moving
15 Parties (or their counsel) shall oppose any such motion.

21 29. The Court retains jurisdiction to consider all further matters arising out
22 of or connected with the Settlement. The Court may approve the Settlement, with
23 such modifications as may be agreed to by the Parties, if appropriate, without further
24 notice to the Settlement Classes.

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28 IT IS SO ORDERED.

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2 DATED:

3 Hon. William Q. Hayes
4 United States District Court Judge
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EXHIBIT F

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JEFFREY STEPHENSON and BILLY SMITH II, individually, on behalf of himself and all others similarly situated,

Plaintiffs,

vs.

NAVY FEDERAL CREDIT UNION,

Defendant.

Case No. **3:23-CV-01851-WQH-KSC**

**[PROPOSED] ORDER GRANTING
ORDER GRANTING FINAL
APPROVAL OF SETTLEMENT
AND ENTERING FINAL
JUDGMENT**

Hon. William Q. Hayes
Hon. Karen S. Crawford

Date: TBD
Time: TBD
Courtroom: 14B

Before the Court is Plaintiffs' unopposed motion to certify a settlement class, grant final approval of the proposed class action settlement, and enter final judgment in this action (Plaintiffs' Unopposed Motion) (ECF No. __), the terms of which are set forth in a Settlement Agreement with accompanying exhibits.

On [REDACTED], 2025, the Court entered a Preliminary Approval Order. Among other things, the Preliminary Approval Order (i) preliminarily approved the Settlement; (ii) determined that, for purposes of the settlement only, the Action should proceed as a class action pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure; (iii) appointed Plaintiffs as Class Representatives; (iv) appointed as Class Counsel for the Settlement Classes: Scott Edelsberg and Adam Schwartzbaum of Edelsberg Law, P.A.; Edwin E. Elliott of Shamis & Gentile, P.A.;

1 and Sophia Gold and Jeffrey D. Kaliei of Kaliei Gold PLLC; (v) preliminarily
2 approved the form and manner of the Notice Program, the Claims process, and the
3 Plan of Allocation; and (vi) set a hearing date to consider Final Approval of the
4 Settlement. The Court has considered the Agreement, papers filed, and proceedings
5 held in connection with the Settlement, and all the other files, records, proceedings
6 in the Action, and arguments of counsel. Having fully considered the matter, the
7 Court GRANTS Plaintiffs' Motion under Federal Rule of Civil Procedure 23(e) as
8 follows:
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12 1. This Court has jurisdiction over the subject matter of the Action and over
13 all parties to the Action, including all Settlement Class Members.

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15 2. This Order incorporates the definitions in the Settlement Agreement,
16 and all capitalized terms used in this Order have the same meanings as set forth in the
17 Settlement Agreement, unless otherwise defined herein.

18
19 3. **Class Certification for Settlement Purposes Only.** The Court
20 reaffirms its earlier findings that class certification is appropriate for settlement
21 purposes and hereby certifies the following Settlement Classes for purposes of
22 judgment on the Settlement only:
23

24 **Written Explanation Settlement Class.** All Accountholders whose
25 claims of unauthorized electronic fund transfers were denied by Navy
26 Federal Credit Union between October 10, 2022, and the date the Court
27 grants preliminary approval of the Settlement

28 **Document Request Settlement Subclass.** All Accountholders in the
Written Explanation Settlement Class who requested documents Navy
Federal relied on in making its determination and who did not receive
them.

1 4. Excluded from the Settlement Classes are (1) any judge presiding over
2 this Action and members of their families; and (2) Defendant, its subsidiaries, parent
3 companies, successors, predecessors, and any entity in which Defendant or its parents
4 have a controlling interest and their current or former officers, directors, agents,
5 attorneys, and employees and any member of the Settlement Class who submitted a
6 timely and valid request for exclusion.
7

9 5. **Final Settlement Approval.** The Settlement is in all respects fair,
10 reasonable, and adequate, including the releases, Claims process, and Plan of
11 Allocation. The Court makes final its preliminary findings that, for purposes of
12 settlement only, the Settlement satisfies the requirements of Rule 23.
13

14 6. In reaching this conclusion, the Court considered the complexity,
15 expense, and duration of the litigation, the Settlement Classes' reaction to the
16 Settlement, and the result achieved. The Agreement was the product of informed,
17 arms-length negotiations among competent, able counsel. The Settlement was made
18 based upon a record that is sufficiently developed to have enabled the Parties to
19 adequately evaluate and consider their positions.
20

21 7. The Settlement provides sufficient benefits to Settlement Class
22 Members in consideration of the maximum statutory damages set out in the
23 Electronic Funds Transfer Act. [In addition, there were no objections to the
24 Settlement, and there were a small number of opt-outs, indicating an overwhelming
25 positive reaction from the Settlement Class].
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1 8. The Claims process and Plan of Allocation are fair, reasonable, and
2 adequate.
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4 9. **Class Notice.** The Settlement Administrator completed the delivery of
5 Notice to the Settlement Class according to the Agreement terms. This Notice was
6 the best notice practicable under the circumstances, and constituted due and sufficient
7 notice of the proceedings and matters set forth therein, to all persons entitled to notice.
8 The Notice and the Notice Program fully satisfied the requirements of due process,
9 Federal Rule of Civil Procedure 23, and all other applicable law and rules.
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12 10. **Class Action Fairness Act Notice.** The Settlement Administrator
13 satisfied all notices and requirements of the Class Action Fairness Act of 2005
14 (CAFA), 28 U.S.C. § 1715. The Court has reviewed such notification and
15 accompanying materials and finds that the notification complies fully with the
16 applicable CAFA requirements. [No written objection or response to the Settlement
17 was filed by any federal or state official, including any recipient of the foregoing
18 notices. No federal or state official, including any recipient of the foregoing notices,
19 appeared or requested to appear at the Fairness Hearing.]
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23 11. **Class Representatives and Class Counsel.** The appointment of the
24 Plaintiffs Jeffrey Stephenson and Billy Smith II as Class Representatives is affirmed.
25

26 12. The appointment of Scott Edelsberg and Adam Schwartzbaum of
27 Edelsberg Law, P.A.; Edwin E. Elliott of Shamis & Gentile, P.A.; and Sophia Gold
28 and Jeffrey D. Kaliei of Kaliei Gold PLLC is affirmed.

1 13. The Class Representatives and Class Counsel have fairly and adequately
2 represented and will continue to adequately represent and protect the interests of
3 Settlement Class Members in connection with the Settlement.
4

5 14. **Opt Outs.** A list of the individuals who have opted out of the Settlement
6 is attached hereto as **Exhibit A**. Those individuals will not be bound by the Settlement
7 or the Releases contained therein.
8

9 15. **Implementation of Settlement.** Because the Court approves the
10 Settlement set forth in the Settlement Agreement as fair, reasonable, and adequate,
11 the Court authorizes and directs that the Parties and the Settlement Administrator
12 implement the Settlement according to the Agreement terms.
13

14 16. If, consistent with the Plan of Allocation set forth in the Settlement
15 Agreement, any Residual Funds remain after the first distribution, the Residual Funds
16 will reimburse Defendant for Settlement Administration Expenses. Any remaining
17 Residual Funds after reimbursing Defendant will go to an appropriate *cy pres*
18 recipient, either a consumer protection or financial services charity, to be decided by
19 the Court. All Parties to this Action, and all Settlement Class Members, are bound
20 by the Settlement as set forth in the Settlement Agreement and this Order.
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24 17. **Releases.** Upon the Effective Date, the Releasing Parties fully and
25 irrevocably release and forever discharge All Released Claims against the Released
26 Parties. The Released Claims are dismissed with prejudice and released regardless
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1 of whether these claims are known or unknown, actual or contingent, liquidated or
2 unliquidated.
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4 18. Upon the Effective Date, the Plaintiffs shall be deemed to have, and by
5 operation of the Final Judgment shall have, fully, finally, and forever agreed to
6 Plaintiffs' General Release.
7

8 19. **No Admissions.** Neither the Settlement Agreement, nor this Order, nor
9 the fact of the Settlement, is an admission or concession by Defendant or the Released
10 Parties of any fault, wrongdoing or liability whatsoever, or as an admission of the
11 appropriateness of class certification for trial or dispositive motion practice. This
12 Order is not a finding of the validity or invalidity of any of the claims asserted or
13 defenses raised in the Action. Nothing relating to the Settlement shall be offered or
14 received in evidence as an admission, concession, presumption or inference against
15 Defendant or the Released Parties in any proceeding, other than such proceedings as
16 may be necessary to consummate or enforce the Settlement Agreement or to support
17 a defense based on principles of res judicata, collateral estoppel, release, good faith
18 settlement, judgment bar or reduction, or any other theory of claim preclusion or issue
19 preclusion or similar defense.
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24 20. **Continuing Jurisdiction.** The Court hereby retains and reserves
25 exclusive jurisdiction over: (a) implementation of this Settlement and any
26 distributions from the Settlement Fund; (b) the Action, until the Effective Date, and
27 until each and every act agreed to be performed by the Parties shall have been
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1 performed pursuant to the terms and conditions of the Settlement Agreement,
2 including the exhibits appended thereto; and (c) all Parties, for the purpose of
3 enforcing and administering the Settlement.
4

5 21. In the event that the Effective Date of the Settlement Agreement, does
6 not occur, the Settlement shall be rendered null and void to the extent provided by
7 and in accordance with the Settlement Agreement, and this Order shall be vacated. In
8 such event, all orders entered and releases delivered in connection with the Settlement
9 shall be null and void and the Action shall return to its status immediately prior to
10 execution of the Settlement Agreement.
11

12 22. **Final Judgment.** Judgment shall be, and hereby is, entered dismissing
13 the Action with prejudice, on the merits, and without taxation of costs in favor of or
14 against any Party.
15

16 23. With the exception of those listed on Exhibit A, the Court adjudges that
17 the Class Representatives and all Settlement Class Members shall be bound by this
18 Final Approval Order.
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20 24. There being no just reason for delay, the Clerk of Court is hereby
21 directed to enter final judgment forthwith pursuant to Rule 54(b) of the Federal Rules
22 of Civil Procedure.
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1 IT IS SO ORDERED.

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3 DATED:

4 Hon. William Q. Hayes
United States District Court Judge

EXHIBIT 2



KALIELGOLD PLLC

KalielGold PLLC was founded in 2017 and is a 100% contingency Plaintiff-side law firm. Our attorneys have decades of combined experience and have secured hundreds of millions of dollars for their clients. Our firm's practice focuses on representing consumers in class action litigation and specifically on cases in the consumer financial services sector. In the four years since our firm was founded, our firm has been appointed lead counsel or co-lead counsel in numerous class action and putative class action lawsuits in state and federal courts nationwide including most recently in *Roberts v. Capital One*, No. 1:16-cv-04841 (S.D.N.Y.); *Walters v. Target Corp.*, No. 3:16-cv-00492 (S.D. Cal.); *Robinson v. First Hawaiian Bank*, Civil No.17-1-0167-01 GWBC (1st Cir. Haw.); *Liggio v. Apple Federal Credit Union*, No. 18-cv-01059 (E.D. Va.); *Morris et al. v. Bank of America, N.A.*, No. 3:18-cv-00157-RJC-DSC (W.D.N.C.); *Brooks et al. v. Canvas Credit Union*, 2019CV30516 (Dist. Ct. for Denver Cnty., Colo.); *Figueroa v. Capital One, N.A.*, Case No. 3:18-cv-00692-JM-BGS (S.D. Cal.); *White v. Members 1st Credit Union*, Case No. 1:19-cv-00556-JEJ (M.D. Pa.); *Plummer v. Centra Credit Union*, Case No. 03D01-1804-PL-001903 (Cnty. Of Bartholomew, Ind.); *Holt v. Community America Credit Union*, Case No. 4:19-cv-00629-FJG (W.D. Mo.); *Trinity Management v. Charles Puckett*, Case No. GCG-17-558960 (Super. Ct., San Francisco Cnty, Cal.); *Martin v. LeN Federal Credit Union*, No. 19-CI-022873 (Jefferson Cir. Ct., Div. One); *Clark v. Hills Bank and Trust Company*, No. LACV080753 (Iowa Dist. Ct. Johnson Cnty.); *Morris v. Provident Credit Union*, Case No. CGC-19-581616 (Super. Ct., San Francisco Cnty., Cal.).

As shown in the biographies of our attorneys and the list of class counsel appointments, Kaliel Gold PLLC is well versed in class action litigation and zealously advocates for its clients. To learn more about Kaliel Gold PLLC, or any of the firm's attorneys, please visit www.kalielgold.com.



JEFFREY D. KALIEL

Jeffrey Kaliel earned his law degree from Yale Law School in 2005. He graduated from Amherst College summa cum laude in 2000 with a degree in Political Science, and spent one year studying Philosophy at Cambridge University, England.

Over the last 10 years, Jeff has built substantial class action experience. He has received "Washington D.C. Rising Stars Super Lawyers 2015" recognition.

Jeff has been appointed lead Class Counsel in numerous nationwide and state-specific class actions. In those cases, Jeff has won contested class certification motions, defended dispositive motions, engaged in data-intensive discovery and worked extensively with economics and information technology experts to build damages models. Jeff has also successfully resolved numerous class actions by settlement, resulting in hundreds of millions of dollars in relief for millions of class members.

Currently Jeff is actively litigating several national class action cases, including actions against financial services entities and other entities involved in predatory lending and financial services targeting America's most vulnerable populations.

Jeff's class action successes extend beyond financial services litigation. He seeks to lead cases that serve the public interest. Jeff has worked with nonprofits such as the Humane Society, Compassion Over Killing, and the National Consumers League to fight for truth in the marketplace on food and animal products.

Jeff has over a decade of experience in high-stakes litigation. He was in the Honors Program at the Department of Homeland Security, where he worked on the Department's appellate litigation. Jeff also helped investigate the DHS response to Hurricane Katrina in preparation for a Congressional inquiry. Jeff also served as a Special Assistant US Attorney in the Southern District of California, prosecuting border-related crimes.

Jeff is a former Staff Sergeant in the Army, with Airborne and Mountain Warfare qualifications. He is a veteran of the second Iraq war, having served in Iraq in 2003.

Jeff is admitted to practice in California and Washington, DC, and in appellate and district courts across the country.

Jeff lives in Washington, D.C. with his wife, Debbie, and their three children.



SOPHIA GOREN GOLD

Sophia Goren Gold is a third-generation Plaintiff's lawyer. A *summa cum laude* graduate of Wake Forest University and the University of California, Berkeley, School of Law, Sophia has spent her entire career fighting for justice.

A fierce advocate for those in need, Sophia's practice centers around taking on financial institutions, insurance companies, and other large corporate interests. Sophia has participated in hundreds of individual and class cases in both state and federal courts across the country. Collectively, she has helped secure tens of millions of dollars in relief on behalf of the classes she represents.

In addition to providing monetary relief, Sophia's extensive litigation experience has resulted in real-world positive change. For example, she brought litigation which resulted in the elimination of the Tampon Tax in the State of Florida, and she was influential in changing the state of Delaware's Medicaid policy, resulting in greater access to life-saving medication.

Sophia is currently representing consumers in numerous cases involving the assessment of improper fees by banks and credit unions, such as overdraft fees, insufficient funds fees, and out of network ATM fees. She is also currently representing consumers who have been the victims of unfair and deceptive business practices.

Sophia is admitted to practice in California and Washington, D.C. When not working, Sophia enjoys spending time with her husband, daughters, and their goldendoodle.



BRITTANY BERTOLINI

Brittany Bertolini attended the University of Central Florida in Orlando and graduated in 2012 with a Bachelor's Degree in Political Science and a minor in Spanish. Brittany earned her Juris Doctorate from California Western School of Law in 2015 and graduated magna cum laude in the top 10% of her class.

Throughout the course of her law school career, she served as a judicial extern to the Honorable Anthony J. Battaglia for the United States District Court, Southern District of California and worked multiple semesters as a certified legal intern for the San Diego County District Attorney's Office. Brittany was awarded Academic Excellence Awards in law school for receiving the highest grade in Trial Practice, Health Law & Policy, and Community Property.

Before joining KalielGold PLLC, Brittany worked as a judicial law clerk for the Honorable Anthony J. Battaglia and as an associate attorney for Carlson Lynch LLP, specializing in consumer complex litigation.



AMANDA ROSENBERG

Amanda Rosenberg graduated *cum laude* from the University of California, Hastings College of the Law in 2011 and the University of California, San Diego in 2008, where she earned departmental Honors with Highest Distinction in history.

Before joining KalielGold PLLC, Amanda represented and advised small businesses and financial institutions in litigation matters including employment disputes, merchant disputes, credit and charge card disputes, wrongful foreclosures, and securities. She has successfully litigated cases in California, Illinois, and Michigan.

Amanda is an active volunteer in her community and has helped numerous individuals understand and navigate their rights in the workplace.

In law school, Amanda worked as an extern for the Honorable Judge Vaughn Walker in the United States District Court, Northern District of California. Amanda was awarded academic excellence awards for receiving the highest grades in Trial Advocacy and Litigating Class Action Employment.

When not working, Amanda loves exploring Michigan's outdoors with her husband, kids, and rescue dog.



SARAH LEVIN

Sarah Levin helps clients navigate complex litigation. She has represented clients in state and federal court, as well as arbitration, and maintains an active pro bono practice. She serves on several local and national committees working to advance gender equity and reproductive health care.

Before joining KalielGold, Ms. Levin practiced at Skadden, Arps, Slate, Meagher & Flom LLP in New York, NY and the Legal Aid Society as the Skadden Pro Bono Fellow. She also served as a law clerk for the Honorable Jane A. Restani of the U.S. Court of International Trade.

Sarah graduated from New York University School of Law. During law school, she was Managing Editor of the Journal of International Law and Politics; a research assistant to Professor Robert Howse; a legal extern in the Southern District of New York for Judge Edgardo Ramos; and a legal intern for the Organisation for Economic Co-operation and Development (OECD) in Paris, France. Before law school, she worked for Goldman, Sachs & Co. and Cargill, Inc.

Sarah received her undergraduate degree from Hamilton College *magna cum laude* and *Phi Beta Kappa*, and was awarded the Judge John Wells Fellowship for Graduate Study for outstanding undergraduate research. She received her M.A. in International Affairs from the George Washington University, Elliott School of International Affairs.

Ms. Levin is admitted to practice in New York and Florida, as well as the U.S. District Courts for the Eastern District of New York and the Southern District of New York.



CLASS COUNSEL APPOINTMENTS

- *Roberts v. Capital One*, No. 1:16-cv-04841 (S.D.N.Y.);
- *Walters v. Target Corp.*, No. 3:16-cv-00492 (S.D. Cal.);
- *Figueroa v. Capital One, N.A.*, Case No. 3:18-cv-00692-JM-BGS (S.D. Cal.).
- *Robinson v. First Hawaiian Bank*, Civil No.17-1-0167-01 GWBC (1st Cir. Haw.);
- *Brooks et al. v. Canvas Credit Union*, 2019CV30516 (Dist. Ct. for Denver Cnty., Colo.).
- *Liggio v. Apple Federal Credit Union*, Civil No. 18-cv-01059 (E.D. Va.);
- *Morris et al. v. Bank of America, N.A.*, Civil No. 3:18-cv-00157-RJC-DSC (W.D.N.C.);
- *White v. Members 1st Credit Union*, Case No. 1:19-cv-00556-JEJ (M.D. Pa.);
- *Plummer v. Centra Credit Union*, Case No. 03D01-1804-PL-001903 (Bartholomew Cnty., Ind.);
- *Holt v. Community America Credit Union*, Case No. 4:19-cv-00629-FJG (W.D. Mo.);
- *Trinity Management v. Charles Puckett*, Case No. GCG-17-558960 (Super. Ct., San Francisco, Cnty., Cal.);
- *Martin v. Le&N Federal Credit Union*. No. 19-CI-022873 (Jefferson Cir. Ct., Division One);
- *Clark v. Hills Bank and Trust Company*, No. LACV080753 (Iowa Dist. Ct. Johnson Cnty.);
- *Morris v. Provident Credit Union*, Case No. CGC-19-581616 (Super. Ct. San Francisco Cnty., Cal.).
- *Bodnar v. Bank of America, N.A.*, 5:14-cv-03224 (E.D. Pa.);
- *In re Higher One OneAccount Marketing and Sales Practice Litigation.*, No. 12-md-02407-VLB (D. Conn.).
- *Shannon Schulte, et al. v. Fifth Third Bank.*, No. 1:09-cv-06655 (N.D. Ill.);
- *Kelly Mathena v. Webster Bank*, No. 3:10-cv-01448 (D. Conn.);
- *Nick Allen, et al. v. UMB Bank, N.A., et al.*, No. 1016 Civ. 34791 (Cir. Ct. Jackson Cnty., Mo.);
- *Thomas Casto, et al. v. City National Bank, N.A.*, 10 Civ. 01089 (Cir. Ct. Kanawha Cnty., W. Va.);
- *Eaton v. Bank of Oklahoma, N.A., and BOK Financial Corporation, d/b/a Bank of Oklahoma, N.A.*, No. CJ-2010-5209 (Dist. Ct. for Tulsa Cnty., Okla.);
- *Lodley and Tehani Taulva, et al., v. Bank of Hawaii and Doe Defendants 1-50*, No. 11-1-0337-02 (Cir. Ct. of 1st Cir., Haw.);
- *Jessica Duval, et al. v. Citizens Financial Group, Inc., et al*, No. 1:10-cv-21080 (S.D. Fla.);
- *Mascaro, et al. v. TD Bank, Inc.*, No. 10-cv-21117 (S.D. Fla.);
- *Theresa Molina, et al., v. Intrust Bank, N.A.*, No. 10-cv-3686 (18th Judicial Dist., Dist. Ct. Sedgwick Cnty., Kan.);
- *Trombley v. National City Bank*, 1:10-cv-00232-JDB (D.D.C.); *Galdamez v. I.Q. Data International, Inc.*, No. 1:15-cv-1605 (E.D. Va.);
- *Brown et al. v. Transurban USA, Inc. et al.*, No. 1:15-CV-00494 (E.D. Va.);
- *Grayson v. General Electric Co.*, No. 3:13-cv-01799 (D. Conn.);
- *Galdamez v. I.Q. Data International, Inc.*, No. 1:15-cv-1605 (E.D. Va.).

EXHIBIT 3

EDELSBERG **LAW**

MIAMI

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ABOUT US

Your Trusted Class Action Law Firm. We are a dedicated class action firm committed to providing wide-ranging legal representation focused on delivering for our clients. Edelsberg Law is one of the top class action and commercial litigation law firms in the country.

THE EDELSBERG LAW PROMISE

Never shying away from litigating large consumer national class actions, Edelsberg Law is trusted by clients across the country to represent their interests and resolve their legal matters.

OUR MISSION

The attorneys and legal professionals at Edelsberg Law take pride in offering the highest caliber legal representation. We strive to help those that need help vindicating their rights and do not shy away from the difficult cases. If we take your case, we promise to work hard, efficient, and in your best interest.

SETTLEMENTS

Defranks V. Nastygal Class Settlement For \$5 Million Case No. 19-Cv-23028 (S.D. Fla 2020), Picton V. Greenway Dodge Class Settlement For \$2,745,000 Case No. 19-Cv-196-Orl (M.D. Fla 2020), Ostendorf V. Grange Indem. Ins. Co. Class Settlement For \$12 Million Case No. 2:19-Cv-1147, 2020 WL 134169 (S.D. Ohio 2020), Banks V. Fuccilloo Affiliates Of Florida Class Settlement For \$1,854,260 Case No. 19-Cv-00227 (M.D. Fla 2020), Goldschmidt V. Rack Room CLASS SETTLEMENT FOR \$25.9 MILLION Case No. 18-CV-21220 (S.D. FLA 2020), PENA V. LEX LAW CLASS SETTLEMENT FOR \$11.5 MILLION Case No. 18-CV-24407 (S.D. FLA 2020, Cortazar V. Ca Ventures Class Settlement For \$600,000 Case No. 19-Cv-22075 (S.d. Fla 2020), Albrecht V. Oasis Power Class Settlement For \$11 Million Case No. 18-Cv-1061 (S.D. Fla 2020), Robley V. Ids Property Casualty Ins. Co. Class Settlement For \$275,000 Case No. 2019-022263-Ca-01 (Fla. 11th Cir. Ct.), Bracero V. Mendota Ins. Co. Class Settlement For \$1.1 Million Case No. 2019-015886-Ca-01 (Fla. 11th Cir. Ct.), Avila-Preciado V. Horace Mann Property & Casualty Insurance Co. Class Settlement for \$290,000 Case No. 19-Ca-004683 (Fla. 20th Cir. Ct.), Colon V. Direct General Ins. Co. Class Settlement For \$780,000 Case No. 2019-Ca-1636 Oc, (Fla. 9th Cir. Ct.), Junior Et Al. V. Infinity Auto Insurance Company Over \$20 Million Settlement For Unpaid Sales Tax And Certain Fees, Final Approval Pending Case No. 6:18-Cv-01598-Wwbejk (M.D. Fla), Smart Et Al. V. Auto Club Insurance Et Al. Class Settlement For Over \$850,000 Case No. 19-Ca-005580 (Fla. 13th Cir. Ct.), Suarez V. Mapfre Insurance Co. Of Florida Class Settlement For \$800,000 Case No. 2019-020729-Ca-01 (Fla. 11th Cir. Ct.), George V. Peachtree Casualty Insurance Co. Class Settlement For \$580,000 Case No. Ca-19-674 (Fla. 7th Cir. Ct.), Dunleavy V. Surinse Detox Class Settlement For \$500,000 Case No. 18-Cv-25090 (S.D. Fla 2019), Eisenband V. Schumacher Automative Class Settlement For \$5 Million Case No. 9:18-Cv-80911 (S.D. Fla 2019), Poirier V. Cubamax Class Settlement For \$800,000 Case No. 1:18-Cv-23240 (S.D. Fla 2019), Mclean V. Osborn Class Settlement For \$800,000 Case No. 18-Cv-81222 (S.D. Fla 2019), Bloom V. Jenny Craig Class Settlement For \$3 Million Case No. 1:18-Cv-21820 (S.D. Fla 2019), Papa V. Greico Ford Class Settlement For \$4.9 Million Case No. 18-21897 (S.D. Fla 2019), Wijesinha V. Susan B. Anthony Class Settlement For \$1,017,430 Case No. 18-Cv-22880 (S.D. Fla 2019), Halperin V. Youfit Heath Clubs Class Settlement For \$1,418,635 Case No. 18-Cv-61722 (S.D. Fla 2019), Dipuglia V. U.S. Coachways, Inc. Class Settlement For \$2.6 Million Case No. 17-23006-Civ (S.D. Fla 2018), Gottlieb V. Citgo Class Settlement For \$8.3 Million Case No. 9:16-81911 (S.D. Fla 2017), Masson V. Tallahassee Dodge Jeep Chrysler, Llc. Class Settlement For \$850,000 Case No. 1-17-Cv-22967 (S.D. 2017), Stathakos V. Columbia Sportswear Company Obtained Classwide Injunctive Relief Case No. 4:15-Cv-04543 (N.D. California 2017).



SCOTT EDELSBERG

PARTNER

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Scott Edelsberg's broad-based litigation experience representing both plaintiffs and defendants provides him with an invaluable perspective when prosecuting claims on behalf of consumers who have been harmed by corporate wrongdoing.

Scott Edelsberg is the founding partner of Edelsberg Law, PA and focuses his practice in the areas of class actions, consumer fraud and personal injury.

In connection with his representation in class action matters, Edelsberg has litigated cases in multiple state and federal jurisdictions throughout the country, including two multi-district litigation proceedings. In those cases, Edelsberg has won contested class certification motions, defended dispositive motions, engaged in data-intensive discovery and worked extensively with economics and information technology experts to build damages models. His efforts have lead to numerous class settlements, resulting in millions of dollars in relief for millions of class members.

Edelsberg is a native of South Florida and earned a Bachelor of Arts degree in Political Science from the University of Michigan. While at Michigan, he was awarded the Michigan Merit Scholar award and served as an intern for the Washtenaw County Public Defender's office. Edelsberg went on to receive a Juris Doctor degree, Cum Laude, from the University of Miami School of Law. While attending law school, he was on the Dean's List, a member of the International and Comparative Law Review, a Merit Scholarship recipient and served as an Equal Justice for America Fellow.

EDUCATION

University of Miami School of Law,
J.D. - 2012

University of Michigan, B.A. - 2009

BAR ADMISSIONS

Florida
California

COURT ADMISSIONS

Southern District of Florida
Middle District of Florida

PRIMARY PRACTICE

Class Action



ADAM SCHWARTZBAUM

PARTNER

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C: 305-725-1245

Adam Schwartzbaum is a Partner at Edelsberg Law in Miami, Florida, where he plays a leading role representing individuals in class action litigation across the country. Adam has a wealth of experience representing both plaintiffs and defendants in state and federal court and at the trial and appellate levels. Adam's passion for using the law to better the lives of ordinary people makes him a fierce advocate for his clients and a champion for justice. Further, Adam has helped recover over \$1.6 billion for his clients over the course of his legal career.

Adam was previously a partner at The Moskowitz Law Firm, where he worked on some of the country's largest class actions and multi-district litigation cases. Adam directly represented many survivors of the Champlain Towers South Condominium Collapse Litigation in the firm's role as lead counsel for the economic loss victims and helped achieve a historic \$1.1 billion settlement. Adam also worked directly with Co-Lead Counsel to help organize and run two federal multi-district litigations: the FieldTurf Artificial Turf Marketing and Sales Practices Litigation, and the Erie COVID-19 Business Interruption Insurance Protection Litigation. Other representative matters include the Transamerica and Lincoln cost of insurance litigation; the COVID-19 student fee cases against Florida public schools, including appeals in all of Florida's District Courts of Appeal; several Ponzi scheme cases on behalf of investors against both principals and aiders and abettors; suits challenging illegal and deceptive and unfair business practices in the insurance industry; and a certified issue class concerning the Fort Lauderdale Water Main Break against Florida Power & Light and several of its subcontractors that was affirmed on appeal and resulted in a trial victory for the certified class. Adam also chaired the firm's busy appellate practice, utilizing his twelve years of appellate experience to lead over a dozen appeals in the Florida District Courts of Appeal and the federal Circuit Courts of Appeal. For example, Adam helped lead a team of lawyers to brief and argue *Cherry v. Dometic*, 986 F.3d 1296 (11th Cir. 2021), an appeal that resulted in an opinion clarifying and revising the "ascertainability" standard to the benefit of class action plaintiffs across the country.

Adam began his legal career with a defense-oriented practice split between appellate and trial level advocacy. At Weiss Serota Helfman Cole & Bierman, Adam represented many local governments, as well as businesses and individuals, in both state and federal court, in a variety of commercial disputes and lawsuits involving complex constitutional and statutory issues. Prior to that, Adam practiced complex commercial litigation at White & Case.

Adam was raised in the Cuban-Jewish community in Miami Beach. He attended Brandeis University as a Justice Brandeis Scholar where he earned a Bachelor of Arts with highest honors and graduated summa cum laude and Phi Beta Kappa. Adam performed a year of national service in Washington, D.C. with City Year before attending the University of Pennsylvania Law School as a Levy Scholar. Adam was a Senior Editor of the University of Pennsylvania Law Review (which published his scholarship) and a member of the Penn Moot Court Board. Adam was President of the Penn Law student chapter of the American Constitution Society and was honored for his outstanding contributions to pro bono work on behalf of workers and children in Philadelphia.

Since 2015, Adam has served on the Board of Directors of Nu Deco Ensemble, Miami's 21st Century chamber orchestra, and is currently the corporate Secretary. Adam is the founder and Team Captain for Jewish Community Service's Miami Marathon and Half Marathon Team Blue Card, which since 2013 has raised over half a million dollars to support indigent Holocaust Survivors. Adam also sits on the Board of Directors of Temple Menorah in Miami Beach.

EDUCATION

Brandeis University, B.A., 2007

University of Pennsylvania Law School,
2011

BAR ADMISSIONS

Florida Bar

Southern District of Florida

Middle District of Florida

Eleventh Circuit Court of Appeals

Third Circuit Court of Appeals

AWARDS & RECOGNITION

Rising Star, Super Lawyer Magazine,
2018, 2019, 2020, 2021, 2022, 2023

Miami Dade County Bar Association
"40 Under 40" Award (2023)

Palm Beach Media Group
Top Lawyers, 2023

PRIMARY PRACTICE

Class Action



GABRIEL MANDLER

PARTNER

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Gabriel Mandler is a Senior Associate at Edelsberg Law. His practice focuses on multi-state consumer class action litigation, representing clients in both state and federal courts at the trial and appellate levels.

Gabriel has experience litigating a broad range of class action disputes, including employment discrimination, insurance disputes and mass torts. Gabriel previously worked at Stroock & Stroock & Lavan LLP, where he was part of a team in the remedial phase of a Title VII class action that recovered approximately \$2 billion for African American and Latino teachers who were discriminated against by New York City's Board of Education. Gabriel also has extensive experience handling complex commercial litigation disputes through trial.

A Miami native, Gabriel graduated magna cum laude from the University of Miami School of Law, where he was a member of the Business Law Review and Charles C. Papy, Jr. Moot Court Board. During this time, Gabriel interned for the Honorable Jonathan Goodman, a United States Magistrate Judge for the Southern District of Florida. Prior to law school, Gabriel earned his Bachelor of Arts Degree in Journalism and Communications from the University of Florida.

EDUCATION

University of Miami Law School, J.D.
University of Florida, B.A.

RACHEL DAPEER**OF COUNSEL****E:** rachel@edelsberglaw.com**C:** 305-610-5223

Rachel Dapeer's practice focuses on multi-state consumer class action litigation and complex commercial litigation. She handles a broad range of disputes involving insurance policies, fraudulent business practices, labeling claims, and other consumer matters.

Rachel is of-counsel at Edelsberg Law and manages her own law firm, Dapeer Law, P.A. where her litigation practice spans a variety of industries including real estate, automotive, banking and retail. Prior to joining Edelsberg law, Rachel was an Associate at Greenspoon Marder, LLP., where she represented businesses and individuals in a variety of disputes involving breach of contract, commercial transactions, fraud, business torts, deceptive and unfair trade practices, tax lien and real estate litigation.

Rachel attended undergraduate school at the University of North Carolina at Chapel Hill (B.S.B.A., 2007) and obtained a Juris Doctorate degree from Cardozo Law School (J.D., 2011). Before returning home to Miami, Rachel practiced in New York City at Windels, Marx, Lane & Mittendorf, LLP, representing lenders, financial institutions, and servicers with complex tax lien and mortgage foreclosure proceedings.

EDUCATION

Cardozo Law School, J.D. - 2011

University of North Carolina,
B.S., B.A. - 2007

EXHIBIT 4



Our Firm

Shamis & Gentile, P.A. has and continues to provide outstanding legal services in the Florida, New York, New Jersey, Texas, Georgia, Illinois, Ohio, Arizona, Missouri, and Washington communities. Shamis & Gentile, P.A. distinguishes itself because of our experience and legal resources to handle virtually any case involving class action, mass tort, mass arbitration, personal injury, personal injury protection, and contract disputes. Specifically, as it relates to class actions, Shamis & Gentile, P.A. has filed and litigated thousands of banking, insurance, data privacy, deceptive and unfair trade practice and product liability cases, often through contested class certification and even until trial. At Shamis & Gentile, P.A. our seasoned attorneys are some of the most innovative and progressive attorneys in the profession. Often, Shamis & Gentile, P.A. is called upon to litigate and settle cases that other law firms may not be able to handle on their own.

Shamis & Gentile, P.A. is committed to practicing law with the highest level of integrity in an ethical and professional manner. We are a diverse firm with lawyers and staff from all walks of life. Our lawyers and other employees are hired and promoted based on the quality of their work and their ability to treat others with respect and dignity.

Who We Are

Andrew Shamis is the managing partner at Shamis & Gentile, P.A. Mr. Shamis heads the class action and mass torts divisions of the firm, where his extensive experience in civil litigation has gained him the reputation of an attorney who can deliver where it matters the most, monetary results for his clients. Mr. Shamis has recovered over 1 billion dollars for consumers and plaintiffs throughout the country through his relentlessness, expertise, and calculated approach. Mr. Shamis is routinely certified class counsel and has successfully litigated over 10,000 civil cases in his young career.

Mr. Shamis is admitted to practice law in the states of Arizona, Florida, Georgia, Illinois, Missouri, New York, Ohio, Texas, and Washington as well as the U.S. District Courts for the Southern, Middle, and Northern Districts of Florida, Northern, Eastern, Western, and Southern Districts of New York, Northern, Southern, Central Districts of Illinois, Northern, Middle, and Southern Districts of Georgia, Eastern and Western Districts of Michigan, Eastern and Western Districts of Wisconsin, Northern and Southern Districts of Ohio, Eastern and Western Districts of Missouri, Eastern, Western, and Northern Districts of Oklahoma, Northern, Western, Eastern, and Southern Districts of Texas, Southern District of Indiana, U.S. District Court of Colorado, U.S. District Court of Connecticut, U.S. District Court of Arizona, and the U.S. District Court of Nebraska.

Mr. Shamis specializes in Consumer Protection Class Action Litigation, Mass Torts, Mass Arbitration, Personal Injury, Wrongful Death, as well as General Civil Litigation.

Angelica Gentile is a named partner at Shamis & Gentile P.A. Ms. Gentile heads the catastrophic injury, personal injury, and personal injury protection divisions of Shamis & Gentile, P.A. Ms. Gentile is recognized throughout the legal community as an extremely professional and efficient attorney. Ms. Gentile is admitted to practice law in both Florida and Texas and has extensive civil litigation experience, involving hundreds of depositions and motions throughout the state of Florida. Ms. Gentile not only prides herself in collecting millions of dollars in benefits owed to clients, but also in forging long lasting, successful relationships with clients.

Ms. Gentile specializes in Personal Injury, Personal Injury Protection, Class Action Litigation (TCPA, banking, insurance breach of contract, data breach, unfair and deceptive trade practices), Wrongful Death, Wrongful Termination, as well as General Civil Litigation.

Edwin Elliott is a partner at Shamis & Gentile, P.A. Mr. Elliott's practice involves all aspects of complex, high-level class action litigation. Mr. Elliott represents clients in federal and state courts across the nation in class actions involving consumer fraud, deceptive and unfair trade practices, false advertising, predatory financial services, digital privacy, and complex insurance disputes. Having prosecuted numerous class actions through all stages of the litigation process, Mr. Elliott's work has contributed to hundreds of millions in recoveries for consumers.

Leanna Loginov is a partner at Shamis & Gentile, P.A. and leads the firms' Data Privacy department. Ms. Loginov's practice primarily focuses on protecting individuals impacted by data breaches by ensuring their highly sensitive personal and health-related information is safeguarded. Ms. Loginov represents clients in federal and state courts across the nation. Ms. Loginov's work has helped consumers recover millions of dollars.

Our staff sets the standard on being innovative and technologically savvy. This innovation and use of fully customized cutting-edge case management software allows us to create an unparalleled level of customer service and attention to detail with our clients, which has led to an exceptional growth rate rarely seen in law firms.

Shamis & Gentile, P.A. has the resources, infrastructure and staff to successfully represent large putative classes. The attorneys and staff are not simply litigators, but directors of creating successful results with the ultimate level of satisfaction by the clients.

Class Actions

Shamis & Gentile, P.A. has initiated and served as both lead counsel and co-lead counsel in hundreds of class actions, many of which have generated internet articles. Currently, the firm serves as lead counsel or co-counsel on over 300 class action lawsuits. The lawsuits range from all Districts of Florida to the Central District of California. Shamis & Gentile, P.A. has also successfully settled many Class Action cases prior to verdict.

Prominent Class Action Settlements

Over the years, Shamis & Gentile attorneys have obtained outstanding results in some of the most well-known cases.

- *Andrews v. State Auto Mut. Ins. Co.*, No. 2:21-CV-5867 (S.D. Ohio 2023) (\$6,500,000.00 Class Settlement)
- *Angell, et al. v. GEICO Advantage Insurance Company, et al.*, No. 4:20-CV-00799 (S.D. Tex. 2024) (\$33,000,000 Class Settlement)
- *Arevalo, et. al. v. USAA Casualty Insurance Company, et. al.*, No. 2020CI16240 (Bexar County, Texas 2023) (\$4,089,287.50 Class Settlement)
- *Albrecht v. Oasis Power, LLC*, No. 1:18-cv-1061 (N.D. Ill. 2018) (\$7,000,000.00 Class Settlement)
- *Bobo v. Clover Network, LLC*, No. 2023CH000168 (DuPage County, Illinois 2024) (\$15,000,000 Class Settlement)
- *Brown v. Progressive Mountain Ins. Co.*, No. 3:21-cv-00175 (N.D. Ga. 2025) (\$43,000,000 Class Settlement)
- *Bruin, et al. v. Bank of America, N.A.*, Case No. 1:21-cv-02272 (S.D. NY 2024) (\$8,000,000 Class Settlement)
- *Davis, et. al. v. Geico Casualty Company, et. al.*, No. 19-cv-02477 (S.D. Ohio 2023) (\$5,756,500.00 Class Settlement)
- *DeFranks v. Nastygal.com USA Inc.*, No. 19-cv-23028-DPG (S.D. Fla. 2019) (\$4,025,000.00 Class Settlement)
- *Dipuglia v. US Coachways, Inc.*, No. 17-23006-Civ, 2018 U.S. Dist. LEXIS 72551 (S.D. Fla. 2018) (\$2,600,000.00 Class Settlement)
- *Eisenband v. Schumacher Automotive, Inc.*, No. 18-cv-01061 (S.D. Fla 2018) (\$5,000,000.00 Class Settlement)
- *Gottlieb v. Citgo Corporation*, No. 16-cv-81911 (S.D. Fla. 2016) (\$8,300,000.00 Class Settlement)
- *In re: GEICO General Insurance Co.*, No. 4:19-cv-03768 (N.D. Cal. 2022) (\$19,500,000 Class Settlement)
- *Jacques, et. al. v. Security National Insurance Company*, No. CACE-19-002236 (Fla. 17th Cir. Ct.) (\$6,000,000.00 Class Settlement)

- *Jones v. Washington State Employee's Credit Union*, No. 20-2-06596-5 (Superior Court of the State of Washington, County of Pierce) (\$2,400,000.00 Class Settlement)
- *Johnson, et al. v. American Family Insurance Company, et al.*, No. 24SL-CC00378 (St. Louis County, Missouri 2024) (\$22,000,000 Class Settlement)
- *McPheeters v. United Services Automobile Association and Garrison Property and Casualty Ins. Co.*, No. 1:20-CV-00414-TSB (S.D. Ohio 2022) (\$10,250,00.00 Class Settlement)
- *Middleton v. Liberty Mut. Ins. Co.*, No. 1:20-cv-00668-DRC (S.D. Ohio 2023) (\$14,404,00.00 Class Settlement)
- *Hinds-Thomas et al. v. LM General Insurance Company et al.*, No. 22SL-CC04131 (Circuit Court of St. Louis County, MO) (\$8,669,083.00 Class Settlement)
- *Ostendorf v. Grange Indem. Ins. Co.*, No. 2:19-CV-1147 (S.D. Ohio 2020) (\$12,000,000.00 Class Settlement)
- *Papa v. Greico Ford Fort Lauderdale, LLC*, No. 1:18-cv-21897 (S.D. Fla. 2018) (\$4,800,000.00 Class Settlement)
- *Pena v. John C. Heath, Attorney at Law, PLLC, d/b/a Lexington Law Firm*, No. 18-cv-24407-UU (S.D. Fla. 2018) (\$11,450,863.00 Class Settlement)
- *Petit Beau, et. al., v. Ocean Harbor Casualty Insurance Company*, No. CACE-18-029268 (Fla. 17th Cir. Ct.) (\$4,500,000.000 Class Settlement)
- *Sellers, et al. v. Bleacher Report, Inc.*, No. 2024-003537-CA-01 (Miami-Dade County, Florida 2024) (\$4,800,000 Class Settlement)
- *Soto-Melendez v. Banco Popular de Puerto Rico*, No. 3:20-cv-01057 (D.P.R. 2023) (\$5,500,00.00 Class Settlement)
- *South, et. al. v. Progressive Select Insurance Company, et. al.*, No. 19-cv-21760 (S.D. Fla. 2023) (\$48,800,000.00 Class Settlement)
- *Volino v. Progressive Casualty Ins. Co.*, No. 1:21-cv-06243 (S.D.N.Y. 2025) (\$48,000,000 Class Settlement)

More About Shamis & Gentile, P.A.

To learn more about our firm, please visit www.shamisgentile.com, or view links to our blogs at <https://www.sflinjuryattorneys.com/blog/>.

Exhibit B 1

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2 Adam Schwartzbaum (*pro hac vice*)
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5 Edwin E. Elliott (*pro hac vice*)
6 **SHAMIS & GENTILE, P.A.**
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edwine@shamisgentile.com

Jeffrey D. Kaliel (SBN 238293)
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Telephone: (202) 350-4783
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8 *Counsel for Plaintiffs and Proposed Classes*
9

10
11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 JEFFREY STEPHENSON and BILLY
14 SMITH II, individually, on behalf of
15 himself and all others similarly situated,

16 Plaintiffs,

17 vs.

18 NAVY FEDERAL CREDIT UNION,

19 Defendant.
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23
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28

Case No. **3:23-CV-01851-WQH-KSC**

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT
AND PROVISIONAL CLASS
CERTIFICATION**

Hon. William Q. Hayes
Hon. Karen S. Crawford

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Jeffrey Stephenson and Billy Smith II submit this Memorandum of Points and Authorities in Support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement and Provisional Class Certification (the “Motion”). Defendant Navy Federal Credit Union does not oppose the relief sought. The terms and conditions of the proposed class action settlement are set forth in the Parties’ Class Action Settlement Agreement¹ (the “Agreement”), a copy of which is attached as Exhibit 1 to the Declaration of Class Counsel (“Class Counsel Decl.”).

Plaintiffs filed this Action after Stephenson reported unauthorized charges on his son’s debit card, Billy Smith II reported unauthorized charges made through the Navy Federal app on his phone, and Navy Federal denied their claims. They allege Navy Federal’s policy and practice of denying consumers’ claims with letters stating “no error occurred” violates the Electronic Fund Transfer Act (the “EFTA”), 15 U.S.C. §§ 1693, *et seq.* and Regulation E of the EFTA, 12 C.F.R. §§ 1005.1, *et seq.*, which require financial institutions to comply with specific error resolution procedures and limit consumer liability for reported unauthorized transactions.² Plaintiffs further allege Navy Federal’s conduct breaches the express terms of its Account Disclosures, including the Debit Card Disclosure, and violates the implied covenant of good faith and fair dealing. Navy Federal denies the allegations in the Action. But given the risks, uncertainties, and burdens of continued litigation, the Parties agreed to settle according to the terms of the Agreement.

¹ The capitalized terms used herein are defined and have the same meaning as those used in the Agreement unless otherwise stated.

² These statutes require financial institutions to reimburse accountholders for unauthorized transfers, 15 U.S.C. §§ 1693g(a), (b); to investigate in good faith reported claims of error; *id.* § 1693f(c), 12 C.F.R. § 1005.11(c)(4); to provide “a written explanation of the institution’s findings” upon denying account-holders’ claims, *id.* § 1693f(d), 12 C.F.R. §§ 1005.11(d)(4)(ii); and, upon request, to provide the “documents that the institution relied on in making its determination” in connection with those denials, 15 U.S.C. §§ 1693f(d), 12 C.F.R. § 1005.11(d)(1).

1 The Settlement achieved by the Parties through experienced counsel—reached
2 via arm’s-length negotiations with the assistance of a respected mediator—guarantees
3 substantial benefit for the Settlement Class Members. In exchange for a release of
4 certain claims against Navy Federal, the Parties agree that Navy Federal will:

- 5 • provide \$1,700,000 to Settlement Class Members to fund (a) payments or
6 Account credits to Settlement Class Members who file a valid and timely
7 Claim Form; and (b) any award of attorneys’ fees, costs, and expenses.
8 Settlement Class Members will receive a *pro rata* share of the Net Settlement
9 Fund (with the opportunity for a second *pro rata* share for Settlement Class
10 Members who also are members of the Document Request Settlement
11 Subclass);
- 12 • separately pay \$5,000 to each Plaintiff to settle their individual claims for
13 actual damages and \$5,000 Service Awards to Plaintiffs for serving as Class
14 Representatives; and
- 15 • Settlement Administration Costs paid to the Settlement Administrator, to be
16 reimbursed in whole or in part if there are uncashed checks after payments to
17 Settlement Class Members.

18 An additional benefit to all Settlement Class Members, and current and future
19 Navy Federal accountholders is that Defendant has agreed to revise its written
20 explanation sent to members whose claims are denied and to bolster its procedures
21 for responding to member requests for documents in connection with such denials.
22 Navy Federal’s promise to implement changes to its policies and procedures for
23 handling account-holders’ claims for unauthorized transfers promotes EFTA
24 compliance and adds meaningful Settlement value.

25 The Settlement does not release Settlement Class Members’ actual-damages
26 claims based on Navy Federal’s purported improper denial of a claim of unauthorized
27 transfers. Instead, Settlement Class Members release claims of statutory damages
28 only, which are capped under the EFTA. 15 U.S.C. § 1693m(a)(2)(B).

The Parties have agreed to a robust direct Notice Program designed to afford
all Settlement Class Members due process and advise them of their rights.

As such, Plaintiffs respectfully request that this Court enter the Preliminary
Approval Order submitted herewith that would, among other things:

- Grant preliminary approval of the Agreement, finding the terms to be fair, adequate, and reasonable;
- Provisionally certify the Settlement Classes under Rule 23(a) and (b)(3) for settlement purposes only;
- Appoint the law firms of Edelsberg Law, P.A., Shamis & Gentile, P.A., and Kaliel Gold PLLC as Class Counsel, and appoint Plaintiffs as Class Representatives for the Settlement Classes;
- Approve the Claim Form and the form and content of the Notices, and direct that the Settlement Administrator provide Notice to the Settlement Classes;
- Establish deadlines for members of the Settlement Class to file claims, object to, or exclude themselves from the Settlement; and
- Set a Final Approval Hearing date per the schedule below.

Plaintiffs ask the Court to grant the Motion because the Agreement meets all requirements for preliminary approval and certifying the Settlement Classes.

II. BACKGROUND OF THE LITIGATION

A. Litigation History

On October 10, 2023, Stephenson filed his putative class action complaint in this Court against Navy Federal arising out of its handling of electronic fund transfers disputed by members as unauthorized and/or fraudulent. Class Counsel Decl. ¶ 7. The Complaint alleged claims on behalf of a nationwide class for breach of contract, breach of the implied covenant of good faith and fair dealing, violations of the EFTA, and violation of California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 (the "UCL"). *Id.* Stephenson filed his First Amended Complaint on January 22, 2024, in lieu of responding to Defendant's motion to dismiss. *Id.*

On February 21, 2024, Defendant filed a motion to dismiss the First Amended Complaint under Rule 12(b)(6). *Id.* ¶ 8. After briefing, the Court entered its order denying in part and granting in part Defendant's motion to dismiss, allowing Plaintiffs' EFTA and breach of contract claims to proceed. *Id.* Plaintiffs filed their Second Amended Complaint (SAC), which added Smith II to the Action; Defendant filed its answer to the SAC, asserting seven affirmative defenses. *Id.*

1 The Parties began written discovery, which included the exchange of Rule
2 26(a)(1) initial disclosures, requests for production and interrogatories, engaging in
3 meet-and-confer conferences regarding the same, issuing third-party subpoenas, and
4 production of documents. *Id.* ¶ 9.

5 On December 11, 2024, the Parties participated in an Early Neutral Evaluation
6 with Magistrate Judge Karen S. Crawford, which did not result in settlement. *Id.* ¶
7 10. Then, on February 26, 2025, the Parties requested, and the Court granted a stay
8 of the case to allow the Parties to participation in a mediation to see if they could
9 resolve the case without further litigation. *Id.* On June 4, 2025, the Parties attended a
10 full-day in-person mediation before Judge Diane M. Welsh (Ret.), which resulted in
11 an agreement to the material terms of this Settlement. *Id.* ¶ 11. On June 6, 2025, the
12 Parties notified the Court that they had reached an agreement to settle in principle on
13 a class-wide basis and stipulated to stay the case. *Id.* The Parties then negotiated the
14 Agreement now pending preliminary approval. *Id.*

15 **B. Settlement Negotiations**

16 The Settlement was aggressively negotiated with the assistance of retired Judge
17 Welsh, a well-respected mediator experienced in mediating class actions alleging
18 EFTA claims. Class Counsel Decl. ¶ 11. Judge Welsh presided over an arm's-length
19 mediation between capable and experienced class action counsel on both sides. *Id.* ¶¶
20 2–6, 15. The Parties engaged in a significant amount of informal and formal discovery
21 to assist Class Counsel in assessing the Settlement Class claims and Navy Federal's
22 defenses before reaching this Agreement. *Id.* ¶¶ 13–14, 21. This information included
23 documents regarding Navy Federal's internal policies and practices on handling
24 account-holders' claims of unauthorized or fraudulent transactions and efforts to
25 comply with federal error resolution requirements; letters denying claims during the
26 Class Period; each Plaintiff's transaction history; and the approximate number of
27 accountholders whose claims were denied (a subset of which claim not to have
28 received supporting documentation upon request). *Id.* ¶ 21. The Parties did not

1 discuss attorneys' fees and costs, nor any potential service awards, until they first
2 agreed on the material Settlement terms, including the Settlement Class definitions,
3 the Notice and Notice Program, the claims process and Claim Form, benefits for
4 Settlement Class Members, and scope of the Releases. *Id.* ¶ 17.

5 **III. THE SETTLEMENT**

6 **A. The Settlement Agreement**

7 The Agreement, which resolves the Action in its entirety, includes the
8 following pertinent terms:

9 **1. The Settlement Classes**

10 Plaintiffs propose, for settlement purposes only, that this Court certify
11 Settlement Classes defined as:

12 **Written Explanation Settlement Class:** All Accountholders whose
13 claims of unauthorized electronic fund transfers were denied by Navy
14 Federal Credit Union between October 10, 2022, and the date the Court
grants preliminary approval of the Settlement.

15 **Document Request Settlement Subclass:** All Accountholders in the
16 Written Explanation Settlement Class who requested documents Navy
Federal relied on in making its determination and who did not receive
17 them.

Agreement §§ 1.42(a), (b).

18 **2. Settlement Benefits**

19 Class Counsel believes that the contemplated benefits addressed below
20 adequately compensate the Settlement Classes for the claims they are releasing and,
21 in light of the risks of continued litigation, represent an excellent result for the
22 Settlement Classes. Class Counsel Decl. ¶ 12.

23 **i. Injunctive Relief**

24 Navy Federal has agreed to provide prospective relief to the Settlement Classes
25 by implementing changes to its policies and procedures relating to the handling of
26 claims concerning unauthorized electronic fund transfers. *See* Agreement, 2.2(a).
27 Specifically, Navy Federal has agreed to revise its written explanation sent to
28

1 members whose claims are denied and enhance its procedures for responding to
2 member requests for documents in connection with such denials. *Id.*

3 **ii. Settlement Class Member Payments and Plan of**
4 **Allocation**

5 Navy Federal shall deposit the \$1,700,000 Settlement Fund less the amount of
6 Settlement Class Member Payments to be credited to the accounts of Current
7 Accountholders. Agreement § 2.1(a). The Settlement Fund shall be used to pay any
8 Fee Award to Class Counsel as well as payments and Account credits to Settlement
9 Class Members. *Id.*

10 Each Settlement Class Member may submit a Claim Form to request a
11 Settlement Class Member Payment in the amount of a *pro rata* portion of the Net
12 Settlement Fund. *Id.* § 2.1(b). The Net Settlement Fund will be allocated based on
13 class membership as follows: Settlement Class Members who are members of the
14 Written Explanation Class will be assigned one (1) Approved Claim, while
15 Settlement Class Members who are also members of the Document Request
16 Settlement Subclass will be assigned two (2) Approved Claims. *Id.* The value of each
17 *pro rata* portion of the Net Settlement Fund will be calculated by dividing the total
18 number of Approved Claims by the amount of the Net Settlement Fund. *Id.*

19 **iii. Claims Process and Distribution.**

20 The Settlement provides an easy claim-submission process. The Claim Forms
21 are accessible via one click in the Email Notice and Settlement Website, as well as
22 available in paper format, pre-filled with a unique claim ID and the Settlement Class
23 Member name provided as part of the Postcard Notice with return postage prepaid.
24 Agreement §§ 4.1(g), (h); 1.35. The Claim Forms do not require Settlement Class
25 Members to submit any supporting documentation. *See* Agreement, Ex. A. Settlement
26 Class Members can check a box to indicate that they are also members of the
27 Document Request Settlement Subclass to be assigned an additional Approved
28 Claim. *Id.* § 2.1(b)(ii).

1 To receive a Settlement Class Member Payment, Settlement Class Members
2 must submit a valid Claim Form postmarked or submitted online by the Claims
3 Deadline. *Id.* § 1.6. The Claims Deadline will be clearly set forth in the Preliminary
4 Approval Order, as well as in the Notice and the Claim Form, and will be no later
5 than sixty (60) days after the Notice Date. *Id.*

6 Upon the Effective Date, within ten (10) business days of receipt of funds from
7 Navy Federal, the Settlement Administrator will mail Settlement Class Member
8 Payments to Former Accountholders via check and Navy Federal will credit accounts
9 of Current Accountholders. *Id.* § 2.1(d). After the check cashing deadline (stated on
10 the checks), the Settlement Administrator will attempt to identify updated addresses
11 and re-mail or re-issue a distribution check. *Id.* If any Remaining Residual Funds
12 exist at that time, such funds will be payable for reimbursement of Settlement
13 Administrative Costs, and if any remain, next to a *cy pres* recipient proposed by the
14 Parties (subject to Court approval). *Id.* § 2.1(j).

15 **3. Settlement of Plaintiffs' Individual Claims.**

16 To settle Plaintiff Stephenson and Smith's individual claims for actual
17 damages (alleged in the SAC), Navy Federal has agreed to pay each Plaintiff \$5,000
18 in exchange for a general release of claims. Agreement § 2.1(a)(i). The General
19 Release and waiver of California Code Section 1542 relate to the Plaintiffs'
20 individual claims. *Id.* §§ 3.3; 1.31, 1.48.

21 **4. The Notice Program**

22 The Parties retained Kroll Settlement Administration LLC ("Kroll") to serve
23 as the Settlement Administrator. Agreement § 1.41. No later than sixty (60) days
24 following entry of the Preliminary Approval Order, the Settlement Administrator will
25 provide direct Email Notice and Postcard Notice via the e-mail addresses and mailing
26 addresses identified in the Settlement Class List, respectively. *Id.* § 4.1.

27 In the event any Email Notices and/or Postcard Notices are returned as
28 undeliverable within thirty (30) days after the Initial Mailed Notice is completed, the

1 Settlement Administrator shall complete the Notice Re-Mailing Process by mailing a
2 Postcard Notice to those Settlement Class Members whose new addresses were
3 identified during the reasonable tracing procedure. *Id.* § 4.1(f). No later than thirty
4 (30) days after the Notice Date, the Settlement Administrator shall also send a second
5 Email Notice to those Settlement Class Members who have not yet made a claim,
6 requested to opt out, or made an objection. *Id.* § 4.1(g).

7 The Settlement Administrator will also establish and maintain the Settlement
8 Website, which will include the Long Form Notice, the Claim Form (including the
9 ability to file Claim Forms online), the Agreement, the Preliminary Approval Order,
10 Plaintiff's Application for Fees and Costs and for Service Awards, and the date of the
11 Final Approval Hearing. *Id.* § 4.1(h). The Settlement Administrator shall also
12 maintain a toll-free telephone system containing recorded answers to frequently
13 asked questions as agreed to by the Parties and the ability to reach a live operator,
14 including to request a copy of the Claim Form or the Long-Form Notice. *Id.* § 4.1(i).

15 The Long Form Notice includes: a) a description of the case, Settlement Class
16 Members' legal rights and options, answers to frequently asked questions, the
17 Agreement and the Settlement benefits, contact information for Counsel, and the
18 attorneys' fees and costs that Class Counsel intends to request and the Service Awards
19 to be sought by Plaintiffs; b) instructions on how to opt out of or object to the
20 Settlement; and c) information about the Final Approval Hearing. *Id.* at Ex. D.

21 **5. Settlement Releases**

22 The Agreement includes a narrow release by Plaintiffs and all Settlement Class
23 Members of the Released Claims that reasonably arise out of or relate to the claims
24 alleged in the Action regarding Navy Federal's improper denial of a claim for
25 reimbursement of unauthorized electronic fund transfers. Agreement § 3.2. The
26 Released Claims exclude any claims for actual damages based on or related to Navy
27 Federal's purported improper denial of a claim of unauthorized electronic transfer(s).

1 **6. Class Counsel’s Attorneys’ Fees and Reimbursement of**
2 **Expenses, Plaintiffs’ Service Awards, and Settlement**
3 **Administration Costs**

4 Subject to Court approval, Plaintiffs will request the following payments from
5 the Settlement Fund: Class Counsel’s attorneys’ fees of up to one-third of the
6 Settlement Value and reimbursement of expenses. Agreement § 9.1. Subject to Court
7 approval, Plaintiffs will also request \$5,000 Service Awards to each Plaintiff for
8 serving as Class Representative.

9 **IV. LEGAL STANDARD FOR PRELIMINARY APPROVAL**

10 Rule 23(e)(2) requires that class action settlements be “fair, reasonable, and
11 adequate.” The Ninth Circuit recognizes the “strong judicial policy that favors
12 settlement, particularly where complex class action litigation is concerned.” *In re*
13 *Hyundai & Kia Fuel Econ. Litig.*, 926 F.3d 539, 556 (9th Cir. 2019). Approval of a
14 class action settlement “involves a two-step process in which the Court first
15 determines whether a proposed class action settlement deserves preliminary approval
16 and then, after notice is given to class members, whether final approval is warranted.”
17 *Morey v. Louis Vuitton N. Am., Inc.*, 2013 WL 12069021, at *4 (S.D. Cal. 2013)
18 (Hayes, J.).³ At the preliminary approval stage, the focus is on whether the “proposed
19 settlement falls within the range of possible judicial approval.” *Grant v. Capital*
20 *Mgmt. Services, L.P.*, 2013 WL 6499698, at *2 (S.D. Cal. 2013) (Hayes, J.).
21 “Essentially, the court is only concerned with whether the proposed settlement
22 discloses grounds to doubt its fairness or other obvious deficiencies such as unduly
23 preferential treatment of class representatives or segments of the class, or excessive
24 compensation of attorneys.” *Morey*, 2013 WL 12069021, at *7. Indeed, “[t]he court’s
25 intrusion upon what is otherwise a private consensual agreement negotiated between
26 the parties to a lawsuit must be limited to the extent necessary to reach a reasoned

27
28 ³ Unless otherwise stated herein, all internal citations, quotation marks, and
alterations are omitted, and all emphasis is added.

1 judgment that the agreement is not the product of fraud or overreaching by, or
2 collusion between, the negotiating parties, and that the settlement, taken as a whole,
3 is fair, reasonable and adequate to all concerned.” *Officers for Justice v. Civil Serv.*
4 *Comm’n of City and County of San Francisco*, 668 F.2d 615, 625 (9th Cir. 1982).

5 Ultimately, the standard inquiry the trial court explores is whether the proposed
6 settlement “is fundamentally fair, adequate, and reasonable.” *Hanlon v. Chrysler*
7 *Corp.*, 150 F.3d 1101, 1026 (9th Cir. 1998); Fed. R. Civ. P. 23(e). “It is the settlement
8 taken as a whole, rather than the individual component parts, that must be examined
9 for overall fairness.” *Hanlon*, 150 F.3d at 1026. Accordingly, the court does not have
10 “the ability to delete, modify or substitute certain provisions.” *Id.* In other words, the
11 “settlement must stand or fall in its entirety.” *Id.*

12 Rule 23(e)(2) permits a district court to approve a class action settlement upon
13 considering whether: “(A) the class representatives and class counsel have adequately
14 represented the class; (B) the proposal was negotiated at arm’s length; (C) the relief
15 provided the class is adequate ... and (D) the proposal treats class members equitably
16 relative to each other.” *Martinez v. University of San Diego*, No. 3:20-cv-01946-
17 RBM-VET, 2024 WL 4713891, at *10 (S.D. Cal. Nov. 7, 2024). In addition to the
18 Rule 23(e)(2) requirements, courts in the Ninth Circuit generally assess a settlement’s
19 fairness in weighing several factors, as set forth in *In re Bluetooth Headset Prods.*
20 *Liab. Litig.*, 654 F.3d 935, 946 (9th Cir. 2011) (quoting *Churchill Vill. v. Gen. Elec.*,
21 361 F.3d 566 (9th Cir. 2004)) (the “Churchill factors”). The *Churchill* factors, which
22 largely overlap with the Rule 23(e)(2) factors, include:

23 (1) the strength of the plaintiff’s case; (2) the risk, expense, complexity,
24 and likely duration of further litigation; (3) the risk of maintaining class
25 action status throughout the trial; (4) the amount offered in settlement;
26 (5) the extent of discovery completed and the stage of the proceedings;
27 (6) the experience and views of counsel; (7) the presence of a
28 governmental participant; and (8) the reaction of the class members of
the proposed settlement.

1 *Bluetooth*, 654 F.3d at 946.⁴ For the reasons set forth in detail below, the proposed
2 Settlement is fundamentally fair, adequate, and reasonable—thereby, falling squarely
3 into the range of preliminary approval.

4 **V. PRELIMINARY SETTLEMENT APPROVAL IS WARRANTED**

5 Plaintiffs and the Settlement Classes faced significant risks in this case. Given
6 these risks, highly experienced counsel for the parties diligently engaged in arm’s-
7 length negotiations, conducted in good faith, and driven by a substantial amount of
8 discovery and investigation, as well as significant and complex motion practice. A
9 settlement that provides Settlement Class Members with a valuable cash benefit and
10 meaningful injunctive relief falls within the range of possible approval. Accordingly,
11 each of the Rule 23(e)(2) factors, as well as the *Churchill* factors, weigh in favor of
12 finding that the proposed Settlement is fair, adequate, and reasonable.

13 **A. The Proposed Settlement is Fair, Adequate, and Reasonable**

14 **1. The Rule 23(e)(2) Requirements**

15 Plaintiffs and Class Counsel have adequately and vigorously represented the
16 Settlement Classes throughout the 2.5-year litigation, which involved significant
17 formal and informal discovery, contentious motion practice, and settlement
18 negotiations with the assistance of a third-party neutral mediator. Class Counsel Decl.
19 ¶ 13. Further, Plaintiffs, through their counsel, engaged in a lengthy, independent
20 investigation of their claims, as well as the potential claims of other Settlement Class
21 Members, to properly weigh the pros and cons of continued litigation versus the
22 proposed nationwide settlement of all claims for statutory damages. *Id.* ¶ 14.
23 Additionally, the entire settlement process was negotiated in good faith and at arm’s-
24

25 _____
26 ⁴ As this Court explained, “the Court need not conduct a full settlement fairness
27 appraisal before granting preliminary approval” and in fact, “cannot fully assess
28 many of these factors prior to notice and an opportunity for objection.” *Morey*, 2013
WL 12069021 at *7. This Motion does not discuss the seventh *Churchill* factor—
presence of a governmental participant—because it is inapplicable. And the eighth
Churchill factor—reaction of the settlement class—will be revisited at final approval.

length by highly knowledgeable counsel experienced in complex class action litigation, including consumer disputes against financial institutions. *Id.* ¶ 15. *See Grant*, 2013 WL 6499698, at *5 (finding “the procedure reaching the settlement was fair and reasonable” where it “was the product of arms-length negotiations” and “reached with the assistance of” a mediator).

Next, the adequacy of the relief provided to the Settlement Class Members is substantial and each Settlement Class Member is treated equitably relative to all other members of the Settlement Classes based on the *pro rata* distribution amongst the number of Approved Claims as set forth in the Agreement § 2.1. *See Morgan v. Rohr, Inc.*, 2025 WL 1285830, at *14 (S.D. Cal. May 1, 2025) (finding “there is little risk of unequal treatment” where each settlement class member payment is “calculated pro rata”). And the scope of the Release applies equally to all Settlement Class Members and does not affect the apportionment of relief. *Id.* § 3.2. The Release is tailored to the Released Claims as defined in the Agreement and protects Settlement Class Members’ rights to individually pursue claims for actual damages. *Id.* § 1.36.

Lastly, Class Counsel has not been paid for their extensive efforts or reimbursed for litigation costs incurred over the last two and a half years. Class Counsel Decl. ¶ 16. Under the Agreement, Class Counsel are entitled to request attorneys’ fees representing up to one-third of the value of the Settlement, as well as reimbursement of litigation costs incurred in the Action. Agreement § 9.1. The Parties negotiated and reached agreement regarding fees and costs only after agreeing to the material terms of the Settlement. Class Counsel Decl. ¶ 17. That award remains subject to this Court’s approval and will compensate Class Counsel for the time, risk, and expenses incurred in pursuing claims on Settlement Class Members’ behalf. Accordingly, this Court should find that this factor will weigh in favor of granting final approval and should reserve a full analysis of this factor for final approval. *Kendall v. Odonate Therapeutics, Inc.*, 2022 WL 188364, at *7 (S.D. Cal. Jan. 18,

2022) (33.33% of the settlement “is within the range of acceptable attorneys’ fees in Ninth Circuit cases”).

At this stage, there is no reason to doubt that the proposed Fee Award supports settlement approval. Class Counsel’s fees and costs will be paid from the same Settlement Fund as Settlement Class Member Payments and thus, Class Counsel were incentivized to negotiate the largest fund possible. Agreement § 9.1. Further, the Fee Award is subject to final Court approval, and if any requested fees are not approved by the Court, those funds will be distributed to Settlement Class Members. *Id.*

2. The *Churchill* Factors

i. Strength of Plaintiffs’ Case and Further Litigation Risk

As this Court has noted, “the Court must balance against the risks of continued litigation (including the strengths and weaknesses of Plaintiff’s case), the benefits afforded to members of the Class, and the immediacy and certainty of a substantial recovery.” *Morey v. Louis Vuitton N.A.*, No. 11cv1517 WQH (BLM), 2014 WL 109194, at *5 (S.D. Cal. Jan. 9, 2014) (Hayes, J.).

The SAC alleges claims for statutory damages under the EFTA and actual damages for the EFTA and breach of contract. Plaintiffs believed their EFTA claims for statutory damages were meritorious based on both the alleged facts and court decisions involving similar claims challenging financial institutions’ error resolution procedures like Navy Federal’s alleged here. *See, e.g., Garcia v. Navy Federal Credit Union*, No. 23-cv-2017-MMA-BLM, 2025 WL 1100898, at *19 (S.D. Cal. Apr. 14, 2025) (denying Defendant’s motion for summary judgment as to whether Navy Federal complied with the EFTA’s reasonable investigation provision); *Nguyen v. Wescom Central Credit Union*, No. SACV 22-01520-CJC (JDEx), 2023 WL 9019022, at *4 (C.D. Cal. Nov. 15, 2023) (“Summary judgment is inappropriate on Plaintiff’s EFTA claim because a reasonable jury could determine that Defendant’s investigation of Plaintiff’s claim was not reasonable.”); *see also Sparkman v. Comerica Bank*, No. 23-CV-02028-DMR, 2023 WL 5020269, at *10 (N.D. Cal. Aug.

1 4, 2023) (denying motion to dismiss based on allegations of insufficient form letters
2 denying fraud claims and facts showing transactions were unauthorized).

3 But “in the case of a class action ... the total recovery” for statutory damages
4 under the EFTA “shall not be more than the lesser of \$500,000 or 1 per centum of the
5 net worth of the defendant[.]” 15 U.S.C. § 1693m(a)(2)(B)(ii). Thus, even if the
6 EFTA claims for alleged insufficient denial letters and failure to provide documents
7 upon request were meritorious, they provide a limited ground for recovery of putative
8 class damages. Further, while Plaintiffs believe in the merits of their EFTA and
9 breach of contract claims for actual damages, they recognize that certification of such
10 claims under Rule 23(b)(3) was risky due to Navy Federal’s arguments that the
11 elements of causation and damages could not be determined on a class-wide basis.
12 *See, e.g., Moriarty v. Am. Gen. Life Ins. Co.*, No. 3:17-CV-1709-BTM-WVG, 2022
13 WL 6584150, at *5 (S.D. Cal. Sept. 27, 2022) (denying motion for class certification
14 on claim for breach of contract in part due to “substantial concerns as to whether the
15 issues of the individual claims such as actual damages and causation would
16 predominate”).

17 The parties weighed these considerations when they agreed to settle only the
18 statutory damages claims, but to not release Settlement Class Members’ claims for
19 actual damages under the EFTA, their contracts, or any other legal theory. This is like
20 other settlements that recently received final approval from district courts, where only
21 statutory claims under the EFTA were released in exchange for a settlement payment.
22 *See Almon v. Conduent Bus. Servs., LLC*, No. 5:19-cv-01075-XR, ECF No. 110
23 (W.D. Tex. Nov. 1, 2024) (granting final approval of class action settlement regarding
24 EFTA claims); *Shelby v. Two Jinns, Inc.*, No. CV 15-03794-AB (GJSx), 2017 WL
25 6347090 (C.D. Cal. Aug. 2, 2017) (same)

26 While Plaintiffs are confident in their claims’ merits, establishing liability is
27 challenging, as shown by the dispute over whether Navy Federal’s procedures satisfy
28 the EFTA requirements, the discovery needed, and challenges in determining whether

1 Navy Federal erred in denying any particular claim. Navy Federal maintains that its
2 practices and procedures related to the investigation and determination of claimed
3 fraudulent electronic transfers, including explanations for denial and provision of
4 documents to members upon request, complied with all applicable laws and
5 regulations, including the terms of its Deposit Account Agreement with consumers.
6 Indeed, “[t]here is limited guidance as to what constitutes a reasonable investigation
7 under § 1693f.” *Nguyen*, 2023 WL 9019022 at *3 (citing cases).

8 Although the Court allowed Plaintiffs’ EFTA and contract claims to proceed
9 on the motion to dismiss, the risks in prosecuting a class action through trial cannot
10 be disregarded. Plaintiffs’ claims would need to survive additional forthcoming
11 motion practice, and they would have to succeed in certifying a class. Class Counsel
12 Decl. ¶ 18. The delay in continuing to litigate this case also favors approval of the
13 Settlement. *Id.* Significant time and additional costs would be required for the Parties
14 and the Court to complete discovery, brief and rule on class certification, participate
15 in pre-trial proceedings, brief and rule on summary judgment, etc. *Id.* And the Parties
16 could appeal the Court’s class certification and summary judgment decisions as well
17 as any verdict at trial, which could take years to resolve and could result in reversal
18 on appeal. *Id.* Plainly, litigation “would likely continue for many years, especially
19 given that EFTA law is not well settled.” *Granados v. OnPoint Community Credit*
20 *Union*, 2025 WL 1640204, at *7 (D. Or. June 10, 2025). Given that the Settlement
21 provides immediate compensation for the Settlement Classes now, in light of the risks
22 and delay of receiving any monetary relief at all, these considerations support
23 approval of the Settlement.

24 **ii. The Risk of Maintaining Class Action Status**
25 **Throughout Trial**

26 The third *Churchill* factor, which considers the risk of Plaintiffs maintaining
27 class status through the duration of the case, also supports preliminary approval. At
28 the time this Settlement was reached, no class was certified. As discussed above, there

are undoubtedly risks involved in pursuing this case as a class action, especially given that “the type of fraud that generates these claims on a broad scale is a new phenomenon.” *Nelipa v. TD Bank, N.A.*, No. 21-CV-1092, 2024 WL 3017141 at *8 (E.D.N.Y. June 17, 2024). This risk is especially acute regarding claims for actual damages, which Navy Federal argued could never be certified due to a lack of predominance on the elements of breach and damages. Class Counsel Decl. ¶ 19. And even if the Court were to grant class certification, the real risk of later decertification supports settlement approval. *See In re Netflix Privacy Litig.*, No. 5:11-cv-00379 EJD, 2013 WL 1120801, at *6 (N.D. Cal. Mar. 18, 2013) (“The notion that a district court could decertify a class at any time is one that weighs in favor of settlement”).

iii. The Amount Offered in the Settlement

The Settlement provides exceptional monetary benefits. Settlement Class Members who submit a timely and valid Claim Form will receive payment of their *pro rata* share of a \$1,700,000 Settlement Fund net of attorneys’ fees and Service Awards awarded by the Court. The Net Settlement Fund will be distributed to Settlement Class Members based on the number of Approved Claims divided by the Net Settlement Fund.

This Settlement does not release any Settlement Class Members’ claims for actual damages based on Navy Federal’s alleged improper denial of claims. Class Counsel Decl. ¶ 20. Instead, the Agreement reflects a settlement of statutory damages claims, which do not require proof of actual damages, but are capped under the EFTA. *See* 15 U.S.C. § 1693m(a)(2)(A)-(B). Although the recovery for each Settlement Class Member will depend on the number of Approved Claims, the Settlement Fund is more than three times the maximum class recovery if successful in litigation. This sizable monetary recovery weighs in favor of preliminary approval. *See e.g., Greenley v. Mayflower Transit, LLC*, No. 21-cv-339-WQH-MDD2022 WL 3161908, at *3 (S.D. Cal. Aug. 8, 2022) (Hayes, J.) (approving settlement fund of 41.9% of maximum potential statutory damages under CIPA as “fair and reasonable”).

The substantial amount offered in this Settlement is also an excellent recovery when compared with the limited universe of similar EFTA class action settlements that have received approval. *See, e.g., Almon*, No. 5:19-cv-01075-XR, ECF No. 110 (granting final approval to class action settlement that certified three classes—each relating to a different alleged violation of the EFTA—in exchange for a \$1,200,000 cash fund); *Shelby*, 2017 WL 6347090, at *2 (approving \$475,000 common fund for EFTA violations). The reasonableness of the \$1,700,000 common fund is strongly supported by the fact that statutory damages under the EFTA for class actions are capped at \$500,000. Moreover, while prior cases only obtained cash funds, here Navy Federal has agreed to implement changes to its policies and procedures relating to the handling of claims concerning unauthorized transfers that will benefit Settlement Class Members (and many other Navy Federal customers) for years to come.

iv. The Extent of Discovery and Stage of the Proceedings

In assessing sufficiency of discovery, “a court need not possess evidence to decide the merits of the issues, because compromise is proposed in order to avoid further litigation.” Newberg & Conte, *Newberg on Class Actions*, § 11.45 (4th ed. 2008). Rather, a court needs only sufficient information “to raise its decision above mere conjecture.” *Id.* In analyzing this factor, the Court evaluates “whether the parties have sufficient information to make an informed decision about settlement.” *Hunter v. Nature’s Way Products, LLC*, No. 3:16-cv-532-WQH-AGS, 2020 WL 71160, at *5 (S.D. Cal. Jan. 6, 2020) (Hayes, J.).

Here, the Parties engaged in both formal and informal discovery prior to settling, which included Defendant’s production of information regarding Navy Federal’s policies and procedures and training. Class Counsel Decl. ¶ 21. The Parties aggressively litigated this case through contentious motion practice and settlement negotiations driven by the exchange of discovery, including with the assistance of a mediator. *Id.* ¶ 22. Thus, the Parties had sufficient information to assess the merits and weigh the settlement benefits before entering into the Agreement. *See e.g.,*

1 *Hunter*, 2020 WL 71160 at *5 (finding “parties’ extensive investigation, discovery,
2 and subsequent settlement discussions” supported approval).

3 **v. The Experience and Views of Counsel**

4 The Ninth Circuit “has long deferred to the private consensual decision of the
5 parties.” *Rodriguez v. West Publ’g Corp.*, 563 F.3d 948, 965 (9th Cir. 2009). “Parties
6 represented by competent counsel are better positioned than courts to produce a
7 settlement that fairly reflects each party’s expected outcome in litigation.” *Id.* at 967.
8 Class Counsel are highly experienced in complex class action litigation, including
9 consumer disputes against financial institutions. Class Counsel Decl. ¶¶ 2–6, 25–26,
10 Exs. 2–4 (firm resumes). Collectively, Class Counsel have secured hundreds of
11 millions of dollars on behalf of consumers because of their efforts in evoking large-
12 scale reform of unlawful and unfair business practices through class action
13 settlements nationwide. *See id.* Counsel for both Parties, as highly experienced trial
14 attorneys and class counsel, are confident in the terms of the Settlement after
15 engaging in informed negotiations. *Id.* Thus, Class Counsel’s experience and
16 considered judgment weighs heavily in favor of finding the Settlement to be fair,
17 adequate, and reasonable. *See e.g., Grant*, 2013 WL 6499698 at *5.

18 In sum, all factors weigh in favor of finding that the proposed Settlement is
19 fair, reasonable, and adequate, and therefore, a grant of preliminary approval of the
20 Settlement is warranted.

21 **VI. THE PROPOSED CLASSES SHOULD BE PROVISIONALLY**
22 **CERTIFIED FOR SETTLEMENT PURPOSES**

23 Settlement approval under Rule 23(e) requires certification of a settlement
24 class for settlement purposes only. *Greenley*, 2022 WL 3161908 at *3. The Ninth
25 Circuit recognizes the propriety of certifying a settlement class to resolve consumer
26 lawsuits. *See Hanlon*, 150 F.3d at 1019. At the preliminary approval stage, the
27 Court’s threshold task is to determine whether the proposed class satisfies the Rule
28 23(a) requirements: (1) numerosity, (2) commonality, (3) typicality, and (4)

1 adequacy, and the requirements set forth in Rule 23(b)(3). *Id.* Here, the provisional
2 certification of the proposed Classes for settlement purposes is warranted because
3 Plaintiffs satisfy all requirements set forth in Rule 23.

4 **A. The Proposed Settlement Classes Satisfy Rule 23(a)**

5 **1. Numerosity**

6 Numerosity is satisfied if “the class is so numerous that joinder of all members
7 is impracticable.” Fed. R. Civ. P. 23(a)(1). “Joinder need not be impossible, as long
8 as potential class members would suffer a strong litigation hardship or inconvenience
9 if joinder were required.” *Rannis v. Rechhia*, 380 Fed. Appx. 646, 651 (9th Cir. May
10 27, 2010). Numerosity is clearly established here as there are approximately 350,000
11 Settlement Class Members (as of a date before the mediation). Class Counsel Decl. ¶
12 23. Accordingly, because the Settlement Class Members are certainly too numerous
13 to join as plaintiffs, the numerosity requirement is met.

14 **2. Commonality**

15 Commonality is satisfied if “there are any questions of law or fact common to
16 the class.” Fed. R. Civ. P. 23(a)(2). The inquiry regarding commonality involves
17 whether Plaintiffs can show a common contention such that “determination of its
18 truth or falsity will resolve an issue that is central to the validity of each one of the
19 claims in one stroke.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). “The
20 existence of shared legal issues with divergent factual predicates is sufficient, as is a
21 common core of salient facts coupled with disparate legal remedies within the class.”
22 *Hanlon*, 150 F.3d at 1019. All Settlement Class Members suffered the same statutory
23 injury and assert claims depending on the same contention: that Defendant’s denial
24 letters were inadequate and that Defendant failed to provide all relevant records upon
25 request. *See Beaver v. Omni Hotels Mgmt. Corp.*, 2023 WL 6120685, at *5 (S.D. Cal.
26 2023). Thus, the commonality requirement is readily satisfied.

27 **3. Typicality**

Typicality is satisfied if the class representatives' claims or defenses are typical to those of the settlement class. Fed. R. Civ. P. 23(a)(3). The Ninth Circuit applies the typicality requirement liberally: "representative claims are typical if they are reasonably coextensive with those of absent class members; they need not be substantially identical." *Hanlon*, 150 F.3d at 1020. The "typicality" requirement is essential to ensure that the claims of the class representative is aligned with those of the class as a whole. *Wolin v. Jaguar Land Rover N.A., LLC*, 617 F.3D 1168, 1175 (9th Cir. 2010). Here, Plaintiffs' claims are typical to those of the absent Settlement Class Members because they are based upon materially similar facts and identical legal and remedial theories. *See Ellis v. Costco Wholesale Corp.*, 657 F.3d 970, 984 (9th Cir. 2011) (typicality exists when the class representative and the class are injured by the same course of conduct).

4. Adequacy

Adequacy is satisfied if the class representatives "will fairly and adequately protect the interests of the class." Fed. R. Civ. P. 23(a)(4). Two questions determine legal adequacy: "(1) do the named plaintiffs and their counsel have any conflicts of interest with other class members and (2) will the named plaintiffs and their counsel prosecute the action vigorously on behalf of the class?" *Hanlon*, 150 F.3d at 1020. Plaintiffs are adequate class representatives because they share the common goal to ensure Navy Federal meets its investigative obligations under the EFTA. *See e.g., Hoffman v. Dutch LLC*, 317 F.R.D. 566, 574 (S.D. Cal. 2016) (finding adequacy met where class representatives and members "share a common goal of protecting consumer's rights"). Neither Plaintiff harbors interests antagonistic to the interests of the Settlement Class. *See* Class Counsel Decl. ¶ 24. Plaintiffs have stayed abreast of the proceedings, attended the Early Neutral Evaluation, and if necessary, would sit for depositions and participate in discovery. *Id.* Further, Class Counsel are highly experienced consumer class action attorneys, have litigated many cases involving breach of contract and EFTA actions against financial institutions, and have

1 vigorously investigated and prosecuted this case since its inception. *Id.* ¶ 25.
2 Therefore, the adequacy requirement is satisfied.

3 **B. The Proposed Settlement Classes Satisfy Rule 23(b)(3)**

4 Class actions under Rule 23(b)(3) must also satisfy the “predominance” and
5 “superiority” requirements: (1) “the questions of law and fact common to class
6 members predominate over any questions affecting only individual members, and”
7 (2) “that a class action is superior to other available methods for fairly and efficiently
8 adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3). Plaintiffs satisfy both.

9 **1. Common Questions Predominate**

10 Predominance inquires “whether proposed classes are sufficiently cohesive to
11 warrant adjudication by representation.” *Hanlon*, 150 F.3d at 1022. Although
12 predominance is inherently related to commonality it that it assumes a prerequisite of
13 common issues of law and fact, “Rule 23(b)(3) focuses on the *relationship* between
14 the common and individual issues.” *Id.* Where the core question driving the litigation
15 “would require the separate adjudication of each class member’s individual claim or
16 defense, a Rule 23(b) action would be inappropriate.” *Zinser v. Accufix Research*
17 *Institute, Inc.*, 253 F.3d 1180, 1189 (9th Cir. 2001). But “[w]hen common questions
18 present a significant aspect of the case and they can be resolved for all members of
19 the class in a single adjudication, there is clear justification for handling the dispute
20 on a representative rather than on an individual basis.” *Hanlon*, 150 F.3d 1022. This
21 Court has found predominance satisfied where the “claims have the potential be
22 proven based upon Defendant’s uniform [] policy, without the need for
23 individualized proof.” *Greenley*, 2022 WL 3161908 at *4.

24 As to Plaintiffs’ EFTA claim, the predominant common question is whether
25 Navy Federal’s denial letters and procedures for providing documents upon request
26 violated the EFTA, which can be proven with common evidence, including the letters
27 themselves and Navy Federal’s procedures. *See Almon v. Conduent Bus. Servs., LLC*,
28 No. No. 5:19-cv-01075-XR, 2022 WL 4545530, at *15 (W.D. Tex. Sept. 28, 2022)

(finding predominance satisfied on EFTA claim because “individual inquiries are not necessary to determine whether an investigation was timely completed, whether a provisional credit was properly given, or whether or not Defendants timely provided a cardholder with their investigative documents”); *Shelby*, 2017 WL 6347090, at *4 (“Common factual and legal issues predominate because the single claim at issue here depends on Defendant's electronic withdrawal of funds from Class members’ accounts, and whether the EFTA permits that conduct.”). Predominance is met here.

2. A Class Action is the Superior Method of Adjudication.

Superiority examines whether the class action device “is superior to other available methods for fairly and efficiently adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3). In evaluating superiority, courts consider the following factors: “(A) the class members’ interests in individually controlling the prosecution or defense of separate actions; (B) the extent and nature of any litigation concerning the controversy already begun by or against class members; (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and (D) the likely difficulties in managing a class action.” *Id.* “Where recovery on an individual basis would be dwarfed by the cost of litigating on an individual basis, this factor weighs in favor of class certification.” *Wollin*, 617 F.3d at 1175-76. In the settlement context, manageability of the class action device is not a concern. *See Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997).

Because each Settlement Class Member’s claim is common to the class and relatively small in amount given the cap on statutory damages in the EFTA, a class action is the superior method for efficiently adjudicating Plaintiffs’ claims for statutory damages and injunctive relief.

VII. THE COURT SHOULD APPROVE THE PROPOSED CLASS NOTICE AND NOTICE PROGRAM

Rule 23(e) requires the trial court to “direct notice in a reasonable manner to all class members who would be bound by the proposal.” Fed. R. Civ. P. 23(e)(1).

1 Class notice must be “reasonably calculated to adequately apprise Class Members of
2 (a) the pending lawsuit, (b) the proposed settlement, and (c) their rights, including the
3 right to either participate in the settlement, exclude themselves from the settlement,
4 or object to the settlement.” *Morey*, 2013 WL 12069021 at *9. A class action
5 settlement notice is “satisfactory if it generally describes the terms of the settlement
6 in sufficient detail to alert those with adverse viewpoints to investigate and to come
7 forward and to be heard.” *Churchill*, 361 F.3d at 575. “However, Rule 23(e) ‘does
8 not require a detailed analysis of the statutes or causes of action forming the basis for
9 the plaintiff class’s claims, and it does not require an estimate of the potential value
10 of those claims.’” *In re Online DVD-Rental*, 779 F.3d at 946.

11 The content of the Email Notice, Postcard Notice, and Long Form Notice
12 provides sufficient information to meet these standards. *See* Agreement Exs. B–D.
13 Each Notice clearly and conspicuously describes: who is a Settlement Class Member;
14 the factual background of the litigation and the Parties; Settlement Class legal rights,
15 including to participate, opt out, or object, and deadlines for each option; the benefits
16 and details of the relief; the requested percentage of the value of the Settlement
17 Plaintiff will seek in attorneys’ fees and the Service Award amount; how to contact
18 the Settlement Administrator. *Id.*

19 The Long Form Notice uses a “frequently asked questions” format and
20 includes answers to questions such as, “How do I know if I’m a Member of the
21 Settlement Classes?”; “If I am a Settlement Class Member, What Are My Options?”;
22 and “If I Do Not Exclude Myself from the Settlement, What Claims Am I Giving
23 Up?” *See* Settlement Agreement, Exhibit D. This format constitutes adequate notice.
24 4 Newberg on Class Actions § 11:53, at p. 167 (4th ed. 2013) (“[N]otice is adequate
25 if it may be understood by the average class member.”).

26 Moreover, the method of providing Notice is adequate and reasonably likely
27 to ensure members of the Settlement Class apprised of the Settlement and given an
28 opportunity to be heard. Within sixty (60) calendar days after entry of the Preliminary

Approval Order, the Settlement Administrator will post and/or send Email Notice if Navy Federal has a valid email address, Postcard Notice if Navy Federal does not have a valid email address. The Long Form Notice will be available on the Settlement Website and upon request.

In addition, the Settlement Administrator will maintain a toll-free number and a Settlement Website where class members can obtain further information and copies of key documents. *See* Agreement at § 4.1.

Accordingly, both the procedure and content of the Notice constitutes the best notice practicable under the circumstances. *See In re Online DVD-Rental*, 779 F.3d at 946 (describing adequate notice); *See e.g., Morey*, 2013 WL 12069021 at *9 (finding that disseminating notice via methods including email, postcard, and a settlement website constituted proper forms and methods of notice).

VIII. THE COURT SHOULD APPOINT PLAINTIFFS AS CLASS REPRESENTATIVES AND PLAINTIFFS' COUNSEL AS CLASS COUNSEL FOR SETTLEMENT PURPOSES

Plaintiffs also request that the Court designate Plaintiffs Stephenson and Smith II as Class Representatives. As detailed above, Plaintiffs will fairly and adequately represent and protect the interests of the Settlement Classes.

Plaintiffs also seek to appoint Scott Edelsberg and Adam Schwartzbaum of Edelsberg Law, P.A.; Edwin E. Elliott of Shamis & Gentile, P.A.; and Sophia Gold and Jeffrey D. Kaliel of Kaliel Gold PLLC as Class Counsel for the Settlement Classes. In appointing Class Counsel pursuant to Rule 23(g), the Court “must consider: (i) the work counsel has done in identifying or investigating potential claims in the action; (ii) counsel’s experience in handling class actions, other complex litigation, and the types of claims asserted in the action; (iii) counsel’s knowledge of the applicable law; and (iv) the resources that counsel will commit to representing the class.” Fed. R. Civ. P. 23(g)(1)(A). Class Counsel is experienced and knowledgeable in complex consumer class action litigation and well-equipped to vigorously and efficiently represent the proposed Settlement Class. *See* Class Counsel Decl. ¶ 26.

Moreover, Class Counsel has expended a substantial amount of time investigating Navy Federal's handling of unauthorized electronic fund transfers disputed by members and researching the viability of Plaintiffs' claims. *Id.* Accordingly, the Court should appoint Class Counsel for the Settlement Classes.

IX. THE PROPOSED SETTLEMENT ADMINISTRATION SCHEDULE THROUGH FINAL APPROVAL HEARING

Based on the date of entry of the Preliminary Approval Order and the date the Court sets for the Final Approval Hearing, the following represents the Parties' anticipated Settlement-related deadlines:

Event	Date
Deadline for Navy Federal to provide Settlement Class List to Class Counsel and the Settlement Administrator	No later than 30 calendar days after entry of the Preliminary Approval Order
Deadline for commencing emailing and mailing of the Notice to Settlement Class Members and posting the Notice and Claim Form on the Settlement website (the "Notice Date")	No later than 60 calendar days after entry of the Preliminary Approval Order
Deadline for Plaintiffs to file application for attorneys' fees and expenses and Service Awards	30 calendar days after the Notice Date (up to 90 calendar days after entry of the Preliminary Approval Order)
Deadline for submitting of exclusion requests or objections	Postmarked no later than 45 calendar days after the Notice Date (up to 105 calendar days after entry of the Preliminary Approval Order)
Deadline for submitting Claim Forms	Postmarked or electronically filed no later than 60 calendar days after the Notice Date (up to 120 calendar days after entry of the Preliminary Approval Order)
Deadline for any response to any timely and valid objections and any supplemental brief re: final approval	70 days after the Notice Date (up to 130 calendar days after entry of the Preliminary Approval Order)
Deadline for Settlement Administrator to Submit Declaration Identifying Opt Outs and Confirming Compliance with Notice Plan	At least 10 days before Final Approval Hearing.
Final Approval Hearing	At least 5 months after entry of the Preliminary Approval Order

X. CONCLUSION

Plaintiffs respectfully request that the Court grant Plaintiffs' unopposed Motion and enter the proposed Preliminary Approval Order, attached to the Agreement as Exhibit E and submitted with this Motion.

1 Dated: July 22, 2025

Respectfully submitted,

2
3 /s/ Scott Edelsberg

4 Scott Edelsberg, Esq.
(CA Bar No. 330990)

5 Adam A. Schwartzbaum*

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15 **SHAMIS & GENTILE, P.A.**

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18 **Admitted Pro Hac Vice*

19 *Counsel for Plaintiffs and the*
20 *Proposed Class*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of July 2025, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record via transmission of Notice of Electronic Filing generated by CM/ECF.

Respectfully submitted,
/s/ Scott Edelsberg

Exhibit B2

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Counsel for Plaintiffs and Proposed Classes

10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 JEFFREY STEPHENSON and BILLY
13 SMITH II, individually, on behalf of
14 themselves and all others similarly
situated,

15 Plaintiffs,

16 v.

17 NAVY FEDERAL CREDIT UNION,

18 Defendant,

Case No.: 3:23-cv-01851-WQH-KSC

**DECLARATION OF CLASS
COUNSEL IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT
AND PROVISIONAL CLASS
CERTIFICATION**

Assigned to Hon. William Q. Hayes

Action Filed: October 10, 2023

1 We, Scott Edelsberg, Adam Schwartzbaum, Edwin Elliott, Sophia Gold and
2 Jeffrey Kaliel, declare as follows:

3 1. We are counsel of record for Plaintiffs and the proposed Class Counsel
4 for the Settlement Class in the above-captioned matter. We submit this declaration in
5 support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action
6 Settlement and Provisional Class Certification. Unless otherwise noted, we have
7 personal knowledge of the facts set forth in this declaration and could and would testify.

8 **Class Counsel Experience and Expertise**

9 2. Class Counsel are highly experienced in complex class action litigation,
10 including consumer disputes against financial institutions. Collectively, Class Counsel
11 has secured hundreds of millions of dollars on behalf of consumers because of their
12 efforts in evoking large-scale reform of unlawful and unfair business practices through
13 class action settlements reached with financial institutions nationwide. Counsel for
14 both Parties, as highly experienced trial attorneys and class counsel, are confident in
15 the terms of the Settlement after engaging in informed negotiations.

16 **KalielGold PLLC**

17 3. KalielGold PLLC ("KG") has extensive experience in consumer
18 protection class actions in both state and federal court and has represented
19 accountholders in hundreds of class actions against financial institutions.

20 4. Jeffrey Kaliel is a graduate of Yale Law School and a member of good
21 standing of the District of Columbia and State Bar of California. Sophia Gold is a
22 graduate of the University of California, Berkeley, School of Law and a member in
23 good standing of the District of Columbia Bar and the State Bar of California. Ms. Gold
24 and Mr. Kaliel have substantial experience with consumer class actions in both state
25 and federal courts. They have won contested motions for class certification; briefed,
26 argued, and overturned dispositive lower court rulings at the federal appellate level;
27 and worked extensively with economics and information technology experts to build

1 damages models. They have also successfully resolved numerous class actions by
2 settlement, resulting in hundreds of millions of dollars in relief for millions of class
3 members. KalieGold PLLC has extensive class action experience and has been
4 appointed as class counsel in numerous class actions in which courts have recognized
5 the firm’s expertise in the area of class action litigation in particular. *See, e.g., Hinton*
6 *v. Atlantic Union Bank*, No. 20-cv-00651 (E.D. Va.) (“Class Counsel’s expertise,
7 perseverance, and skill allowed them to obtain an excellent result for the Settlement
8 Class.”); *Kelly v. Community Bank*, No. 18-cv-00919 (N.D.N.Y.) (determining Class
9 Counsel to be “qualified, experienced, and able to conduct the litigation of this
10 Action”); *Gonzalez v. Banner Bank*, No. 20- cv-05151 (E.D. Wash.) (Class counsel
11 “were diligent in their representation of the Class”); *Lambert v. Navy Federal Credit*
12 *Union*, No. 19-cv-00103 (E.D. Va.) (Class Counsel’s “tenacity in the face of significant
13 risk and complexity allowed to achieve an outstanding recovery that provides
14 substantial benefits to Settlement Class Members.”); *Walters v. Target Corporation*,
15 No. 16-cv-01678 (S.D. Cal.) (“It is undisputed that Class Counsel achieved this result
16 through tenacity and skill in presenting novel and complex legal issues.”); *Figueroa v.*
17 *Capital One, N.A.*, No. 18-cv- 00692 (S.D. Cal.) (praising Class Counsel for the “very
18 positive result achieved for the class” in a case involving a “novel legal issue”); *White*
19 *v. Members 1st Credit Union*, No. 19-cv-00556 (M.D. Pa.) (finding Class Counsel to
20 be “highly trained in class action law and procedure” and noting their “ability to
21 negotiate the instant Settlement at the early stages of this litigation demonstrates their
22 high level of skill and efficiency”); *Perks v. Activehouse d/b/a Earnin*, No. 19-cv-
23 05543 (N.D. Cal.) (“Class Counsel have substantial experience in litigating and settling
24 consumer class actions.”). KG’s tenacity is frequently reflected in the results it achieves
25 for the classes it represents, especially in cases involving similar bank fees. *See, e.g.,*
26 *Roberts v. Capital One*, No. 16-cv-04841 (S.D.N.Y.) (\$17 million settlement approved
27 for the class); *Perks v. TD Bank*, Case No. 18-cv-11176 (S.D.N.Y) (\$41.5 million

1 settlement approved for the class); *Morris et al. v. Bank of America, N.A.*, No. 18-cv-
2 00157 (W.D.N.C.) (\$75 million settlement approved for the class). KG's experience is
3 further detailed in the firm's resume, attached hereto as **Exhibit 2**.

4 **Edelsberg Law**

5 5. Edelsberg Law is a rapidly growing class action law firm that, since its
6 2019 founding, has distinguished itself in the successful litigation and settlement of
7 hundreds of class actions. Edelsberg Law attorneys have served in important class
8 leadership positions providing relevant experience to be appointed Class Counsel here.
9 Scott Edelsberg has litigated class actions in state and federal courts across the country
10 and has extensive experience with multi-district litigation proceedings. He has
11 successfully obtained more than 10 contested class certification orders, defeated
12 dispositive motions, managed complex discovery involving large datasets, and
13 collaborated with leading experts in economics and information technology to develop
14 sophisticated damages models. His work has led to numerous favorable class-wide
15 settlements, securing millions of dollars in relief for consumers nationwide. Most
16 recently, Mr. Edelsberg and his team have secured notable settlements in the insurance
17 arena: *Volino*, No. 21 Civ. 6243, ECF No. 400 (S.D.N.Y. Mar. 7, 2025); (granting final
18 approval to class settlement securing \$48 million for class members, representing over
19 50% of their actual damages); *Brown*, No. 3:2021-cv-00175, ECF No. 246 (N.D. Ga.
20 Feb. 18, 2025) (granting final approval to class settlement secure \$43 million for class
21 members, representing nearly 40% of their actual damages); *South*, Nos. 19-cv-21760,
22 ECF No. 291 (Mar. 31, 2023) (granting final approval to class settlement secure \$38
23 million for class members); *Ubillus*, No. 19-000741-CK (Mich Cir. Ct. Nov. 21, 2024)
24 (granting final approval to class settlement secure \$61 million for class members).
25 Other representative matters include *Gattinella v. Michael Kors*, Case No. 1:14-cv-
26 05731 (S.D.N.Y. 2016) (class settlement for \$4.875 million); *Wildstein v. Seventh*
27 *Generation, Inc.*, Case No. 3:15-cv-00205 (N.D. Cal. 2016) (class settlement for \$4.75

million); and *Gottlieb v. CITGO Petroleum Corporation*, Case No. 9:16-cv-81911 (S.D. Fla. 2017) (class settlement for \$8.3 million). Mr. Schwartzbaum is an Edelsberg Law Partner and Chair of Litigation and has been involved in the leadership of several multidistrict litigations and other large, complex matters. As partner to co-lead counsel in the *In re Champlain Towers South Collapse Litigation*, No. 2021-015089-CA-01 (Fla. 11th Jud. Cir.), he was deeply involved in many significant aspects of that historic and shocking building collapse litigation which settled for over \$1.1 billion. Additionally, Mr. Schwartzbaum was a member of the team that handled the motions for class certification and summary judgment in *In re FieldTurf Artificial Turf Marketing & Sales Practice Litigation*, No. 3:17-md-2779 (MAS) (TJB) (D.N.J.), a multi-district litigation which recently settled after the district court granted plaintiffs' motion for certification of an issue class. As partner to co-lead counsel in *In re Erie Covid-19 Business Interruption Protection Insurance Litigation*, No. 1:21-mc-00001 (W.D. Pa.), Mr. Schwartzbaum worked as an ad hoc member of the steering committee to advance that multidistrict litigation for many years. Schwartzbaum also helped achieve a \$44 million settlement on behalf of Ponzi scheme victims. See *Gleinn v. Wassgren*, No. 8:20-cv-01677-MSS-CPT (M.D. Fla.). Mr. Schwartzbaum has been appointed class counsel in many class actions, including cases where he obtained class certification prior to settlement, and brings a wealth of trial and appellate court experience on both the plaintiff and defense sides. Edelsberg Law's experience is further detailed in the firm's resume, attached hereto as **Exhibit 3**.

Shamis & Gentile, P.A.

6. Edwin Elliott is a partner at Shamis & Gentile, P.A. where his practice focuses on high-level, consumer class actions. Mr. Elliott represents clients in federal and state courts across the nation in class actions involving consumer fraud, deceptive and unfair trade practices, predatory financial services, false advertising, digital

1 privacy, and complex insurance disputes. Mr. Elliott and Shamis & Gentile attorneys
2 are routinely certified class counsel which has resulted in many favorable class
3 settlements. Shamis & Gentile's extensive experience in civil litigation has helped
4 recover over 1 billion dollars for consumers and plaintiffs throughout the country
5 through their relentlessness, expertise, and calculated approach. Some of Shamis &
6 Gentile's successes include the following: *Jones v. Washington State Employee's*
7 *Credit Union*, No. 20-2-06596-5 (Wash. Super. Ct. (Pierce Cnty.) (\$2,400,000 Class
8 Settlement); *Soto-Melendez v. Banco Popular de Puerto Rico*, No. 3:20-cv-01057
9 (D.P.R.) (\$5,500,000 Class Settlement); *Bruin v. Bank of America, N.A.*, No. 3:22-cv-
10 140 (W.D.N.C.) (\$8,000,000 Class Settlement and cease assessing ACH First Party
11 Fees for five years); *Albrecht v. Oasis Power, LLC*, No. 1:18-cv-1061 (N.D. Ill.)
12 (\$7,000,000 Class Settlement); *DeFranks v. Nastygal.com USA Inc.*, No. 19-cv-23028-
13 DPG (S.D. Fla.) (\$4,025,000 Class Settlement); *South v. Progressive Select Ins. Co.*,
14 No. 19-cv-21760 (S.D. Fla.) (\$48,800,000.00 Class Settlement); *Dipuglia v. US*
15 *Coachways, Inc.*, No. 17-23006-Civ, 2018 U.S. Dist. LEXIS 72551 (S.D. Fla.)
16 (\$2,600,000 Class Settlement); *Eisenband v. Schumacher Automotive, Inc.*, No. 18-cv-
17 01061 (S.D. Fla.) (\$5,000,000 Class Settlement); *Gottlieb v. Citgo Corporation*, No.
18 16-cv-81911 (S.D. Fla.) (\$8,300,000 Class Settlement); *Jacques, et. al. v. Security*
19 *National Insurance Company*, No. CACE-19-002236 (Fla. 17th Cir. Ct.) (\$6,000,000
20 Class Settlement); *Volino v. Progressive Casualty Ins. Co.*, No. 1:21-cv-06243
21 (S.D.N.Y.) (\$48,000,000 Class Settlement); *Brown v. Progressive Mountain Ins. Co.*,
22 No. 3:21-cv-00175 (N.D. Ga.) (\$43,000,000 Class Settlement); *Sellers v. Bleacher*
23 *Report, Inc.*, No. 2024-003537-CA-01 (Fla. 11th Cir. Ct.) (\$4,800,000 Class
24 Settlement. Shamis & Gentile's experience is further detailed in the firm's resume,
25 attached hereto as **Exhibit 4**.

26 **Factual Background**

27 7. On October 10, 2023, Stephenson filed his putative class action complaint

1 in this Court against Navy Federal arising out of its handling of electronic fund transfers
2 disputed by members as unauthorized and/or fraudulent. The Complaint alleged claims
3 on behalf of a nationwide class for breach of contract, breach of the implied covenant
4 of good faith and fair dealing, violations of the EFTA, and violation of California's
5 Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 (the "UCL"). ECF. No. 1.
6 Stephenson filed his First Amended Complaint on January 22, 2024, in lieu of
7 responding to Defendant's motion to dismiss. ECF No. 17.

8 8. On February 21, 2024, Defendant filed a motion to dismiss the First
9 Amended Complaint under Rule 12(b)(6). ECF No. 19. After briefing, the Court
10 entered its order denying in part and granting in part Defendant's motion to dismiss,
11 allowing Plaintiffs' EFTA and breach of contract claims to proceed. ECF No. 25.
12 Plaintiffs filed their Second Amended Complaint (SAC), which added Smith II to the
13 Action; Defendant filed its answer to the SAC, asserting seven affirmative defenses.
14 ECF Nos. 28, 32.

15 9. The Parties began written discovery, which included the exchange of Rule
16 26(a)(1) initial disclosures, requests for production and interrogatories, engaging in
17 meet-and-confer conferences regarding the same, issuing third-party subpoenas, and
18 production of documents.

19 10. On December 11, 2024, the Parties participated in an Early Neutral
20 Evaluation with Magistrate Judge Karen S. Crawford, which did not result in
21 settlement. Then, on February 26, 2025, the Parties requested, and the Court granted a
22 stay of the case to allow the Parties to participation in a mediation to see if they could
23 resolve the case without further litigation. ECF. No. 54.

24 11. On June 4, 2025, the Parties attended a full-day in-person mediation
25 before retired Judge Diane M. Welsh—a well-respected mediator experienced in
26 mediating class actions alleging EFTA claims—which resulted in an agreement to the
27 material terms of this Settlement. Class Counsel Decl. On June 6, 2025, the Parties

1 notified the Court that they had reached an agreement to settle in principle on a class-
2 wide basis and stipulated to stay the case. ECF No. 55. The Parties then negotiated the
3 Agreement now pending preliminary approval, a copy of which is attached to this
4 declaration as **Exhibit 1**.

5 **Settlement**

6 12. Class Counsel believes that the contemplated benefits addressed below
7 adequately compensate the Settlement Classes for the claims they are releasing and, in
8 light of the risks of continued litigation, represent an excellent result for the Settlement
9 Classes.

10 13. Plaintiffs and Class Counsel have adequately and vigorously represented
11 the Settlement Classes throughout the 2.5-year litigation, which involved significant
12 formal and informal discovery, contentious motion practice, and settlement
13 negotiations with the assistance of a third-party neutral mediator.

14 14. Further, Plaintiffs, through their counsel, engaged in a lengthy,
15 independent investigation of their claims, as well as the potential claims of other
16 Settlement Class Members, to properly weigh the pros and cons of continued litigation
17 versus the proposed nationwide settlement of all claims for statutory damages.

18 15. Additionally, the entire settlement process was negotiated in good faith
19 and at arm's-length by highly knowledgeable counsel experienced in complex class
20 action litigation, including consumer disputes against financial institutions.

21 16. Class Counsel has not been paid for their extensive efforts or reimbursed
22 for litigation costs incurred over the last two and a half years.

23 17. The Parties did not discuss attorneys' fees and costs, nor any potential
24 service awards, until they first agreed on the material Settlement terms, including the
25 Settlement Class definitions, the Notice and Notice Program, the claims process and
26 Claim Form, benefits for Settlement Class Members, and scope of the Releases.

18. The risks in prosecuting a class action through trial and the potential delay in continuing to litigate this case also favors approval of the Settlement. Plaintiffs' claims would need to survive additional forthcoming motion practice, and they would have to succeed in certifying a class. Significant time and additional costs would be required for the Parties and the Court to complete discovery, brief and rule on class certification, participate in pre-trial proceedings, brief and rule on summary judgment, etc. And the Parties could appeal the Court's class certification and summary judgment decisions as well as any verdict at trial, which could take years to resolve and could result in reversal on appeal.

19. This risk is especially acute regarding claims for actual damages, which Navy Federal argued could never be certified due to a lack of predominance on the elements of breach and damages.

20. This Settlement does not release any Settlement Class Members' claims for actual damages based on Navy Federal's alleged improper denial of claims.

21. The Parties engaged in both formal and informal discovery prior to settling. This information included documents regarding Navy Federal's internal policies and practices on handling account-holders' claims of unauthorized or fraudulent transactions and efforts to comply with federal error resolution requirements; letters denying claims during the Class Period; each Plaintiff's transaction history; and the approximate number of accountholders whose claims were denied (a subset of which claim not to have received supporting documentation upon request).

22. The Parties aggressively litigated this case through contentious motion practice and settlement negotiations driven by the exchange of discovery, including with the assistance of a mediator.

23. Numerosity is clearly established here as there are approximately 350,000 Settlement Class Members (as of a date before the mediation).

24. Neither Plaintiff harbors interests antagonistic to the interests of the Settlement Class. Plaintiffs have stayed abreast of the proceedings, attended the Early Neutral Evaluation, and if necessary, would sit for depositions and participate in discovery.

25. Further, Class Counsel are highly experienced consumer class action attorneys, have litigated many cases involving breach of contract and EFTA actions against financial institutions, and have vigorously investigated and prosecuted this case since its inception.

26. Class Counsel is experienced and knowledgeable in complex consumer class action litigation and well-equipped to vigorously and efficiently represent the proposed Settlement Class. Moreover, Class Counsel has expended a substantial amount of time investigating Navy Federal's handling of unauthorized electronic fund transfers disputed by members and researching the viability of Plaintiffs' claims.

We declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 22nd day of July, 2025, at Oakland, California.

/s/ Sophia G. Gold

Sophia G. Gold

Executed this 22nd day of July, 2025, at Washington, D.C.

/s/ Jeffrey D. Kaliel

Jeffrey D. Kaniel

Executed this 22nd day of July, 2025, at Aventura, Florida.

/s/ *Scott A. Edelsberg*

Scott A. Edelsberg

1 Executed this 22nd day of July, 2025, at Miami, Florida.

2

3 /s/ Adam A. Schwartzbaum
4 Adam A. Schwartzbaum

5

6 Executed this 22nd day of July, 2025, at Miami, Florida.

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8 /s/ Edwin Elliott
9 Edwin Elliott

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of July 2025, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record via transmission of Notice of Electronic Filing generated by CM/ECF.

Respectfully submitted,
/s/ Scott Edelsberg

EXHIBIT 1

CLASS ACTION SETTLEMENT AGREEMENT

This Settlement Agreement and Release (the “Settlement Agreement” or “Agreement”)¹ is made and entered into this 16th day of July, 2025, by and among (1) Plaintiffs, Jeffrey Stephenson and Billy Smith II, individually and on behalf of the Settlement Class, and (2) Navy Federal Credit Union, subject to Preliminary Approval and Final Approval as required by the Federal Rules of Civil Procedure. As provided herein, Plaintiffs, Class Counsel, and Navy Federal hereby stipulate and agree that, in consideration of the promises and covenants set forth in this Agreement and upon entry by the Court of a Final Order and Judgment, all claims of the Settlement Class against Navy Federal in the action titled *Jeffrey Stephenson and Billy Smith II v. Navy Federal Credit Union*, S.D. Cal. Case No. 3:23-cv-01851-WQH-KSC (the “Action”), shall be settled and compromised upon the terms and conditions contained herein.

RECITALS

1. This putative class action was originally filed on October 10, 2023, in the United States District Court for the Southern District of California against Navy Federal alleging breach of contract, breach of the implied covenant of good faith and fair dealing, violations of the Electronic Funds Transfer Act, 15 U.S.C. § 1693 *et seq.* (the “EFTA”), and violation of California’s Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 (the “UCL”). Plaintiff Stephenson brought claims individually and on behalf of a nationwide class of credit union members arising from Navy Federal’s handling of electronic fund transfers disputed by members as unauthorized and/or fraudulent. *Stephenson, et al. v. Navy Federal Credit Union*, No. 3:2023-cv-01851, ECF No. 1 (S.D. Cal. Oct. 10, 2023) (the “Action”).

¹ All capitalized terms herein have the same meanings as those given to them in Section I below.

2. On February 21, 2024, Defendant filed a motion to dismiss under Rule 12(b)(6), arguing, *inter alia*, that Plaintiff Stephenson failed to state a claim upon which relief could be granted. *Id.* at ECF No. 19. Plaintiff Stephenson filed his opposition brief on March 22, 2024, (*id.* at ECF No. 22), and Defendant filed its reply brief on April 5, 2024 (*id.* at ECF No. 24).

3. On September 20, 2024, the Court largely denied Defendant's motion to dismiss. *Id.* at ECF No. 25. Specifically, the Court upheld the claim for violations of the EFTA and also upheld the breach of express contract claim. The Court granted the motion with respect to the UCL claim, with leave to amend. Plaintiff Stephenson opted not to amend the UCL claim.

4. On October 4, 2024, Plaintiffs Stephenson and Smith II filed the Second Amended Complaint to add Plaintiff Smith. *Id.* at ECF No. 28.

5. Defendant thereafter answered Plaintiffs' Second Amended Complaint on November 1, 2024, by denying the allegations generally and raising seven (7) affirmative defenses. *Id.* at ECF No. 32.

6. Thereafter, the Parties engaged in written discovery, which included the exchange of initial disclosures pursuant to Rule 26(a)(1), requests for production and interrogatories, meet-and-confer conferences regarding the same, third-party subpoenas, and the production of documents.

7. On December 11, 2024, the parties participated in an Early Neutral Evaluation with Magistrate Judge Karen S. Crawford, which did not result in settlement.

8. On February 26, 2025, the Parties requested a stay of the case in order for the Parties to mediate. ECF No. 54.

9. On June 4, 2025, the Parties engaged in an in-person mediation with JAMS neutral retired Judge Diane M. Welsh (Ret.), a respected mediator experienced in mediating class actions

alleging EFTA claims. With the assistance of Judge Welsh, the parties agreed to the material terms of Settlement, which they memorialized in a term sheet executed on June 6, 2025.

10. The Parties stipulated to stay the case and extend deadlines pending the mediation and the Court granted that stipulation on March 3, 2025. ECF No. 55.

11. The Parties now agree to settle the Action in its entirety, without any admission of liability, with respect to all Released Claims of the Releasing Parties. The Parties intend this Agreement to bind the Plaintiffs, Navy Federal, and all Settlement Class Members.

NOW, THEREFORE, in light of the foregoing, for good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties agree, subject to approval by the Court, as follows:

1. DEFINITIONS.

As used in this Settlement Agreement, the following terms have the meanings specified below:

1.1 “Account” means the account for which a Navy Federal member has made a claim of an unauthorized electronic fund transfer that was denied during the Class Period.

1.2 “Accountholder” means any person who has or had any interest, whether legal or equitable, in an Account during the Class Period and includes Current Accountholders and Former Accountholders.

1.3 “Action” means *Jeffrey Stephenson, et al. v. Navy Federal Credit Union*, Case No. 3:23-cv-01851, pending in the United States District Court for the Southern District of California.

1.4 “Approved Claim” means a Claim Form submitted by a Settlement Class Member that: (a) is submitted timely and in accordance with the directions on the Claim Form and the provisions of the Settlement Agreement; (b) is fully and truthfully completed by a Settlement Class

Member; (c) is signed by the Settlement Class Member, physically or electronically; and (d) is approved by the Settlement Administrator pursuant to the provisions of this Agreement.

1.5 “Claim Form” means the document substantially in the form attached hereto as Exhibit A, or as approved by the Court. The Claim Form, to be completed by Settlement Class Members who wish to file a claim for a payment, shall be available in electronic and paper format in the manner described below.

1.6 “Claims Deadline” means the date by which all Claim Forms must be postmarked or received to be considered timely. The Claims Deadline, proposed to the Court, shall be no later than sixty (60) days after the Notice Date. The Claims Deadline shall be clearly set forth in the Preliminary Approval Order as well as in the Notice and the Claim Form.

1.7 “Class Counsel” means:

EDELSBERG LAW, P.A.
Scott Edelsberg
Adam Schwartzbaum
1925 Century Park East, Suite 1700
Los Angeles, CA 90067

SHAMIS & GENTILE, P.A.
Edwin E. Elliott
14 NE 1st Avenue, Suite 705
Miami, FL 33132

KALIEL GOLD PLLC
Jeffrey D. Kaliei
Sophia Goren Gold
490 43rd Street, No. 122
Oakland, CA 94609

1.8 “Class Period” means the period beginning from October 10, 2022, to the date the Court enters the Preliminary Approval Order of the Settlement.

1.9 “Class Representatives” means the named Plaintiffs Jeffrey Stephenson and Billy Smith II.

1.10 “Court” means the United States District Court for the Southern District of California.

1.11 “Current Accountholder” means a Settlement Class Member who continues to have his or her Account or any other open account with Navy Federal as of the date that the Net Settlement Fund is distributed to Settlement Class Members pursuant to this Agreement.

1.12 “Defendant” or “Navy Federal” means Navy Federal Credit Union.

1.13 “Defendant’s Counsel” means Defendant’s counsel of record in the Action.

1.14 “Effective Date” means the 10th business day after which all of the following events have occurred;

(a) The Court has entered without material change the Final Approval Order and Final Judgment; and

(b) The time for seeking rehearing or appellate or other review has expired, and no appeal or petition for rehearing or review has been timely filed; or the Settlement is affirmed on appeal or review without material change, no other appeal or petition for rehearing or review is pending, and the time period during which further petition for hearing, review, appeal, or certiorari could be taken has finally expired and relief from a failure to file same is not available.

1.15 “EFTA Dispute” means each Settlement Class Member’s electronic funds transaction reported as unauthorized or fraudulent under Regulation E and denied by Defendant, and which allegedly supports a claim for violation of the Electronic Funds Transfer Act (“EFTA”), 15 U.S.C. §§ 1693, *et seq.*, and Regulation E of the EFTA, 12 C.F.R. §§1005.1, *et seq.*

1.16 “Email Notice” means a short form of notice that shall be sent by email to Class Members for whom Navy Federal has a valid email address in the form attached as Exhibit B. The Email Notice shall contain an electronic link to the Settlement Website where a Settlement Class

Member can access an online Claim Form pre-filled with the Settlement Class Member's unique claim ID, if possible.

1.17 "Escrow Account" means the escrow account established by the Settlement Administrator under terms acceptable to all Parties at a depository institution insured by the Federal Deposit Insurance Corporation to receive and maintain funds contributed on behalf of Defendant for the benefit of the Settlement Classes. The Escrow Account shall be maintained by the Settlement Administrator.

1.18 "Fee Award" means the amount of attorneys' fees and reimbursement of expenses awarded by the Court to Class Counsel, which will be paid out of the Settlement Fund.

1.19 "Final Approval" means the date that the Court enters an Order granting final approval to the Settlement, issues a final judgment, and determines the amount of attorneys' fees, costs, and expenses awarded to Class Counsel. The proposed Final Approval Order shall be in the form of Exhibit F. In the event that the Court issues separate orders addressing the foregoing matters, then Final Approval means the date of the last such orders.

1.20 "Final Approval Hearing" means the hearing set by the Court to determine the fairness of the Settlement and whether to approve its terms.

1.21 "Final Judgment" means the Final Approval Order and Judgment that the Court enters upon Final Approval, which shall be substantially in the form attached as Exhibit F. In the event that the Court issues separate Orders addressing the matters constituting Final Judgment, then the Final Judgment includes all such Orders.

1.22 "Former Accountholder" means a Settlement Class Member who no longer has his or her Account or any other Navy Federal checking or savings account as of the date that the Net Settlement Fund is distributed to Settlement Class Members pursuant to this Agreement.

1.23 “Long Form Notice” means the form of notice that shall be posted on the Settlement Website and shall be available to the Settlement Class by mail on request made to the Settlement Administrator in the form attached as Exhibit D.

1.24 “Net Settlement Fund” means the Settlement Fund, minus (a) Settlement Administration Costs and (b) Court-approved attorneys’ fees, costs, and expenses.

1.25 “Notice” means the notice of this proposed Class Action Settlement Agreement, which is to be sent to the Settlement Class substantially in the manner set forth in this Agreement, is consistent with the requirements of Due Process, Federal Rule of Civil Procedure 23, and is substantially in the form of Exhibit B (the “Email Notice”), Exhibit C (the “Postcard Notice”), and Exhibit D (the “Long Form Notice”) hereto as well as the processes of sending Notice set out in Section Four below (collectively, the “Notice Program”).

1.26 “Notice Date” means the date of no later than sixty (60) days following entry of the Preliminary Approval Order by which the Settlement Administrator must commence emailing and mailing of the Notice to Settlement Class Members.

1.27 “Objection/Exclusion Deadline” means the date by which a written objection to this Settlement Agreement or a request for exclusion submitted by a Person within the Settlement Class must be made, which shall be designated as a date no later than forty-five (45) days after the Notice Date, or such other date as ordered by the Court.

1.28 “Parties” means Plaintiffs and Navy Federal.

1.29 “Person” means a natural person, firm, association, organization, partnership, business, trust, limited liability company, corporation, or public entity.

1.30 “Plaintiffs” means Jeffrey Stephenson and Billy Smith II.

1.31 “Plaintiffs’ General Release” means that as of the Effective Date, Plaintiffs, and each of their successors, assigns, heirs, personal representatives, and all those who claim through them or who assert claims on each of their behalf, shall each be deemed to have, and by operation of the Final Approval Order and Judgment shall have, expressly released, waived, and relinquished any and all claims, demands, rights, liabilities, and causes of action each of them has or has ever had against any of the Released Parties, whether for economic damages, noneconomic damages, exemplary damages, penalties, restitution, injunctive or declaratory relief, interest, attorneys’ fees, costs, or any other forms of monetary or non-monetary relief in any way arising out of or relating to any facts, transactions, events, policies, occurrences, acts, disclosures, statements, omissions, or failures to act from the beginning of time to the date each of them signs this Agreement, including but not limited to any claims arising from or related to Navy Federal’s denial of their claims for reimbursement of unauthorized electronic fund transfers. This general release by Plaintiffs shall include all statutory claims, common law claims (including but not limited to those sounding in contract, tort, and equity), claims for compensation to the fullest extent permitted by law, and Unknown Claims (as defined in this Agreement). Plaintiffs each further agree not to sue or otherwise make a claim against any of the Released Parties for any of the claims that are released pursuant to this paragraph.

1.32 “Plan of Allocation” means the manner in which the Net Settlement Fund shall be allocated to Settlement Class Members, as specified in paragraph 2.1(b).

1.33 “Preliminary Approval” means the Court’s certification of the Settlement Class for settlement purposes, preliminary approval of this Settlement Agreement, and approval of the form and manner of the Notice.

1.34 “Preliminary Approval Order” means the order preliminarily approving the Settlement Agreement, certifying the Settlement Class for settlement purposes, and directing notice thereof to the Settlement Class, which will be agreed upon by the Parties and submitted to the Court in conjunction with Plaintiffs’ motion for preliminary approval of the Agreement, which shall be substantially in the form of Exhibit E.

1.35 “Postcard Notice” means the short form of notice that shall be sent by mail to Class Members for whom Navy Federal does not have an email address, or for whom the Settlement Administrator is unable to send Email Notice using the email address provided by Navy Federal, in the form attached as Exhibit C. The Claim Forms provided with Postcard Notice will be pre-filled with a unique claim ID and the Settlement Class Member name.

1.36 “Released Claims” means any and all claims to statutory damages or injunctive relief, regardless of legal basis and on account of any and all claims, suits, obligations, causes of action of every kind and/or nature, liabilities, rights, claims, actions, causes of action, and demands, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, based on contract, tort or any other theory, that result from, arise out of, are based upon, or relate to the conduct, omissions, duties or matters during the Class Period that were or could have been alleged in the Action. The Released Claims exclude any claims for actual damages based on or related to Navy Federal’s purported improper denial of a claim of unauthorized electronic transfer(s). Nothing herein is intended to release any claims any governmental agency or governmental actor may have against Defendant.

1.37 “Released Parties” means Defendant Navy Federal Credit Union, as well as any and all of its respective present or past or future heirs, executors, estates, administrators, predecessors, successors, assigns, parent companies, subsidiaries, licensors, licensees, associates,

affiliates, employers, employees, agents, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and companies, firms, trusts, and corporations.

1.38 “Releasing Parties” means Plaintiffs, those Settlement Class Members who do not timely opt out of the Settlement Class, and all of their respective present or past or future heirs, executors, estates, administrators, predecessors, successors, assigns, parent companies, subsidiaries, associates, affiliates, employers, employees, agents, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and companies, firms, trusts, and corporations.

1.39 “Service Award” means any Court-ordered payment to Plaintiffs for serving as Class Representatives.

1.40 “Settlement Administration Costs” means the costs and expenses incurred by the Settlement Administrator in providing Notice, processing claims, responding to inquiries from members of the Settlement Class, mailing checks for Approved Claims, and related services, including notices required by the Class Action Fairness Act. Navy Federal will pay Settlement Administration Costs separate and apart from payment of the Settlement Fund and payments to the Plaintiffs.

1.41 “Settlement Administrator” means Kroll Settlement Administration LLC (Kroll) or such other administration company that has been selected by the Parties and approved by the

Court to oversee the distribution of Notice, as well as the processing and payment of Approved Claims to the Settlement Class as set forth in this Agreement.

1.42 “Settlement Class” or “Settlement Classes” means the following:

(a) **Written Explanation Settlement Class.** All Accountholders whose claims of unauthorized electronic fund transfers were denied by Navy Federal Credit Union between October 10, 2022, and the date the Court grants preliminary approval of the Settlement.

(b) **Document Request Settlement Subclass.** All Accountholders in the Written Explanation Settlement Class who requested documents Navy Federal relied on in making its determination and who did not receive them.

1.43 “Settlement Class List” means the list of all Settlement Class Members and their email addresses (to the extent available) and last known postal addresses provided by Navy Federal to the Settlement Administrator for the purposes of disseminating Notice.

1.44 “Settlement Class Member” means any person who falls within the definition of the Settlement Classes as set forth above and who does not submit a valid request for exclusion.

1.45 “Settlement Class Member Payment” means the distribution that will be made from the Net Settlement Fund to each Settlement Class Member who files an Approved Claim by the Settlement Administrator, pursuant to the Plan of Allocation.

1.46 “Settlement Fund” means the amount of one million seven hundred thousand dollars (\$1,700,000.00 USD), which Defendant will be obligated to pay to the Settlement Administrator on behalf of the Settlement Classes, as described herein. From the Settlement Fund, the Settlement Administrator shall pay all Approved Claims made by Settlement Class Members and any Fee Award to Class Counsel.

1.47 “Settlement Website” means the website that the Settlement Administrator will use as a means for Settlement Class Members to obtain notice of and information about the Settlement, through and including hyperlinked access to this Agreement, the Long Form Notice, the Preliminary Approval Order, the Claim Form, and such other documents as the Parties agree to post or that the Court orders posted on the website. These documents shall remain on the Settlement Website at least until the Settlement Administrator has distributed the Net Settlement Fund. The URL of the Settlement Website shall be www.stephensoneftalitigation.com, or such other URL as Class Counsel and Navy Federal agree upon in writing.

1.48 “Unknown Claims” means claims that could have been raised in the Action arising out of or related to EFTA Dispute that Plaintiffs do not know or suspect to exist, which, if known by him or her, might affect their agreement to release the Released Parties or the Released Claims or might affect their decision to agree, object or not to object to the Settlement. Upon the Effective Date, the Plaintiffs shall be deemed to have, and shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Upon the Effective Date, Plaintiffs also shall be deemed to have, and shall have, waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable or equivalent to Section 1542 of the California Civil Code. Plaintiffs acknowledge that they may discover facts in addition to or different from those that they now know

or believe to be true with respect to the subject matter of this release, but that it is their intention to finally and forever settle and release the Released Claims, notwithstanding any Unknown Claims they may have, as that term is defined in this Paragraph.

2. SETTLEMENT RELIEF.

2.1 Payments to Settlement Class Members and Plaintiffs.

(a) **Monetary Payments.** Subject to approval by the Court, under the Settlement, the total monetary consideration to be provided by Navy Federal shall be \$1,720,000:

a) \$1,700,000 for settlement of the Settlement Class Member Claims, inclusive of the amount paid to Settlement Class Members, any and all attorneys' fees, costs, and expenses awarded to Class Counsel; b) \$5,000 to each Plaintiff in settlement of their individual claims (as further specified in paragraph 2.1(a)(i), below); and (c) \$5,000 to each Plaintiff as a Service Award approved by the Court. Except as otherwise specified in this Agreement, Navy Federal shall not be responsible for any other payments under this Agreement. In accordance with the timing specified in paragraph 2.1(c), Navy Federal shall: a) deposit into the Escrow Account \$1,700,000 minus the amount of the Settlement Class Member Payments to be credited to the accounts of Current Accountholders; and b) after receipt of W9s from each Plaintiff, credit each Plaintiff's Account in the amount of \$10,000. Distribution of any funds remaining from uncashed checks for those settlement class members without active Navy Federal accounts is set forth in paragraph 2.1(j).

- i. As part of the Settlement, Navy Federal agrees to pay each Plaintiff \$5,000 in exchange for their release of the individual claims against Navy Federal, including their claims for actual damages under the EFTA and for breach of contract, including the implied covenant of good faith and fair dealing. Payments for Plaintiff's individual claims will be paid separate from the

Settlement Fund through a credit to each Plaintiff's Account within thirty (30) days after the Effective Date.

(b) **Plan of Allocation.** Settlement Class Members shall have until the Claims Deadline to submit an Approved Claim. Each Settlement Class Member with an Approved Claim shall be entitled to a *pro rata* portion of the Net Settlement Fund, distributed by an electronic payment method approved by the Settlement Administrator or by check. Pursuant to the following Plan of Allocation, Settlement Class Members who are members of the Written Explanation Settlement Class will be assigned one (1) Approved Claim for purposes of allocating the Net Settlement Fund, while Settlement Class Members who are also members of the Document Request Settlement Subclass will be assigned two (2) Approved Claims for purposes of allocating the Net Settlement Fund. The value of each *pro rata* portion of the Net Settlement Fund will be calculated by dividing the total number of Approved Claims by the amount of the Net Settlement Fund.

- i. Members of the Written Explanation Settlement Class who timely submit a valid Claim Form, and whose class membership is confirmed by the Settlement Administrator, will be assigned one (1) Approved Claim for purposes of allocating the Net Settlement Fund.
- ii. Individuals who warrant they are members of the Document Request Settlement Subclass may indicate this fact by checking the appropriate box on the Claim Form. The Settlement Administrator will compile a list identifying all individuals who selected this option and will provide that list to Defendant within seven (7) days after the Claims Deadline. Defendant may, at its sole discretion, review its claim files to determine whether any of these

individuals are not, in fact, members of the Document Request Settlement Subclass. If Defendant determines that any individual is not a member of the Document Request Settlement Subclass, it must provide supporting documentation to the Settlement Administrator within twenty-one (21) days, who will review and confirm Defendant's determination. Settlement Class Members who are confirmed to be members of the Document Request Settlement Subclass will be assigned two (2) Approved Claims for purposes of allocating the Net Settlement Fund.

(c) **Settlement Payment Amount Chart.** Within five (5) business days of the Effective Date, the Settlement Administrator will provide Navy Federal with a chart of the payment amount for each Settlement Class Member Account. Within fifteen (15) business days of receipt, Navy Federal will identify the Former Accountholders for the Settlement Administrator and will wire to the Settlement Administrator an amount equal to \$1,700,000 minus the total amount of credits to Current Accountholders.

(d) **Distribution of Settlement Payments.** Within ten (10) business days of receipt of funds from Navy Federal, the Settlement Administrator will mail Settlement Class Member Payments to Former Accountholders via check and Navy Federal will credit accounts of Current Accountholders.

(e) **Credits.** Navy Federal will credit the Settlement Class Member Payments to accounts of Current Accountholders. If the Current Accountholder's Account is no longer open, Navy Federal will credit the Settlement Class Member Payment to any other open savings or checking account maintained by the Current Accountholder at the time of issuing the credit. Navy

Federal will bear any costs associated with implementing the credits and notification to the Settlement Administrator discussed in this paragraph.

(f) If by the deadline for Navy Federal to apply credits of Settlement Class Member Payments to Current Accountholders, Navy Federal is unable to complete certain credits, or it is not feasible or reasonable to make the payment by a credit, Navy Federal shall deliver the total amount of such unsuccessful Settlement Class Member Payment credits to the Settlement Administrator to be paid by check in accordance with paragraphs 2.1(g)-(h) below.

(g) **Checks.** Settlement Fund Payments will be made by check with an appropriate legend, in a form approved by Class Counsel and Navy Federal's counsel, to indicate that it is from the Settlement Fund. Checks will be cut and mailed by the Settlement Administrator and will be sent to the addresses that the Settlement Administrator identifies as valid. Checks shall be valid for ninety (90) days. For jointly held Accounts, checks will be payable to all Accountholders, and will be mailed to the first Accountholder listed on the Account.

(h) The Settlement Administrator will make reasonable efforts to locate the proper address for any intended recipient of Settlement Funds whose check is returned by the Postal Service as undeliverable (such as by running addresses of returned checks through the Lexis/Nexis database that can be used for such purpose), and will re-mail the check once to the updated address, or, in the case of a jointly held Account, and in the Settlement Administrator's discretion, to an Accountholder other than the one listed first. In the event of any complications arising in connection with the issuance or cashing of a check, the Settlement Administrator shall provide written notice to Class Counsel and Navy Federal's counsel. Absent specific instructions from Class Counsel and Navy Federal's counsel, the Settlement Administrator shall proceed to

resolve the dispute using its best practices and procedures to ensure that the funds are fairly and properly distributed to the person or persons who are entitled to receive them.

(i) **Residual Funds.** The amount of the Net Settlement Fund attributable to uncashed or returned checks sent by the Settlement Administrator (the “Residual Funds”) shall be held by the Settlement Administrator for thirty days after the checks become invalid in accordance with sub-paragraph (g) above. During this time, the Settlement Administrator shall make a reasonable effort to locate intended recipients of settlement funds whose checks were returned (such as by running addresses of returned checks through the Lexis/Nexis database that can be utilized for such purpose) to effectuate delivery of such checks. The Settlement Administrator shall make only one such additional attempt to identify updated addresses and re-mail or re-issue a distribution check to those for whom an updated address was obtained.

(j) **Residual Funds Distribution.** Any Residual Funds remaining after the Settlement Administrator completes the process described in the previous subparagraph (the “Remaining Residual Funds”) will be distributed as follows:

i. First, any Remaining Residual Funds will be payable to Navy Federal for the amount that it paid for Settlement Administrative Costs.

ii. Second, if any Residual Funds remain, the Settlement Administrator will distribute these funds to a *cy pres* recipient. The Parties shall identify the proposed *cy pres* recipient in the Motion for Final Approval and seek the Court’s approval. In the Motion for Final Approval, the Parties shall propose as a *cy pres* recipient an entity that works to promote financial literacy, including for members of the military or veterans.

(k) **Taxes.** If required under applicable law, IRS Forms 1099-MISC will be issued in connection with the payments under this Agreement. The payments will also be reported,

if required under applicable law, to any applicable state and local taxing authorities. The Parties acknowledge that no tax advice has been offered or given by any Party, their attorneys, agents, or any other representatives, in the course of these negotiations, and each Party is relying upon the advice of its own tax consultant with regard to any tax consequences that may arise as a result of the execution of this agreement. The Parties and their respective counsel have made no representation with respect to the tax treatment of any payment or transfer made under this Agreement to any Settlement Class Member. Each Class Representative and Settlement Class Member shall be solely responsible for the federal, state, and local tax consequences to him or her of the receipt of funds under this Agreement.

2.2 Injunctive Relief.

(a) **Prospective Relief.** As part of the Settlement, Navy Federal agrees to implement changes to its policies and procedures relating to the handling of claims concerning unauthorized electronic fund transfers. These changes will include revisions to the written explanation sent to members whose claims are denied and enhancements to the procedures for responding to member requests for documents in connection with such denials.

3. RELEASE.

3.1 The obligations incurred pursuant to this Settlement Agreement shall be a full and final disposition of the claims asserted in the Action and any and all Released Claims, as against all Released Parties.

3.2 Upon the Effective Date, the Releasing Parties and each of them, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Parties, and each of them.

3.3 Upon the Effective Date, the Plaintiffs shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever agreed to Plaintiffs' General Release.

3.4 Bar to Future Suits. Upon the Effective Date, and to the fullest extent permitted by law, each Settlement Class Member, shall, either directly, indirectly, representatively, or in any capacity, be permanently barred and enjoined from filing, commencing, prosecuting, intervening in, or participating (as a class member or otherwise) in any lawsuit, action, or other proceeding in any jurisdiction (other than participation in the Settlement as provided herein) against any Released Party based on the Released Claims.

4. NOTICE TO THE CLASS.

4.1 The Notice shall consist of the following:

(a) *Settlement Class List.* No later than thirty (30) days after Preliminary Approval, Defendant shall produce an electronic list from its records that includes the following information: a) Settlement Class Member Name; b) relationship of Settlement Class Member to each Account so the Settlement Administrator can determine which Settlement Class Member(s) are associated with each Account; c) email address(es) associated with each Account, if any; and d) mailing address(es) associated with each Settlement Class Member. This electronic document shall be called the “Settlement Class List,” and shall be provided to the Settlement Administrator. The Settlement Administrator shall not use the Settlement Class List, or any information contained within it, for any other purposes other than administering the settlement, and shall take reasonable measures to protect the information from any third-party disclosure.

(b) *Direct Notice.* The Settlement Administrator shall send Email Notice to all Class Members for whom it has an email address. For Settlement Class Members for whom the Settlement Administrator does not have an email address, the Settlement Administrator shall run the physical addresses through the National Change of Address Database and shall mail Postcard Notice to all such Settlement Class Members. The initial mailed Postcard and Email Notice shall be referred to as “Initial Mailed Notice.”

(c) The Notices shall include, among other information: a description of the material terms of the Settlement; a date by which Settlement Class Members may exclude themselves from, or opt out of, the Settlement Class; a date by which Settlement Class Members may object to the Settlement; the date on which the Final Approval Hearing is scheduled to occur; and the address of the Settlement Website at which Settlement Class Members may access this Agreement and other related documents and information. Class Counsel and Navy Federal shall work with the Settlement Administrator to insert the correct dates and deadlines in the Notice before the Notice Program commences, based upon those dates and deadlines set by the Court in the Preliminary Approval Order. Notices and publications provided under or as part of the Notice Program shall not bear or include the Navy Federal logo or trademarks or the return address of Navy Federal, or otherwise be styled to appear to originate from Navy Federal.

(d) The Long-Form Notice, which will be written in both English and Spanish, will be available on the Settlement Website and/or by mail upon a Settlement Class Member's request.

(e) The Settlement Administrator shall utilize best practices designed to avoid spam filters, blockers, or any tool designed to prevent receipt of e-mails, and to otherwise design and implement the sending of the e-mail to increase the likelihood that Email Notice will be successfully received into the e-mail inboxes of Settlement Class Members.

(f) *Notice Re-Mailing Process.* The Settlement Administrator shall perform reasonable address traces for all Postcard Notices that are returned as undeliverable. A reasonable tracing procedure would be to run addresses of returned postcards through the Lexis/Nexis database that can be used for such purpose. No later than thirty (30) days after the Notice Date, the Settlement Administrator shall complete one re-mailing of Postcard Notice to those Settlement

Class Members whose new addresses were identified as of that time through address traces or forwarding addresses on returned Postcard Notices (“Notice Re-Mailing Process”). The Settlement Administrator shall also send one Postcard Notice to all Settlement Class Members whose emails were returned as undeliverable and complete such Notice under the deadlines described herein as they relate to the Notice Re-Mailing Process.

(g) The Settlement Administrator shall send a second E-Mail Notice with a hyperlink to the Settlement Website, where a Settlement Class Member can access an electronic Claim Form pre-filled with the Settlement Class Member’s claim ID, if possible, to all Settlement Class Members who, according to the Settlement Administrator’s records, have not made a claim, requested to opt out, or made an objection. The second E-Mail Notice shall occur no later than thirty (30) days after the Notice Date.

(h) *Settlement Website.* On or before the Notice Date, Long Form Notice shall be provided on a website which shall be administered and maintained by the Settlement Administrator and shall include the ability to file Claim Forms on-line. The Long Form Notice provided on the Settlement Website shall be substantially in the form of **Exhibit D** hereto.

(i) *Toll-Free IVR Telephone System.* The Settlement Administrator shall maintain a toll-free IVR telephone system containing recorded answers to frequently asked questions. The recorded answers to frequently asked questions are to be agreed to by the Parties. In the event a Settlement Class Member has a question that is not addressed by the Parties in the frequently asked questions, the Settlement Administrator is to contact counsel for both Parties and a response will be agreed to by the Parties.

(j) *Contact from Class Counsel.* Class Counsel, in their capacity as counsel to Settlement Class Members, may from time-to-time contact Settlement Class Members to provide

information about the Settlement Agreement and to answer any questions Settlement Class Members may have about the Settlement Agreement. Defendant retains the right to communicate with and respond to inquiries from Settlement Class Members orally and/or in writing within the normal course of business, and the Defendant will instruct its employees and agents to direct inquiries about the Settlement to the Settlement Administrator and Settlement Website.

5. PROCEDURES FOR OPT-OUTS AND OBJECTIONS.

5.1 The Notice shall advise the Settlement Class of their rights, including the right to be excluded from and/or object to the Settlement Agreement or any of its terms. To be effective, any request for exclusion or objection to the Settlement must be mailed to the Settlement Administrator at the address provided in the Notice postmarked no later than the Objection/Exclusion Deadline approved by the Court and specified in the Notice.

5.2 Objections from Settlement Class Members. A Settlement Class Member who does not request exclusion but instead wishes to object to this Settlement may do so by submitting the objection to the Settlement Administrator in writing postmarked on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice. To object to the Settlement, a Person in the Settlement Class must timely send a written notice of intent to object to the Settlement Administrator as specified in the Notice, and it must include: (1) the name of the case and case number; (2) the objector's full name, address, telephone number, and e-mail address; (3) grounds for the objection, including any legal support,; (4) the name and contact information of any and all attorneys representing, advising, or in any way assisting the objector in connection with the preparation or submission of the objection or who may benefit from the pursuit of the objection (the "Objecting Attorneys"); (6) a statement indicating whether the objector intends to appear and/or address the Court at the Final Approval Hearing (either personally or through

counsel; and (6) the signature of the objector. No other person may sign on behalf of the objector, including an objector's attorney.

5.3 To the extent any Settlement Class Member objects to the Settlement, and such objection is overruled in whole or in part, such Settlement Class Member will be forever bound by the Final Order and Judgment of the Court. Settlement Class Members can avoid being bound by any judgment of the Court by complying with the exclusion provisions set forth herein.

5.4 The Settlement Administrator shall timely provide Class Counsel and Navy Federal a copy of any objections received by the Settlement Administrator.

5.5 Requests for Exclusion or Opt-Out. A Settlement Class Member may request to be excluded from the Settlement Class by sending a written request postmarked on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice. To exercise the right to be excluded, a Person in the Settlement Class must timely send a written request for exclusion to the Settlement Administrator as specified in the Notice, and must include: (1) the name of the case; (2) his/her full name; (3) current address; (4) an affirmative statement that he or she wishes to be excluded from the Settlement Class for purposes of this Settlement; and (6) his/her signature. The request for exclusion must be personally signed by the Person requesting exclusion. No other person may sign on behalf of the Person seeking exclusion, including the Person's attorney. So-called "mass" or "class" opt-outs shall not be allowed.

5.6 A request to be excluded that does not include all of this information, or that is sent to an address other than that designated in the Notice, or that is not postmarked within the time specified, shall be invalid, and the Person(s) serving such a request shall be a member(s) of the Settlement Class and shall be bound as a Settlement Class Member by this Agreement, if approved. Any member of the Settlement Class who validly elects to be excluded from this Agreement shall

not: (i) be bound by any orders or the Final Judgment; (ii) be entitled to relief under this Settlement Agreement; (iii) gain any rights by virtue of this Agreement; or (iv) be entitled to object to any aspect of this Agreement.

5.7 Any Settlement Class Member who does not timely and validly request to opt-out shall be bound by the terms of this Agreement. If an Account has more than one Accountholder, and if one Accountholder opts-out himself or herself from the Settlement Class, then all Accountholders on that Account shall be deemed to have opted-out of the Settlement with respect to that Account, and no Accountholder shall be entitled to a payment under the Settlement.

5.8 The Settlement Administrator shall promptly log and prepare a list of all Accountholders who properly requested exclusion from the Settlement Class and all other individuals with an interest in the Accounts who are deemed to have opted out and shall submit a declaration to the Court, which includes and attests to the accuracy of the opt-out list no later than ten (10) days prior to the Final Approval Hearing set by the Court.

5.9 The Final Approval Hearing shall be no earlier than five months after entry of the Preliminary Approval Order.

5.10 Any Settlement Class Member who does not, using the procedures set forth in this Agreement and the Notice, either seek exclusion from the Settlement Class or timely file a valid Claim Form shall not be entitled to receive any payment or benefits pursuant to this Agreement, but will otherwise be bound by all of the terms of this Agreement, including the terms of the Final Judgment to be entered in the Action and the Releases provided for in the Agreement, and will be barred from bringing any action against any of the Released Parties concerning the Released Claims.

6. SETTLEMENT ADMINISTRATION.

6.1 The Settlement Administrator shall, under the supervision of the Court, administer the relief provided by this Settlement Agreement by processing Claim Forms in a rational, responsive, cost effective, and timely manner. The Settlement Administrator shall maintain reasonably detailed records of its activities under this Agreement. The Settlement Administrator shall maintain all such records as are required by applicable law in accordance with its normal business practices and such records will be made available to Class Counsel and Defendant's Counsel upon request. The Settlement Administrator shall also provide reports and other information to the Court as the Court may require. The Settlement Administrator shall provide Class Counsel and Defendant's Counsel with information concerning Notice, administration, and implementation of the Settlement Agreement. Without limiting the foregoing, the duties of the Settlement Administrator, in addition to other responsibilities that are described in this paragraph and elsewhere in this Agreement, are as follows:

(a) Use the name, address, and email information for Settlement Class Members provided by Navy Federal in connection with the Notice process approved by the Court, for the purpose of mailing the Postcard Notice and sending the Email Notice, and later mailing distribution checks to Former Accountholder Settlement Class Members, and to Current Accountholders where it is not feasible or reasonable for Navy Federal to make the payment by a credit to the Settlement Class Members' Accounts or any other account they have with Navy Federal;

(b) Establish and maintain a Post Office box for the receipt of opt out requests and objections;

(c) Establish and maintain the Settlement Website;

(d) Establish and maintain an automated toll-free IVR line for Settlement Class Members to call with Settlement-related inquiries, and answer the frequently asked question of Settlement Class members who call with or otherwise communicate such inquiries, as described in paragraph 4.1(i);

(e) Respond to any mailed Settlement Class Member inquiries;

(f) Process all requests for exclusion from the Settlement Class;

(g) Process Claim Forms, as described herein, and determine whether each Claim Form submitted is valid;

(h) Provide weekly reports to Class Counsel and Defendant's Counsel that summarize the number of Claim Forms submitted, the number of Approved Claims, the total number of exclusion requests and/or objections received to date, and other pertinent information;

(i) Forward to Defendant's Counsel and Class Counsel the number of Claim Forms the Settlement Administrator found to be valid and copies of any Claim Forms found to be invalid as of the Claims Deadline. If the Settlement Administrator receives any Claim Forms after the Claims Deadline, it will forward them to Defendant's Counsel and Class Counsel on a rolling basis prior to the Final Approval Hearing;

(j) Receive requests to be excluded from the Settlement Class and other requests and promptly provide to Class Counsel and Defendant's Counsel copies thereof. If the Settlement Administrator receives any exclusion forms or other requests after the deadline for the submission of such forms and requests, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Defendant's Counsel;

(k) Provide weekly reports to Class Counsel and Defendant's Counsel, including without limitation, that summarize the number of requests for exclusion and/or

objections received that week, the total number of exclusion requests and/or objections received to date, the number of Claim Forms received, the number approved by the Settlement Administrator, and the categorization and description of Claim Forms rejected, in whole or in part, by the Settlement Administrator, and other pertinent information;

(l) In advance of the Final Approval Hearing, prepare a declaration to submit to the Court at least 10 days before the Final Approval Hearing confirming that the Notice Program was completed and that the Class Action Fairness Act notice requirements have been met, describing how the Notice Program, the process of Approved Claims, and the Plan of Allocation were completed, and providing the names of each Settlement Class Member who timely and properly opted out from the Settlement Class, as well as those Settlement Class Members who timely filed objections, and other information as may be necessary to allow the Parties to seek and obtain Final Approval;

(m) In accordance with the Plan of Allocation, provide Navy Federal with a chart of the payment amount for each Settlement Class Member Account;

(n) Perform all tax-related services for the Escrow Account as provided in the Agreement;

(o) Pay invoices, expenses, and costs upon approval by Class Counsel and Navy Federal, as provided in this Agreement;

(p) Make available for inspection by Class Counsel or Defendant's Counsel certain identified Claim Forms received by the Settlement Administrator upon reasonable notice; and

(q) Any other Settlement-administration-related function at the instruction of Class Counsel and Defendant's Counsel, including but not limited to, verifying that the Settlement Fund has been distributed.

6.2 The Settlement Administrator shall be obliged to employ reasonable procedures to screen claims for abuse or fraud and deny Claim Forms where there is evidence of abuse or fraud. The Settlement Administrator will reject any claim that does not comply in any material respect with the instructions on the Claim Form or the terms of Paragraph 2.1(b), above, or is submitted after the Claims Deadline.

6.3 Defendant's Counsel and Class Counsel shall have the right to challenge the acceptance or rejection of a Claim Form submitted by Settlement Class Members and to obtain and review supporting documentation relating to such Claim Form. The Settlement Administrator shall follow any agreed decisions of Class Counsel and Defendant's Counsel as to the validity of any disputed submitted Claim Form. To the extent Class Counsel and Defendant's Counsel are not able to agree on the disposition of a challenge, the disputed claim shall be submitted to the Honorable Diane M. Welsh of JAMS for binding determination.

6.4 In the exercise of its duties outlined in this Agreement, the Settlement Administrator shall have the right to reasonably request additional information from the Parties or any Settlement Class Member.

7. TERMINATION OF SETTLEMENT.

7.1 Subject to Paragraphs 10.1-10.4 below, Defendant or the Class Representatives on behalf of the Settlement Class, shall have the right to terminate this Agreement by providing written notice of the election to do so ("Termination Notice") to all other Parties hereto within twenty-one (21) days of any of the following events: (i) the Court's refusal to grant Preliminary Approval of this Agreement in any material respect; (ii) the Court's refusal to grant final approval

of this Agreement in any material respect; (iii) the Court's refusal to enter the Final Judgment in connection with the class action settlement in any material respect; (iv) the date upon which the Final Judgment is modified or reversed in any material respect by the Court of Appeals or the Supreme Court; (v) the date upon which an Alternative Judgment, as defined in Paragraph 10.1(d) of this Agreement, is modified or reversed in any material respect by the Court of Appeals or the Supreme Court.

7.2 The Parties agree that the Court's failure to approve, in whole or in part, the attorneys' fees payment to Class Counsel and/or the Service Award set forth in Section 9 below shall not prevent the Agreement from becoming effective, nor shall it be grounds for termination. The procedures for any application for approval of attorneys' fees, expenses, or Service Awards are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement.

8. PRELIMINARY APPROVAL ORDER AND FINAL APPROVAL ORDER.

8.1 Promptly after the execution of this Settlement Agreement and by any deadline set by the Court, Class Counsel shall submit this Agreement together with its Exhibits to the Court and shall move the Court for Preliminary Approval of the settlement set forth in this Agreement; certification of the Settlement Class for settlement purposes only; appointment of Class Counsel and the Class Representatives; and entry of a Preliminary Approval Order, which order shall set a Final Approval Hearing date and approve the Notice and Claim Form for dissemination substantially in the form of Exhibits A, B, C, and D hereto. Defendant shall have no obligation to make separate filings in support of the Motion for Preliminary Approval. The Preliminary Approval Order, which shall be substantially similar to Exhibit E, shall also authorize the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of the Settlement Agreement and its implementing documents (including all

exhibits to this Agreement) so long as they are consistent in all material respects with the terms of the Settlement Agreement and do not limit or impair the rights of the Settlement Class.

8.2 For Settlement purposes only, Plaintiffs and Navy Federal agree to ask the Court to certify the Written Explanation Settlement Class and the Document Request Settlement Subclass. Defendant retains all of its objections, arguments, and defenses with respect to class certification and any other issue, and reserves all rights to contest class certification and any other issue if the Settlement set out in this Agreement does not result in entry of the Final Approval Order and Final Judgment, if the Court's approval is reversed or vacated on appeal, if this Settlement is terminated as provided herein, or if the Settlement set forth in this Settlement otherwise fails to become effective. The Parties acknowledge that there has been no stipulation to any classes or certification of any classes for any purpose other than effectuating the Settlement, and that if the Settlement set forth in this Settlement Agreement is not finally approved, if the Court's approval is reversed or vacated on appeal, if this Settlement Agreement is terminated as provided herein, or if the Settlement set forth in this Settlement Agreement otherwise fails to become effective, this agreement as to certification of the Settlement Class becomes null and void ab initio, and this Settlement Agreement or any other settlement-related statement may not be cited regarding certification of the Class, or in support of an argument for certifying any class for any purpose related to the Actions or any other proceeding.

8.3 At the time of the submission of this Agreement to the Court as described above, Class Counsel shall request that, after Notice is given, the Court hold a Final Approval Hearing and approve the settlement of the Actions as set forth herein. At the Final Approval Hearing, the Court will hear argument on Plaintiffs' Motion for Final Approval of the Settlement, and on Class Counsel's application for attorneys' fees, costs, and expenses, and for the Service Award for the

Class Representatives. In the Court's discretion, the Court also will hear argument at the Final Approval Hearing from any Settlement Class Members (or their counsel) who object to the Settlement or to Class Counsel's application for attorneys' fees, costs, expenses, or the Service Awards application.

8.4 Class Counsel shall draft the final approval papers and send Navy Federal's counsel a draft of the papers to review and comment on at least three (3) court days before they are filed. The Final Approval Order and Final Judgment will (among other things):

(a) find that the Court has personal jurisdiction over all Settlement Class Members and that the Court has subject matter jurisdiction to approve the Agreement, including all exhibits thereto;

(b) approve the Settlement Agreement and the proposed settlement as fair, reasonable, and adequate as to, and in the best interests of, the Settlement Class Members; direct the Parties and their counsel to implement and consummate the Agreement according to its terms and provisions; and declare the Agreement to be binding on, and have *res judicata* and preclusive effect in all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and Releasing Parties;

(c) find that the Notice implemented pursuant to the Agreement (1) constitutes the best practicable notice under the circumstances; (2) constitutes notice that is reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of the Action, their right to object to or exclude themselves from the proposed Agreement, and to appear at the Final Approval Hearing; (3) is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice; and (4) meets all applicable requirements of applicable rules

of civil procedure, the Due Process Clause of the United States Constitution, and the rules of the Court;

(d) find that the Class Representatives and Class Counsel adequately represent the Settlement Class for purposes of entering into and implementing the Agreement;

(e) dismiss the remaining action (including all individual claims and Settlement Class claims presented thereby) on the merits and with prejudice, without fees or costs to any party except as provided in the Settlement Agreement;

(f) incorporate the Releases set forth above, make the Releases effective as of the date of the Effective Date, and forever discharge the Released Parties as set forth herein;

(g) permanently bar and enjoin all Settlement Class Members who have not been properly excluded from the Settlement Classes from filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in, any lawsuit or other action in any jurisdiction based on the Released Claims;

(h) without affecting the finality of the Final Judgment for purposes of appeal, retain jurisdiction as to all matters relating to administration, consummation, enforcement, and interpretation of the Settlement Agreement and the Final Judgment, and for any other necessary purpose; and

(i) incorporate any other provisions, as the Court deems necessary and just.

9. CLASS COUNSEL'S ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES; SERVICE AWARD.

9.1 Defendant agrees that Class Counsel shall be entitled to an award of reasonable attorneys' fees and costs out of the Settlement Fund in an amount determined by the Court as the Fee Award. Counsel will limit its petition for attorneys' fees to no more than one-third (33.33%) of the Settlement Value in addition to reasonable costs and expenses. Payment of the Fee Award

shall be made from the Settlement Fund and should the Court award less than the amount sought by Class Counsel, the difference in the amount sought and the amount ultimately awarded pursuant to this Paragraph shall remain in the Settlement Fund for distribution to eligible Settlement Class Members. Class Counsel's entitlement, if any, to a Fee Award will be determined by the Court. The Parties agree that the Court's failure to approve, in whole or in part, any award for attorneys' fees shall not prevent the Settlement Agreement from becoming Effective, nor shall it be grounds for termination. The terms of any such awards, fees, costs, or expenses were not negotiated until after all material elements of the Settlement were resolved, and the terms of this Settlement are not conditioned upon any attorneys' fee award.

9.2 All Court-approved attorneys' fees, costs, and expenses shall be payable from the Escrow Account by the Settlement Administrator to Class Counsel within fifteen (15) days of receipt of funds by Navy Federal.

9.3 Allocation. The payment of attorneys' fees, costs, and expenses of Class Counsel shall be made as designated by Class Counsel. After the fees, costs, and expenses have been paid, Class Counsel shall be solely responsible for distributing each Plaintiff's firm's allocated share of such fees, costs, and expenses to that firm. Navy Federal shall have no responsibility for any allocation, and no liability whatsoever to any person or entity claiming any share of the funds to be distributed for payment of attorneys' fees, costs, or expenses, or any other payments from the Settlement Fund not specifically described herein.

9.4 Class Counsel intends to file a motion for Court approval of an award of \$5,000 to each of the as Service Awards for their role as Class Representatives, to be paid by Defendant and separate from and addition to the Settlement Fund. These payments are in addition to any funds the Class Representative are otherwise eligible to receive from the Settlement if they submit valid

Claim Forms. The Class Representatives will seek no more than \$5,000.00 each as a Service Award. Such awards shall be paid separate from the Settlement Fund through a credit to each Plaintiff's Account within thirty (30) days after the Effective Date. The Parties agree that the Court's failure to approve the Service Award, in whole or in part, shall not prevent the Settlement Agreement from becoming Effective, nor shall it be grounds for termination.

10. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL, CANCELLATION OR TERMINATION.

10.1 Termination. This Settlement may be terminated by either Class Counsel or Navy Federal by serving on counsel for the opposing Party and filing with the Court a written notice of termination within fifteen (15) days (or such longer time as may be agreed in writing between Class Counsel and Navy Federal) after any of the following occurrences:

- (a) Class Counsel and Navy Federal agree to termination;
- (b) the Court rejects, materially modifies, materially amends or changes, or declines to preliminarily or finally approve the Settlement;
- (c) an appellate court vacates or reverses the Final Approval Order, and the Settlement is not reinstated and finally approved without material change by the Court on remand within three hundred and sixty (360) days after such reversal;
- (d) any court incorporates into, or deletes or strikes from, or modifies, amends, or changes, the Preliminary Approval Order, Final Approval Order, or the Settlement in a way that Class Counsel or Navy Federal seeking to terminate the Settlement reasonably considers material (entering an "Alternative Judgment");
- (e) the Effective Date does not occur; or
- (f) any other ground for termination provided for elsewhere in this Agreement.

10.2 Navy Federal also shall have the right to terminate the Settlement by serving on Class Counsel and filing with the Court a notice of termination within ten (10) business days after its receipt from the Settlement Administrator of any report indicating 15% or more of the Settlement Class Members timely requested exclusion.

10.3 Effect of a Termination. The grounds upon which this Agreement may be terminated are set forth herein above. In the event of a termination, this Agreement shall be considered null and void; all of Plaintiffs', Class Counsel's, and Navy Federal's obligations under the Settlement shall cease to be of any force and effect; any amounts in the Escrow Account shall be returned to Navy Federal; and the Parties shall return to the status quo ante in the Action as if the Parties had not entered into this Agreement. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement rights, claims, and defenses will be retained and preserved.

10.4 In the event of termination, Navy Federal shall have no right to seek reimbursement from Plaintiffs, Class Counsel, or the Settlement Administrator for Settlement Administration Costs paid by Navy Federal.

10.5 The Settlement shall become effective on the Effective Date unless earlier terminated in accordance with the provisions hereof.

10.6 Certification of the Settlement Class shall have no bearing in deciding whether the claims asserted in the Action are or were appropriate for class treatment in the absence of settlement. If this Agreement terminates or is nullified, the provisional class certification shall be vacated by its terms, and the Action shall revert to the status that existed before execution of this Settlement Agreement. Thereafter, Plaintiffs shall be free to pursue any claims available to them, and Navy Federal shall be free to assert any defenses available to it, including but not limited to,

denying the suitability of this case for class treatment. Nothing in this Agreement shall be argued or deemed to estop any Party from the assertion of such claims and defenses.

10.7 In the event the Settlement is terminated in accordance with the provisions of this Agreement, any discussions, offers, or negotiations associated with this Settlement shall not be discoverable or offered into evidence or used in the Action or any other action or proceeding for any purpose. In such event, all Parties to the Action shall stand in the same position as if this Agreement had not been negotiated, made, or filed with the Court.

11. NO ADMISSION OF LIABILITY

11.1 Navy Federal continues to dispute its liability for the claims alleged in the Action, and maintains that its practices and procedures related to its investigation and determination of claimed fraudulent electronic transfer(s), including explanations for denials and provision of documents to members upon request, complied, at all times, with applicable laws and regulations and the terms of the account agreements with its members. Navy Federal has agreed to enter into this Agreement to avoid the further expense, inconvenience, and distraction of burdensome and protracted litigation, and to be completely free of any further claims that were asserted or could possibly have been asserted in the Action.

11.2 Class Counsel believe that the claims asserted in the Action have merit, and they have examined and considered the benefits to be obtained under the proposed Settlement set forth in this Agreement, the risks associated with the continued prosecution of this complex, costly and time-consuming litigation, and the likelihood of success on the merits in the Action. Class Counsel fully investigated the facts and law relevant to the merits of the claims, conducted significant discovery, and conducted independent investigation of the challenged practices. Class Counsel concluded that the proposed Settlement set forth in this Agreement is fair, adequate, reasonable, and in the best interests of the Settlement Class members.

11.3 The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgement or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever.

11.4 Neither the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (a) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by the Plaintiffs or Settlement Class Members, or of any wrongdoing or liability of the Released Parties; or (b) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission of any of the Released Parties, in the Action or in any proceeding in any court, administrative agency, or other tribunal.

11.5 In addition to any other defenses Navy Federal may have at law, in equity, or otherwise, to the extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit or other proceeding that may be instituted, prosecuted or attempted in breach of this Agreement or the Releases contained herein.

12. NO PRESS RELEASE OR PUBLICITY

12.1 Each Party agrees not to make any statements, written or oral, or cause or encourage others to make any statements, written or oral, that defame, disparage or in any way criticize the personal or business reputation, or conduct of the other party, including affiliates, parents, direct and indirect subsidiaries, agents, insurers, and any company or companies under common control with any of them. Before entry of Final Judgment by the Court, neither Plaintiffs nor Class Counsel shall directly or indirectly issue or cause to be issued any statements to the media or

engage in any other press, publicity or disclosure regarding this Settlement Agreement or the settlement of the Action. If contacted by the media after the entry of Final Judgment by the Court, the Party may respond generally by stating that they are happy that the Settlement was reached and that it is a fair and reasonable result. No Party shall issue any press release or shall otherwise initiate press coverage of the Settlement.

13. MISCELLANEOUS PROVISIONS

13.1 Gender and Plurals. As used in this Agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

13.2 Binding Effect. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Releasing Parties and the Released Parties.

13.3 Cooperation of Parties. The Parties agree to cooperate in good faith to prepare and execute all documents, to seek Court approval, uphold Court approval, and do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

13.4 Obligation To Meet And Confer. Before filing any motion in the Court raising a dispute arising out of or related to the Agreement, the Parties shall consult with each other and certify to the Court that they have consulted.

13.5 Integration. The Agreement constitutes a single, integrated written contract expressing the entire agreement of the Parties relative to the subject matter hereof. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party hereto, except as provided for herein.

13.6 No Conflict Intended. Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

13.7 Governing Law. Except as otherwise provided herein, the Agreement shall be construed in accordance with, and be governed by, the laws of the State of Virginia, without regard to the principles thereof regarding choice of law.

13.8 Jurisdiction. The Court shall retain exclusive jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall also have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain exclusive jurisdiction with respect to the administration, consummation, and enforcement of the Agreement. The Court shall also retain exclusive jurisdiction over all questions and/or disputes related to the Notice Program and the Settlement Administrator. As part of the agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose. The Court shall retain exclusive jurisdiction over the enforcement of the Court's injunction barring and enjoining all Releasing Parties from asserting any of the Released Claims and from pursuing any Released Claims against Navy Federal or its affiliate at any time, including during any appeal from the Final Approval order.

13.9 Notices. All notices to Class Counsel provided for herein, shall be sent by email with a hard copy sent by overnight mail to:

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Email: nancythomas@dwt.com

Counsel for Navy Federal Credit Union

The notice recipients and addresses designated above may be changed by written notice. Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filings received as a result of the Notice program.

13.10 Modification and Amendment. This Agreement may not be amended or modified, except by a written instrument signed by Class Counsel and counsel for Navy Federal and, if the Settlement has been approved preliminarily by the Court, approved by the Court.

13.11 No Waiver. The waiver by any Party of any breach of this Agreement by another Party shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Agreement.

13.12 Authority. Class Counsel, and counsel for Navy Federal, represent and warrant that the persons signing this Agreement on their behalf have full power and authority to bind every person, partnership, corporation or entity included within the definitions of Plaintiffs and Navy Federal to all terms of this Agreement. Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.

13.13 Agreement Mutually Prepared. Neither Navy Federal nor Plaintiffs, nor any of them, shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

13.14 Independent Investigation and Decision to Settle. The Parties understand and acknowledge that they: (a) have performed an independent investigation of the allegations of fact and law made in connection with this Action; and (b) that even if they may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Action as reflected in this Agreement, that will not affect or in any respect limit the binding nature of this Agreement. It is the Parties' intention to resolve their disputes in connection with this Action pursuant to the terms of this Agreement now and thus, in furtherance of their intentions, the Agreement shall remain in full force and effect notwithstanding the discovery of any additional facts or law, or changes in law, and this Agreement shall not be subject to rescission or modification by reason of any changes or differences in fact or law, subsequently occurring or otherwise.

13.15 Settlement Purpose of Agreement. This Settlement Agreement is governed by the terms of Federal Rule of Evidence 408 and is for settlement purposes only, and neither the fact

of, nor any provision contained in this Settlement Agreement or any attachments, nor any action taken hereunder shall constitute, be construed as, or be admissible in evidence as, any admission of the validity of any claim, defense, or any fact alleged by any of the Parties in the Action or in any other pending or subsequently filed action or of any wrongdoing, fault, violation of law, or liability of any kind on the part of any Party, or admission by any Party of any claim, defense, or allegation made in the Action or any other action, nor as an admission by any of Navy Federal, Plaintiffs, or Settlement Class Members of the validity of any fact or defense asserted against them in the Action or any other action.

13.16 If the Court should for any reason fail to approve this Agreement in the form agreed to by the Parties, decline to enter the Settlement Order and Final Judgment in the form described in this Settlement Agreement, or impose any condition to approval of the settlement to which the Parties do not consent, or if the Final Approval Order or Final Judgment are reversed or rendered void, then (a) this Settlement Agreement shall be considered null and void, (b) neither this Settlement Agreement nor any of the related negotiations shall be of any force or effect, and (c) all Parties to this Settlement Agreement shall stand in the same position, without prejudice, as if the Settlement Agreement had been neither entered into nor filed with the Court. Invalidity of any portion of this Settlement Agreement shall invalidate this Settlement Agreement in its entirety unless the Parties agree in writing that the remaining provisions shall remain in full force and effect. This includes that the provisional certification of the Settlement Class shall have no bearing in deciding whether the claims asserted in the Action are or were appropriate for class treatment in the absence of settlement. If this Agreement terminates or is nullified, the provisional class certification shall be vacated by its terms, and the Action shall revert to the status that existed before the execution of this Settlement Agreement. Upon nullification of this Settlement

Agreement, Plaintiffs shall be free to pursue any claims available to them, and Navy Federal shall be free to assert any defenses available to it, including but not limited to, denying the suitability of this case for class treatment. Nothing in this Agreement shall be argued or deemed to estop any Party from asserting such claims or defenses. In the event the Court should for any reason fail to approve this Settlement Agreement in the form agreed to by the Parties, decline to enter the Final Approval Order or Final Judgment in the form described in this Settlement Agreement, or impose any condition to approval of the settlement to which the Parties do not consent, or if the Final Approval Order or Final Judgment are reversed or rendered void, the Parties will negotiate in good faith to address the issues raised by said events.

13.17 Assignment: Third Party Beneficiaries. None of the rights, commitments, or obligations recognized under this Settlement Agreement may be assigned by any member of the Settlement Class without the express written consent of the other Parties.

13.18 Receipt of Advice of Counsel. Each Party acknowledges, agrees, and specifically warrants that he, she, or it has fully read this Agreement and the Release contained herein, received independent legal advice with respect to the advisability of entering into this Agreement and the Release and the legal effects of this Agreement and the Release, and fully understands the effects of this Agreement and the Release.

13.19 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all Parties do not sign the same counterparts. Original signatures are not required. Any signature or electronic signature submitted through email of an Adobe PDF or through an electronic signature program such as DocuSign or Adobe Acrobat Sign shall be deemed an original.

IT IS SO AGREED TO BY THE PARTIES:Dated: July 18, 2025**JEFFREY STEPHENSON**

By: 
Jeffrey Stephenson (Jul 18, 2025 18:45 GMT+1)
Jeffrey Stephenson, individually and as
representative of the Class

Dated: July 16, 2025**BILLY SMITH II**

By: 
Billy Smith II (Jul 16, 2025 14:52 PDT)
Billy Smith II, individually and as
representative of the Class

Dated: July , 2025**NAVY FEDERAL CREDIT UNION**

By: _____

Name: _____

Title: _____

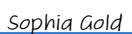
IT IS SO STIPULATED BY COUNSEL:Dated: July 11, 2025**EDELSBERG LAW, P.A.**

By: 
/s/
Scott Edelsberg

Dated: July 11, 2025**SHAMIS & GENTILE, P.A.**

By: 
/s/
Andrew J. Shamis

Dated: July 16, 2025**KALIEL GOLD PLLC**

By: 
/s/
Sophia Gold

Class Counsel

IT IS SO AGREED TO BY THE PARTIES:

Dated: July ____, 2025

JEFFREY STEPHENSON

By: _____
Jeffrey Stephenson, individually and as
representative of the Class

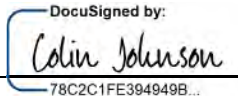
Dated: July ____, 2025

BILLY SMITH II

By: _____
Billy Smith II, individually and as
representative of the Class

Dated: July 16, 2025

NAVY FEDERAL CREDIT UNION

By:  _____
78C2C1FE394949B...

Name: _____ Colin Johnson

Title: _____ Associate General Counsel

IT IS SO STIPULATED BY COUNSEL:

Dated: July ____, 2025

EDELSBERG LAW, P.A.

By: /s/ _____
Scott Edelsberg

Dated: July ____, 2025

SHAMIS & GENTILE, P.A.

By: /s/ _____
Andrew J. Shamis

Dated: July ____, 2025

KALIEL GOLD PLLC

By: /s/ _____
Sophia Gold

Class Counsel

Dated: July 25, 2025

DAVIS WRIGHT TREMAINE LLP

By: /s/ Fred Burnside

Attorney for Defendant

SCHEDULE OF EXHIBITS

Exhibit	Name of Document
A	Settlement Claim Form
B	Email Notice
C	Postcard Notice
D	Long Form Notice
E	Proposed Preliminary Approval Order
F	Proposed Final Approval Order and Final Judgment

EXHIBIT A

EXHIBIT A**SETTLEMENT CLAIM FORM*****Stephenson, et al. v. Navy Federal Credit Union***

United States District Court for the Southern District of California

Case No. 3:2023-cv-01851

If you are a Settlement Class Member and wish to receive a payment, your completed Claim Form must be submitted online no later than [____], or postmarked on or before [____].

Please read the full notice of this settlement (available at www.stephensoneftlitigation.com) carefully before filling out this Claim Form.

ONLINE: Submit this Claim Form.

MAIL: [ADDRESS]

PART ONE: CLAIMANT INFORMATION

Provide your name and contact information below. It is your responsibility to notify the Settlement Administrator of any changes to your contact information after the submission of your Claim Form.

FIRST NAME**LAST NAME****STREET ADDRESS****CITY****STATE****ZIP CODE****EMAIL ADDRESS**

PART TWO: ATTESTATION UNDER PENALTY OF PERJURY

By signing this form, I attest that, to the best of my knowledge, the following information is true and correct: I submitted a claim of fraudulent transaction(s) on my Navy Federal account that was denied between October 10, 2022 and [Preliminarily Approval Date]. I certify that the information on this Claim Form is true and correct.

Check this box if you made a request to Navy Federal for the documents Navy Federal relied upon to deny your fraud claim but you did not receive the documents: ☐

SIGNATURE**DATE**

Please keep a copy of your Claim Form for your records.

EXHIBIT B

EXHIBIT B

To: <<Class Member Email>>

From: Settlement Administrator <xxxx@XXXXXXXXX.com>

Subject: Notice of Class Action Settlement

Unique ID: <<UniqueID>>

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Jeffrey Stephenson, et al. v. Navy Federal Credit Union

United States District Court for the Southern District of California

Case No. 3:23-CV-01851

If You Had an Account with Navy Federal Credit Union and Submitted a Claim for Unauthorized and/or Fraudulent Transactions That Was Denied Between October 10, 2022, and [Preliminary Approval Date], You May Be Entitled to a Payment from a Class Action Settlement.

A court authorized this notice. This is not a solicitation from a lawyer.

File a Claim Form [here](#) to be eligible.

IMPORTANT: You must file a claim for your potential payment by Month XX, 20YY.

What is this Notice About? The parties have reached a proposed settlement in a class action lawsuit in which Plaintiffs claim that Navy Federal Credit Union (Navy Federal) violated the Electronic Funds Transfer Act by: a) improperly denying claims by credit union members of unauthorized electronic fund transfer(s), b) failing to provide sufficient explanation regarding the basis for its denial; and c) failing to provide, upon request of a member, documents relied on in making its determination. Navy Federal denies that it did anything wrong, but it agreed to the Settlement to avoid the uncertainties and expenses associated with continuing the case. The Court has not decided which side is right. **This Settlement does not release any claims for actual damages based on or related to Navy Federal's purported improper denial of a claim of unauthorized electronic transfer(s).**

Am I a Settlement Class Member? Our records indicate you may be a Settlement Class member. Settlement Class members are all Accountholders whose claims of unauthorized electronic fund transfers were denied by Navy Federal between October 10, 2022, and [Preliminary Approval Date] (the "Written Explanation Settlement Class"). You may also be a member of the Document Request Settlement Subclass if you requested documents Navy Federal relied on in making its determination and did not receive them.

What are the Settlement Benefits? If approved by the Court, Navy Federal has agreed to provide \$1,700,000 ("Settlement Fund") to fund: (a) payments or account credits to Settlement Class Members who file a valid and timely Claim Form, and (b) any award of attorneys' fees, costs, and

expenses. Navy Federal has also agreed to pay Settlement Administration Costs and Service Awards to the Plaintiffs separate from the Settlement Fund. Settlement Administration Costs are subject to reimbursement in whole or in part if there are uncashed checks remaining after the initial payments and account credits to Settlement Class Members

In addition to this monetary relief, Navy Federal has also agreed to implement changes to its policies and procedures relating to the handling of claims concerning unauthorized electronic fund transfers, including changes to the written communications sent to members whose claims of unauthorized electronic fund transfer(s) are denied and enhancements to the procedures for responding to member requests for documents in connection with such denials.

How Do I Get a Payment? You must submit a timely and complete Claim Form **no later than [claims deadline]**. You can file a claim by clicking [[here](#)].

What are My Other Options? If you do not want to be legally bound by the Settlement, you must exclude yourself from the Class postmarked no later than [**objection/exclusion deadline**]. If you exclude yourself, you cannot get a settlement payment, but you keep any rights you may have to sue Navy Federal for the legal claims that are the subject of the lawsuit at your own expense. You and/or your lawyer have the right to appear before the Court and/or object to the proposed settlement, request for attorneys' fees & costs, or the Service Awards. Your written objection must be postmarked no later than [**objection/exclusion deadline**]. Specific instructions about how to object to, or exclude yourself from, the Settlement are available at www.stephensoneftalitigation.com.

If you do nothing, and if the Settlement becomes final, you will not be eligible for a Settlement Payment and you will give up your right to sue Navy Federal for the claims released by Settlement Class Members (see the next section below).

If I Do Not Exclude Myself, What Claims Am I Giving Up? Unless you exclude yourself from the Settlement by submitting a timely and valid request for exclusion, you are agreeing to stay in the Settlement Classes, and you give up any right to sue Navy Federal as part of any other lawsuit about the claims resolved in this Settlement. This means that on the Effective Date of the Settlement, you and related parties (the "**Releasing Parties**") shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all **Released Claims** against the **Released Parties**. The terms in bold are explained in the Settlement Agreement, which you can review by clicking [[here](#)].

Who Represents Me, How Will the Lawyers Be Paid, What Will the Plaintiffs Receive? The Court has appointed lawyers from the law firms of Edelsberg Law, P.A., Shamis & Gentile, P.A., and KalieGold PLLC to represent you. These attorneys are called Class Counsel. You will not be charged for these lawyers, they will be paid from the Settlement Fund. If you want to be represented by your own lawyer in this case, you may hire one at your own expense.

Class Counsel will be filing a motion seeking attorneys' fees of up to one-third of the value of the Settlement and reimbursement of litigation costs to be paid out of the Settlement Fund. The Court will determine how much Class Counsel will be paid for fees and expenses.

Class Counsel will also seek a Service Award for Plaintiff Stephenson and Plaintiff Smith as the Class Representatives in the amount of 5,000 each, subject to Court approval. The Service Award will be paid separate and apart from the Settlement Fund. It is intended to compensate the Class Representatives for the time spent participating in the lawsuit and prosecuting the legal claims for the benefit of the Settlement Classes

Navy Federal and the Plaintiffs have reached a settlement of the Plaintiffs' individual claims for actual damages. Under that settlement, Navy Federal will pay each Plaintiff \$5,000, to be paid separately from the Settlement Fund and separately from the Service Award.

When Will the Court Decide Whether to Approve the Settlement? The Court will hold the Final Approval Hearing at [a/p].m. on [Month 00], 2025 at the United States District Court for the Southern District of California, James M. Carter and Judith N. Kep United States Courthouse, 333 West Broadway, Courtroom 14B, San Diego, CA 92101. At that hearing, the Court will: consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will also decide whether to approve Class Counsel's request for attorneys' fees and costs; and decide whether to award the Class Representatives a Service Award.

How Do I Get More Information? For more information, including the full Notice, Claim Form and Settlement Agreement go to www.stephensoneftalitigation.com, contact the Settlement Administrator at 1-[]-[]-[] [address], or visit www.shamisgentile.com.

EXHIBIT C

Stephenson, et al. v. Navy Federal Credit Union
Settlement Administrator
PO Box XXXX
[City, State] xxx-xxxx

**BARCODE
NO-PRINT
ZONE**

FIRST-CLASS MAIL
U.S. POSTAGE
PAID
[city, state]
PERMIT NO. xxxx

Court-Approved Legal Notice

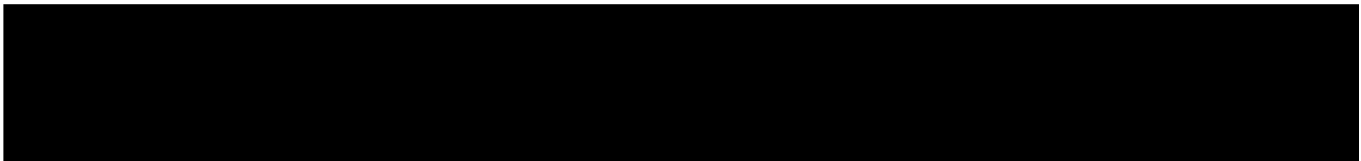
Stephenson, et al. v. Navy Federal Credit Union,
Case No. 3:23-CV-01851, United States District
Court for the Southern District of California

**If You Had an Account with Navy Federal
Credit Union and Submitted a Claim for
Unauthorized and/or Fraudulent
Transactions That Was Denied Between
October 10, 2022, and [Preliminary
Approval Date], You May Be Entitled to a
Payment from a Class Action Settlement.**

A Court has authorized this notice.

*This is **not** a solicitation from a lawyer.*

www.XXXXXXXXXXXXXX.com
1-XXX-XXX-XXXX



<<MAIL ID>>
<<NAME 1>>
<<NAME 2>>
<<ADDRESS LINE 1>>

<<ADDRESS LINE 2>>
<<ADDRESS LINE 3>>
<<ADDRESS LINE 4>>
<<ADDRESS LINE 5>>
<<CITY, STATE ZIP>>
<<COUNTRY>>

Complete and postmark the attached Claim Form by Month __, 20YY to be eligible to receive a payment. (Postage is prepaid)

What does the Settlement Provide? There is a proposed settlement a class action lawsuit alleging Navy Federal violated the Electronic Funds transfer Act by a) improperly denying credit union members' claims for unauthorized transactions, failing to provide sufficient explanation of the basis for its denial, and failing to provide, upon the member's request, documents it relied on in making its determination. If approved by the Court, Navy Federal will provide \$1,700,000 (the "Settlement Fund") for class member payments and any award of attorney's fees and costs. **This Settlement does not release any claims for actual damages related to Navy Federal's purported improper denial of a claim of unauthorized electronic fund transfer(s).**

Other Options. If you do not want to be bound by the Settlement, you must opt-out of the Settlement by **Month XX, 20YY**. If you do not opt-out, you and related parties will give up the right to sue and will release Navy Federal and the Released Parties from the Released Claims in the Action. If you do not opt out, you may object to the Settlement, attorneys' fees & costs request, and Service Awards by **Month XX, 20YY**. The Settlement Website explains how to opt-out or object. If you do nothing, you will get no payment, and you will be bound by the Settlement and any judgments and orders.

Who represents me? The Court has appointed lawyers from Edelsberg Law, P.A.; Shamis & Gentile, P.A.; and KalieGold PLLC to serve as Class Counsel. You do not have to pay them to participate. Instead, if they

recover money for the Settlement Class, the lawyers will ask the Court to be paid from the Settlement Fund. Visit www.stephensoneftalitigation.com to review the attorneys' fee & expense request.

The Court will hold a Final Approval Hearing on **Month XX, 20YY**, to consider whether to approve the Settlement, request for attorneys' fees and expenses, Service Awards, and any objections. You or your lawyer may attend and speak at the hearing, but you are not required to do so.

This notice is a summary. Learn more at www.stephensoneftalitigation.com, or contact the Administrator at 1-XXX-XXX-XXXX] or Class Counsel at www.shamisgentile.com.

<<UNIQUE ID>>

CLAIM FORM

Claims must be postmarked or submitted online by **Month Day, 20YY**.

First Name: <<NAME 1>>

Last Name: <<NAME 2>>

Mailing Address:

<<ADDRESS LINE 1>>

<<ADDRESS LINE 2>>

<<ADDRESS LINE 3>>

<<CITY, STATE ZIP>>

Please update your information below if it is different than above:

First Name:

[illegible]

MI:

Last Name:

[illegible]

Mailing Address:

[illegible]

City:

[illegible]

State:

ZIP Code:

By signing this form, I attest that, to the best of my knowledge, the following information is true and correct: I submitted a claim of fraudulent transaction(s) on my Navy Federal account that was denied between October 10, 2022, and [Preliminarily Approval Date]. I certify that the information on this Claim Form is true and correct.

Check this box if you made a request to Navy Federal for the documents Navy Federal relied upon to deny your fraud claim but you did not receive the documents: ☐

Signature:

Date:

**BARCODE
NO-PRINT
ZONE**

PREPAID
POSTAGE

*Stephenson, et al. v. Navy Federal Credit
Union*
Settlement Administrator
PO Box XXXX
[City, State] xxx-xxxx

EXHIBIT D

EXHIBIT D**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA*****Jeffrey Stephenson, et al. v. Navy Federal Credit Union*****Case No. 3:23-cv-01851****If You Had an Account with Navy Federal Credit Union and Submitted a Claim for Unauthorized and/or Fraudulent Transactions That Was Denied Between October 10, 2022, and [Preliminary Approval Date], You May Be Entitled to a Payment from a Class Action Settlement.****A court authorized this Notice. This is not a solicitation from a lawyer. You are not being sued.****PLEASE READ THIS NOTICE CAREFULLY**

There is a proposed settlement in the class action lawsuit *Jeffrey Stephenson, et al. v. Navy Federal Credit Union*, Case No. 3:23-cv-01851 (the “Class Action”), which claims that Navy Federal Credit Union (Navy Federal) violated the Electronic Funds Transfer Act (EFTA) by: a) improperly denying claims by credit union members of unauthorized electronic fund transfer(s), (b) failing to provide sufficient explanation regarding the basis for its denial, and (c) failing to provide, upon request by a member, documents relied on in making its determination. Navy Federal denies that it did anything wrong, but it agreed to the settlement to avoid the uncertainties and expenses associated with continuing the case. The Court has not decided which side is right.

Settlement Class Members will be eligible to receive a *pro rata* (meaning equal) portion of the Settlement Fund if they submit a valid and timely Claim Form. As part of the Settlement, Navy Federal agreed to implement changes to its policies and procedures relating to the handling of claims concerning unauthorized electronic fund transfers. **This Settlement does not release any claims for actual damages based on or related to Navy Federal’s purported improper denial of a claim of unauthorized electronic transfer(s).**

The Court will hold a Final Approval Hearing on **MONTH DD, 20YY**. The motion for final approval and motion for attorney’s fees and costs will posted on the Settlement Website by **MONTH DD, 20YY**.

**IF YOU ARE A SETTLEMENT CLASS MEMBER, YOUR LEGAL RIGHTS ARE AFFECTED
WHETHER YOU ACT OR DON’T ACT**

Your Legal Rights & Options		Deadline
Submit a Claim Form	- Stay in the Settlement Class - Submit a timely and valid Claim Form to be eligible for payment or account credit. - Be bound by the Settlement. - Give up any rights to sue Navy Federal separately for the claims resolved in the Settlement.	Submitted Online or Postmarked by: MONTH DD, 20YY
Exclude Yourself (Opt Out)	- Remove yourself from the Settlement Class - Get no Settlement Class Member Payment. - Keep your right to sue Navy Federal separately about the claims resolved in the Settlement.	Postmarked by: MONTH DD, 20YY
Object to the Settlement	- Stay in the Settlement but tell the Court why you don't agree with the Settlement, the request for attorneys' fees and costs, or the Service Awards to the Plaintiffs. - You will be bound by the Settlement if the Court approves it. - To object, you must submit a timely written objection.	Postmarked by: MONTH DD, 20YY
Do Nothing	- Get no Settlement Class Member Payment. - Stay in the Settlement Class. - Give up any rights to sue Navy Federal separately about the claims resolved in the Settlement.	

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court must decide whether to approve the Settlement, attorneys' fees, expenses and service awards. No Settlement benefits will be provided unless the Court approves the Settlement.

Call 1-**XXX-XXX-XXXX** toll free or visit www.stephensoneftallitigation.com for more information.

What Is a Class Action?

A class action is a lawsuit in which one or more individuals called Plaintiffs sue on behalf of other persons or entities who have similar legal claims. These persons or entities are referred to as a class or class members. In a class action, one Court resolves the issues, legal claims, and/or defenses for all class members in a single lawsuit, except for those persons or entities who ask in writing to be excluded from the class.

What Is this Lawsuit About?

Plaintiffs Jeffrey Stephenson and Billy Smith II allege that Navy Federal violated certain provisions of the EFTA and the Navy Federal Account Agreement by: improperly denying their claims of unauthorized electronic fund transfer(s); b) failing to provide sufficient written explanation regarding the basis for the denial; and (c) failing to provide, on request by them, the documents it relied on in denying their claims. The Second Amended Complaint in this Action is posted on the Settlement Website and contains the allegations and claims asserted against Navy Federal.

Navy Federal denies that it violated any law or did anything wrong but has agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of litigation. The Settlement is not an admission of wrongdoing. The Court has not determined who is right.

Plaintiffs filed this case as a proposed class action. When the parties reached this proposed Settlement, the Court had not decided whether the case could proceed as a class action.

What benefits does the Settlement provide?

Settlement Class Members are eligible for the following benefits:

Monetary Relief: Navy Federal has agreed provide \$1,700,000) (Settlement Fund)to fund (a) payments or Account credits to Settlement Class Members who file a valid and timely Claim Form, and (b) any award of attorneys' fees, costs, and expenses.

Other Payments. Navy Federal has also agreed to pay Settlement Administration Costs and Service Awards to the Plaintiffs separate and apart from the Settlement Fund. Settlement Administration Costs are subject to reimbursement in whole or in part if there are uncashed checks remaining after the initial payments and credits to Settlement Class Members.

Prospective Changes: In addition to this monetary relief, Navy Federal has agreed to implement changes to its policies and procedures relating to the handling of claims concerning unauthorized electronic fund transfers, including changes to the written communications sent to members whose claims of unauthorized electronic fund transfers) are denied and enhancements to the procedures for responding to member requests for documents in connection with such denials.

A detailed description of the settlement benefits can be found in the Settlement Agreement. [\[insert hyperlink\]](#)

How Do I Know if I'm a Member of the Settlement Classes?

If you received Notice of the Settlement from a postcard or email addressed to you, then the Parties believe you may be in the Settlement Classes.

You are a member of the Settlement Classes if you fall into one of these two categories:

(1) Written Explanation Settlement Class. All Accountholders whose claims of unauthorized electronic fund transfers were denied by Navy Federal Credit Union between October 10, 2022, and [\[insert Preliminary Approval Date\]](#).

(2) Document Request Settlement Subclass. All Accountholders in the Written Explanation Settlement Class who requested documents Navy Federal relied on in making its determination and who did not receive them.

If I Am a Settlement Class Member, What Are My Options?

If you are a Settlement Class Member, you have four options.

Option 1: Submit a Claim Form for Payment.

To be eligible for a payment or account credit, you must submit a timely and valid Claim Form. Settlement Class Members who submit timely and valid Claim Forms will receive a pro rata (meaning equal) portion

of the Settlement Fund, after the deduction of Court-approved attorneys' fees, costs, and expenses. You can submit a claim by signing the Claim Form you receive in the mail, carefully tearing at the perforation, and putting the Claim Form in the mail. You can call 1-XXX-XXX-XXXX to ask the Settlement Administrator to send you a Claim Form or visit www.stephensoneftalitigation.com to access and submit the Claim Form online.

If you submit a Claim Form in the mail, it must be postmarked no later than **[CLAIMS DEADLINE]** and mailed to:

Stephenson, et al. v. Navy Federal Credit Union
Settlement Administrator
[ADDRESS]

If the address you submit on your Claim Form changes, you must contact the Settlement Administrator to provide a current address or you may not receive your Settlement Class Member Payment if it's made by check instead of account credit.

You can also submit a Claim Form online at www.stephensoneftalitigation.com by entering your Claimant ID. Online Claim Forms must be submitted by 11:59pm EST on **[Date]**. Your Claimant ID can be found on the postcard and/or email notice you received.

If you submit a Claim Form, even if the Settlement Administrator finds the Claim Form is invalid, you are agreeing to stay in the Settlement Class and give up any right to sue Navy Federal as part of any other lawsuit about the claims resolved in the Settlement.

Option 2. Exclude yourself from the Settlement.

You have the right to not be part of the Settlement by excluding yourself or "opting out" of the Settlement Classes. If you wish to exclude yourself, you must do so on or before **[OBJECTION/EXCLUSION DEADLINE]** as described below. You do not need to hire your own lawyer to request exclusion from the Settlement Classes. If you exclude yourself from the Settlement Classes, you give up your right to receive any monetary benefits as part of this Settlement, and you will not be bound by any judgments or orders of the Court, whether favorable or unfavorable. However, you will keep any rights you may have to sue Navy Federal separately for the same legal claims that are the subject of this lawsuit at your own expense.

To exclude yourself from this lawsuit and/or preserve any right you may have to bring a separate lawsuit, you must make a request to be excluded in writing and, with sufficient postage, mail the request to:

Stephenson, et al. v. Navy Federal Credit Union
Settlement Administrator
[ADDRESS]

A request for exclusion must be postmarked on or before **[OBJECTION/EXCLUSION DEADLINE]**.

Your request for exclusion must contain the following:

1. The name of the case, *Stephenson v Navy Federal Credit Union*;
2. Your name and address;
3. A statement that you wish to be excluded from the Settlement Classes, such as: "I request exclusion from the Settlement"; and
4. Your signature.

If an Account has more than one Account Holder, and one Account Holder opts out, then all Account Holders on that Account will be deemed to have opted out of the Settlement with respect to that Account, and no Account Holder will be entitled to a payment or credit under the Settlement.

The Settlement Administrator will file your request for exclusion with the Court. A request for exclusion must be exercised individually and not on behalf of a group.

Option 3: Object to the Settlement.

The full terms of the Settlement can be found www.stephensoneftlitigation.com. If you think the terms of the Settlement, the requested attorneys' fees and expenses, and/or the Service Awards to the Plaintiffs and costs are not fair, not reasonable, or not adequate to the Settlement Class Members, you may submit a written objection. If you object to the terms of the Settlement, you cannot request exclusion from the Settlement. If you object to the terms of the Settlement you will still be bound by the terms of the Settlement and all rulings and orders from the Court.

To object to the terms of the Settlement, Class Counsel's request for attorney's fees and costs or Service Awards to the Plaintiffs, you must send a written objection postmarked by **DATE** to the following:

Stephenson, et al. v. Navy Federal Credit Union
Settlement Administrator
[ADDRESS]

The objection should include:

1. The name of the case;
2. Your name, address, telephone number, and email (if any);
3. Information identifying you as a Settlement Class Member;
4. A written statement of the grounds for the objection, including any legal support;
5. The name, address, bar number, email address, and telephone number of any lawyer who represents you related to your objection;
6. A statement advising whether you and/or your lawyer intend to appear and/or address the Court at the Final Approval Hearing; and
7. Your signature.

If you submit an objection and the Court approves the Settlement, you will be bound by any decisions and orders from the Court and by the terms of the Settlement. If you do not want to be bound by the decisions and rulings by the Court, you must file a request for exclusion and not an objection.

Option 4. Do Nothing Now. Stay in the Lawsuit.

You have the right to do nothing. If you do nothing, and if the Settlement becomes final, you will not be eligible for a Settlement Payment and you will give up your right to sue Navy Federal for the claims released by Settlement Class Members (see the next section below).

If I Do Not Exclude Myself from the Settlement, What Claims Am I Giving Up?

Unless you exclude yourself from the Settlement by submitting a timely and valid request for exclusion, you are agreeing to stay in the Settlement Classes and you give up any right to sue Navy Federal as part of any other lawsuit about the claims resolved in this Settlement. This means that on the Effective Date of the Settlement, you and related parties (the "**Releasing Parties**") shall be deemed to have, and by

operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all **Released Claims** against the **Released Parties**.

The **Releasing Parties** means Plaintiffs, those Settlement Class Members who do not timely opt out of the Settlement Class, and all of their respective present or past or future heirs, executors, estates, administrators, predecessors, successors, assigns, parent companies, subsidiaries, associates, affiliates, employers, employees, agents, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and companies, firms, trusts, and corporations.

The **Released Claims** means any and all claims to statutory damages or injunctive relief, regardless of legal basis and on account of any and all claims, suits, obligations, causes of action of every kind and/or nature, liabilities, rights, claims, actions, causes of action, and demands, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, based on contract, tort or any other theory, that result from, arise out of, are based upon, or relate to the conduct, omissions, duties or matters during the Class Period that were or could have been alleged in the Action. **The Released Claims exclude any claims for actual damages based on or related to Navy Federal's purported improper denial of a claim of unauthorized electronic transfer(s).** Nothing herein is intended to release any claims any governmental agency or governmental actor may have against Defendant

The **Released Parties** means Defendant Navy Federal Credit Union, as well as any and all of its respective present or past or future heirs, executors, estates, administrators, predecessors, successors, assigns, parent companies, subsidiaries, licensors, licensees, associates, affiliates, employers, employees, agents, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and companies, firms, trusts, and corporations.

Bar to Future Suits. Upon the Effective Date, and to the fullest extent permitted by law, each Settlement Class Member, shall, either directly, indirectly, representatively, or in any capacity, be permanently barred and enjoined from filing, commencing, prosecuting, intervening in, or participating (as a class member or otherwise) in any lawsuit, action, or other proceeding in any jurisdiction (other than participation in the Settlement as provided herein) against any Released Party based on the Released Claims.

Who Is Representing the Settlement Class Members, How Will the Lawyers Be Paid, and What Will the Plaintiffs Receive?

The Court has appointed lawyers from the law firms of Edelsberg Law, P.A., Shamis & Gentile, P.A., and KalielGold PLLC to represent you and the other Settlement Class Members. These attorneys are called Class Counsel. These lawyers are experienced in handling class action lawsuits, including actions on behalf of accountholders at financial institutions. More information about Class Counsel is available on their websites. They believe, after conducting an extensive investigation, that the Settlement Agreement is fair, reasonable, and in the best interests of the Settlement Class. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

Class Counsel will be filing a motion seeking attorneys' fees of up to one-third of the value of the Settlement and reimbursement of litigation costs to be paid out of the Settlement Fund. The Court will determine how much Class Counsel will be paid for fees and expenses.

Class Counsel will also seek a Service Award for Plaintiff Stephenson and Plaintiff Smith as the Class Representatives in the amount of \$5,000 each, subject to Court approval. The Service Award will be paid separately from the Settlement Fund. It is intended to compensate the Class Representatives for the time spent participating in the lawsuit and prosecuting the legal claims for the benefit of the Settlement Classes, and in exchange for a general release of any and all of the Plaintiffs' individual claims against the Released Parties.

Navy Federal and the Plaintiffs have also reached a settlement of the Plaintiffs' individual claims for actual damages. Under that settlement, Navy Federal will pay each Plaintiff \$5,000 total, to be paid separately from the Settlement Fund and separately from the Service Award.

When and Where will the Court Decide Whether to Approve the Settlement?

The Court will hold a **Final Approval Hearing** on **[HEARING DATE]**, at **[HEARING TIME]** EST at the United States District Court for the Southern District of California, James M. Carter and Judith N. Kep United States Courthouse, 333 West Broadway, Courtroom 14B, San Diego, CA 92101. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will also decide Class Counsel's application for attorneys' fees and expenses and the Class Representatives' application for Service Awards. We do not know how long these decisions will take. The Court may change the date or time of the Final Approval Hearing without further notice, so please check the Settlement Website for any changes.

Do I need to Attend the Final Approval Hearing?

No. Settlement Class Members are not required to attend the Final Approval Hearing, but you may attend and speak at the hearing if you wish. Class Counsel will answer any questions the Court may have at the Final Approval Hearing. However, you may come at your own expense if you would like to attend the hearing. You may also pay your own lawyer to attend, but it is not necessary.

If you submit a written objection, you do not have to come to the Court to talk about it. As long as you mailed your written objection on time and followed the instructions above, the Court will consider it.

How Do I Find Out More About This Lawsuit?

This Notice only summarizes the Settlement. The Settlement Agreement includes additional details. You can review or download a copy of the Settlement Agreement, the Claim Form, and other important documents from the Settlement website at www.stephensoneftallitigation.com. You can also call the Settlement Administrator toll-free at 1-XXX-XXX-XXXX or write to **[INSERT ADDRESS]**.

PLEASE DO NOT CONTACT THE COURT, THE CLERK OF THE COURT, NAVY FEDERAL, OR NAVY FEDERAL'S COUNSEL REGARDING THIS NOTICE.

EXHIBIT E

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JEFFREY STEPHENSON and BILLY SMITH II, individually, on behalf of himself and all others similarly situated,

Plaintiffs,

vs.

NAVY FEDERAL CREDIT UNION,

Defendant.

Case No. **3:23-CV-01851-WQH-KSC**

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Hon. William Q. Hayes
Hon. Karen S. Crawford

Before the Court is Plaintiffs' unopposed motion to grant preliminary approval of a proposed class action settlement and direct class notice in this action, the terms of which are set forth in a Class Action Settlement Agreement with accompanying exhibits (the "Agreement").¹

The Court has considered the Agreement, Plaintiffs' Motion for Preliminary Approval of Class Action Settlement and exhibits thereto, and all papers filed in support of the motion and the entire docket in this matter. Having fully considered the matter, pursuant to Federal Rule of Civil Procedure 23(e), it is hereby ORDERED that:

¹ All defined terms have the same meaning as set forth in the Agreement, which is attached to the Declaration of _____ as Exhibit ____ (ECF No. ____.)

1 1. The Court has jurisdiction over this action’s subject matter and has
2 personal jurisdiction over the Parties and the Settlement Class members defined and
3 described below.
4

5 **Preliminary Approval of Proposed Settlement**
6

7 2. Subject to the Final Approval Hearing and any objections lodged by
8 Settlement Class Members, the Court will likely be able to approve the Settlement as
9 set forth in the Agreement as fair, reasonable, adequate under Rule 23(e), including
10 the releases contained therein, the Claims process, and the proposed Plan of
11 Allocation described therein.
12

13 3. The Court further finds that the Settlement substantially fulfills the
14 purposes and objectives of the class action and provides beneficial relief to the
15 Settlement Classes, considering the risks and delay of continued litigation and all
16 other relevant factors. The Court finds the Settlement (a) is the result of arm’s-length
17 negotiations involving experienced counsel, with the assistance of a neutral mediator;
18 (b) is sufficient to warrant notice of the Settlement and the Final Approval Hearing
19 to the Settlement Classes; and (c) preliminarily meets all applicable requirements of
20 law, including Federal Rule of Civil Procedure 23 and the Class Action Fairness Act
21 (“CAFA”), 28 U.S.C. § 1715, for settlement purposes only.
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Preliminary Certification of Settlement Classes

4. Under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure, and in accord with the Settlement Agreement and solely for purposes of Settlement, the Court preliminarily approves the following Settlement Classes:

Written Explanation Settlement Class. All Accountholders whose claims of unauthorized electronic fund transfers were denied by Navy Federal Credit Union between October 10, 2022, and the date the Court grants preliminary approval of the Settlement

Document Request Settlement Subclass. All Accountholders in the Written Explanation Settlement Class who requested documents Navy Federal relied on in making its determination and who did not receive them.

5. Excluded from the Settlement Classes are (1) any judge presiding over this Action and members of their families; and (2) Defendant, its subsidiaries, parent companies, successors, predecessors, and any entity in which Defendant or its parents have a controlling interest and their current or former officers, directors, agents, attorneys, and employees.

6. All persons who are members of the Settlement Classes and who do not submit a valid request for exclusion are referred to collectively as “Settlement Class Members” or individually as a “Settlement Class Member.”

7. For purposes of the settlement only, the Court preliminarily finds that the Settlement Classes satisfy the requirements of Rule 23(a) and (b)(3) in that: (1) the number of Settlement Class Members is so numerous that joinder is impracticable; (2) there are questions of law and fact common to the Settlement Class members; (3) the claims of the Class Representatives are typical of the claims of the

1 Settlement Class members; (4) the Class Representatives are adequate representatives
2 for the Settlement Class, and have retained experienced counsel to represent them;
3
4 (5) the questions of law and fact common to the Settlement Class members
5 predominate over any questions affecting any individual Settlement Class member;
6
7 and (6) a class action is superior to the other available methods for the fair and
8 efficient adjudication of the controversy.

9 8. The Court appoints Plaintiffs Jeffrey Stephenson and Billy Smith II as
10 Class Representatives for the Settlement Classes and the following counsel are hereby
11 appointed as Class Counsel for the Settlement Classes: Scott Edelsberg and Adam
12 Schwartzbaum of Edelsberg Law, P.A.; Edwin E. Elliott of Shamis & Gentile, P.A.;
13 and Sophia Gold and Jeffrey D. Kalien of Kalien Gold PLLC.
14
15

16 9. The Court preliminarily finds for purposes of settlement only that the
17 above attorneys are competent and capable of exercising the responsibilities of Class
18 Counsel, and that Plaintiffs and Class Counsel will adequately protect the interests of
19 the Settlement Classes within the meaning of Fed. R. Civ. P. 23(a)(4) and (g).
20

21 **Notice and Administration**

22 10. The Court approves Kroll Settlement Administration LLC (Kroll) as the
23 Settlement Administrator and directs Kroll to perform the functions and duties of the
24 Settlement Administrator set forth in the Settlement—including providing notice to
25 the Settlement Classes and effectuating the Notice Program—and to provide such
26
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1 other administration services as are reasonably necessary to facilitate the completion
2 of the Settlement.
3

4 11. The Court has carefully considered the forms and methods of notice to
5 the Settlement Classes as set forth in the Settlement. The Court finds the Notice
6 Program satisfies the requirements of due process and complies with Rule 23 of the
7 Federal Rules of Civil Procedure. Namely, the Notice Program described in Section
8 Four of the Settlement Agreement is reasonably calculated to apprise Settlement
9 Class members of the nature of this Action, the scope of the Settlement Classes, the
10 terms of the Settlement Agreement, the rights of Settlement Class members to submit
11 a claim, object to or opt out of the Settlement and the process for doing so, and the
12 date, time, and location of the Final Approval Hearing. The Court therefore approves
13 the Notice Program and directs the Parties and the Settlement Administrator to
14 proceed with providing notice to Settlement Class members pursuant to the terms of
15 the Settlement Agreement and this Order.
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20 12. The Court hereby approves the Notice Program and the form, content,
21 and requirements of the Notices annexed as exhibits to the Agreement.² The Court
22 finds the Notice Program fully satisfies the requirements of Federal Rule of Civil
23 Procedure 23 and due process, constitutes the best notice practicable under the
24

25
26 ² The Parties, by agreement, may revise the Notices in ways that are not material, or in ways that
27 are appropriate to update those documents for purposes of accuracy or formatting, consistent with
28 this Order.

1 circumstances, and shall constitute due and sufficient notice to all persons entitled
2 thereto.

3
4 13. The Settlement Administrator shall send the agreed-upon Notices to the
5 Settlement Class within sixty (60) calendar days following the entry of this Order (the
6 “Notice Date”) and will carry out all requirements of the Notice Program set out in
7 Section Four of the Agreement. The Settlement Administrator shall maintain the
8 Settlement Website to provide full information about the Settlement.
9

10
11 14. No later than 10 days before the Final Approval Hearing, Class Counsel
12 shall file with the Court a declaration executed by the Settlement Administrator
13 attesting to the timely completion of the Notice Program, describing how the Notice
14 Program and the Claim Form process were completed, and providing the names of
15 members of the Settlement Class who timely and properly opted out from the
16 Settlement Class, as well as those Settlement Class Members who timely filed
17 objections, and other information as may be necessary to allow the Parties to seek
18 and obtain Final Approval.
19
20

21 **Requests for Exclusion, Objections, and Appearances**

22
23 15. Any Settlement Class member who wishes to request to be excluded
24 from the Settlement must send a written request for exclusion to the Settlement
25 Administrator at the following address: *Stephenson, et al. v. Navy Federal* Settlement
26 Administrator, [address]. To be valid, the Request for Exclusion must be postmarked
27 on or before forty-five (45) days after the Notice Date; must include: the case name;
28

1 a statement indicating the Settlement Class member's desire to be excluded from the
2 Settlement Class, the Settlement Class member's name, current address, and
3 signature. If an Account has more than one Accountholder, and if one Accountholder
4 opts-out himself or herself from the Settlement Class, then all Accountholders on that
5 Account shall be deemed to have opted-out of the Settlement with respect to that
6 Account, and no Accountholder shall be entitled to a payment under the Settlement.
7

8
9 16. Settlement Class members who timely request exclusion from the
10 Settlement will relinquish their rights to benefits under the Settlement and will not
11 release any claims against Defendant.
12

13 17. If a request for exclusion is not postmarked on or before forty-five (45)
14 days after the Notice Date, it will be invalid and the Settlement Class Member will
15 be bound by the terms of the Settlement and the Final Approval Order and Final
16 Judgment even if the Settlement Class Member has previously initiated or
17 subsequently initiate individual litigation or any other proceedings against Defendant.
18
19 A Settlement Class member who does not file a timely request for exclusion shall be
20 bound by all subsequent proceedings, orders, and judgments in this Action.
21
22

23 18. The Settlement Administrator shall promptly provide counsel for all
24 Parties with copies of any request for exclusion.

25 19. Settlement Class Members have a right to object to approval of the
26 proposed Settlement, to the award of attorneys' fees and litigation expenses, or to the
27 Service Awards to the Class Representatives. Any Settlement Class Member who
28

1 wishes to do so must file with the Court a written statement (along with any
2 supporting papers), postmarked or filed on or before forty-five (45) days after the
3
4 Notice Date. To be valid, objections must contain materially the following
5 information: (i) the name of the Action, (ii) the objector's name, address, telephone
6 number, and e-mail address; (iii) grounds for the objection including any legal
7 support; (iv) the name and contact information of any attorneys representing,
8 advising, or assisting the objector in connection with the preparation or submission
9 of the objection or who may profit from the pursuit of the objection (the "Objecting
10 Attorneys"); (v) a statement advising whether the Settlement Class Member or his/her
11 attorney intends to appear and/or testify at the Final Approval Hearing; and (vi) the
12 objector's signature.
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16 20. Any Settlement Class Member who does not make an objection to the
17 Settlement in the manner provided herein or appear and state an objection at the Final
18 Approval Hearing shall be deemed to have waived and forfeited any and all rights he
19 or she may have to object, appear, present witness testimony, and/or submit evidence;
20 shall be precluded from seeking review of the Settlement by appeal or other means;
21 and shall be bound by all terms of the Settlement and by all proceedings, orders, and
22 judgments in the Action.
23
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25 **Final Approval Hearing**

26 21. The Court will hold a Final Approval Hearing on [date] at [time] at the
27 United States District Court for the Southern District of California, James M. Carter
28

1 and Judith N. Kep United States Courthouse, 333 West Broadway, Courtroom 14B,
2 San Diego, CA 92101, for the following purposes:

3
4 (a) to finally determine whether the applicable prerequisites for
5 settlement class action treatment under Federal Rules of Civil Procedure
6 23(a) and (b)(3) are met;

7
8 (b) to determine whether the Settlement is fair, reasonable, and adequate,
9 and should be granted final approval by the Court;

10
11 (c) to determine whether the Judgment as provided under the Settlement
12 Agreement should be entered dismissing the claims of the Settlement
13 Class Members with prejudice;

14
15 (d) to consider the application for an award of attorneys' fees and
16 litigation expenses of Class Counsel;

17
18 (e) to consider the application for service awards to the Settlement Class
19 Representatives; and

20 (g) to rule upon such other matters as the Court deems appropriate.

21 22. At least fifteen (15) days prior to the Exception/Exclusion Deadline,
22 Class Counsel shall file their motion for final approval and any application for
23 attorneys' fees, litigation expenses and Service Awards to the Class Representatives.
24 The Settlement Administrator is directed to post such fee petition to the Settlement
25 Website. At least fourteen days before the Final Approval Hearing, Class Counsel
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shall file any supplemental papers in support of Final Approval of the Settlement, including a response to any objections filed by Settlement Class Members, if any.

23. The Final Approval Hearing may be postponed, adjourned, transferred, or continued by order of the Court without further notice to the Settlement Classes, except that any postponement, rescheduling, continuation, or transfer shall be posted to the Settlement Website. At, or following the Final Approval Hearing, the Court may enter a Final Approval Order and Final Judgment in accordance with the Settlement Agreement that will adjudicate the rights of all Settlement Class Members.

24. For clarity, the deadlines the Parties and members of the Settlement Classes shall adhere to are as follows:

DEADLINES SUMMARY

Event	Date
Deadline for Navy Federal to provide Settlement Class List to Class Counsel and the Settlement Administrator	No later than 30 calendar days after entry of the Preliminary Approval Order
Deadline for commencing emailing and mailing of the Notice to Settlement Class Members and posting the Notice and Claim Form on the Settlement website (the "Notice Date")	No later than 60 calendar days after entry of the Preliminary Approval Order
Deadline for Plaintiffs to file application for attorneys' fees and expenses and Service Awards	30 calendar days after the Notice Date (up to 90 calendar days after entry of the Preliminary Approval Order)
Deadline for submitting of exclusion requests or objections	Postmarked no later than 45 calendar days after the Notice Date (up to 105 calendar days after entry of the Preliminary Approval Order)
Deadline for submitting Claim Forms	Postmarked or electronically filed no later than 60 calendar days after the Notice Date (up to 120 calendar days after entry of the Preliminary Approval Order)
Deadline for any response to any timely and valid objections and any supplemental brief re: final approval	70 days after the Notice Date (up to 130 calendar days after entry of the Preliminary Approval Order)

Deadline for Settlement Administrator to Submit Declaration Identifying Opt Outs and Confirming Compliance with Notice Plan	At least 10 days before Final Approval Hearing
Final Approval Hearing	At least 5 months after entry of the Preliminary Approval Order

25. Settlement Class Members do not need to appear at the Final Approval Hearing or take any other action to indicate their approval.

Further Matters

26. In order to protect its jurisdiction to consider the fairness of the Settlement and to enter a Final Approval order and Final Judgment having binding effect on all Settlement Class Members, the Court hereby enjoins all members of the Settlement Classes, and anyone who acts or purports to act on their behalf, from pursuing or continuing to pursue all other proceedings in any state or federal court or any other proceeding that seeks to address Releasing Parties' or any Settlement Class Member's rights or claims relating to, or arising out of, any of the Released Claims.

27. The Settlement does not constitute an admission, concession, or indication by the Parties of the validity of any claims or defenses in the Action or of any liability, fault, or wrongdoing of any kind by Defendant, which vigorously denies all the claims and allegations raised in the Action.

28. In the event that the Settlement is terminated under the terms of the Settlement Agreement, or if for any reason whatsoever the Settlement is not finally approved, is not upheld on appeal, or is otherwise terminated for any other reason, then: (i) the Settlement shall be null and void, including any provisions related to the

1 award of attorneys' fees and costs, shall have no further force and effect with respect
2 to any Party in this Action, and may not be referred to or used as evidence or for any
3 other purpose whatsoever in the Action or any other action or proceeding; (ii) all
4 negotiations, proceedings, documents prepared, and statements made in connection
5 therewith shall be without prejudice to any person or Party hereto, shall not be
6 deemed or construed to be an admission by any Party of any act, matter, or
7 proposition, and shall not be used in any manner of or for any purpose in any
8 subsequent proceeding in this Action or in any other action in any court or other
9 proceeding, provided, however, that the termination of the Settlement shall not shield
10 from subsequent discovery any factual information provided in connection with the
11 negotiation of this Settlement that would ordinarily be discoverable but for the
12 attempted settlement; (iii) this Order shall be vacated and of no further force or effect
13 whatsoever, as if it had never been entered; and (iv) any Party may elect to move the
14 Court to implement the provisions of this paragraph, and none of the non-moving
15 Parties (or their counsel) shall oppose any such motion.

21 29. The Court retains jurisdiction to consider all further matters arising out
22 of or connected with the Settlement. The Court may approve the Settlement, with
23 such modifications as may be agreed to by the Parties, if appropriate, without further
24 notice to the Settlement Classes.

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28 IT IS SO ORDERED.

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2 DATED:

3 Hon. William Q. Hayes
4 United States District Court Judge
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EXHIBIT F

1
2 **UNITED STATES DISTRICT COURT**
3 **SOUTHERN DISTRICT OF CALIFORNIA**
4

5 JEFFREY STEPHENSON and BILLY
6 SMITH II, individually, on behalf of
himself and all others similarly situated,

7 Plaintiffs,

8 vs.

9 NAVY FEDERAL CREDIT UNION,

10 Defendant.
11
12

Case No. **3:23-CV-01851-WQH-KSC**

**[PROPOSED] ORDER GRANTING
ORDER GRANTING FINAL
APPROVAL OF SETTLEMENT
AND ENTERING FINAL
JUDGMENT**

Hon. William Q. Hayes
Hon. Karen S. Crawford

Date: TBD
Time: TBD
Courtroom: 14B

13
14 Before the Court is Plaintiffs' unopposed motion to certify a settlement class,
15 grant final approval of the proposed class action settlement, and enter final judgment
16 in this action (Plaintiffs' Unopposed Motion) (ECF No. __), the terms of which are
17 set forth in a Settlement Agreement with accompanying exhibits.
18

19 On [REDACTED], 2025, the Court entered a Preliminary Approval Order. Among
20 other things, the Preliminary Approval Order (i) preliminarily approved the
21 Settlement; (ii) determined that, for purposes of the settlement only, the Action
22 should proceed as a class action pursuant to Rules 23(a) and 23(b)(3) of the Federal
23 Rules of Civil Procedure; (iii) appointed Plaintiffs as Class Representatives; (iv)
24 appointed as Class Counsel for the Settlement Classes: Scott Edelsberg and Adam
25 Schwartzbaum of Edelsberg Law, P.A.; Edwin E. Elliott of Shamis & Gentile, P.A.;
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1 and Sophia Gold and Jeffrey D. Kaliei of Kaliei Gold PLLC; (v) preliminarily
2 approved the form and manner of the Notice Program, the Claims process, and the
3 Plan of Allocation; and (vi) set a hearing date to consider Final Approval of the
4 Settlement. The Court has considered the Agreement, papers filed, and proceedings
5 held in connection with the Settlement, and all the other files, records, proceedings
6 in the Action, and arguments of counsel. Having fully considered the matter, the
7 Court GRANTS Plaintiffs' Motion under Federal Rule of Civil Procedure 23(e) as
8 follows:
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12 1. This Court has jurisdiction over the subject matter of the Action and over
13 all parties to the Action, including all Settlement Class Members.

14
15 2. This Order incorporates the definitions in the Settlement Agreement,
16 and all capitalized terms used in this Order have the same meanings as set forth in the
17 Settlement Agreement, unless otherwise defined herein.

18
19 3. **Class Certification for Settlement Purposes Only.** The Court
20 reaffirms its earlier findings that class certification is appropriate for settlement
21 purposes and hereby certifies the following Settlement Classes for purposes of
22 judgment on the Settlement only:
23

24 **Written Explanation Settlement Class.** All Accountholders whose
25 claims of unauthorized electronic fund transfers were denied by Navy
26 Federal Credit Union between October 10, 2022, and the date the Court
27 grants preliminary approval of the Settlement

28 **Document Request Settlement Subclass.** All Accountholders in the
Written Explanation Settlement Class who requested documents Navy
Federal relied on in making its determination and who did not receive
them.

1 4. Excluded from the Settlement Classes are (1) any judge presiding over
2 this Action and members of their families; and (2) Defendant, its subsidiaries, parent
3 companies, successors, predecessors, and any entity in which Defendant or its parents
4 have a controlling interest and their current or former officers, directors, agents,
5 attorneys, and employees and any member of the Settlement Class who submitted a
6 timely and valid request for exclusion.
7

9 5. **Final Settlement Approval.** The Settlement is in all respects fair,
10 reasonable, and adequate, including the releases, Claims process, and Plan of
11 Allocation. The Court makes final its preliminary findings that, for purposes of
12 settlement only, the Settlement satisfies the requirements of Rule 23.
13

14 6. In reaching this conclusion, the Court considered the complexity,
15 expense, and duration of the litigation, the Settlement Classes' reaction to the
16 Settlement, and the result achieved. The Agreement was the product of informed,
17 arms-length negotiations among competent, able counsel. The Settlement was made
18 based upon a record that is sufficiently developed to have enabled the Parties to
19 adequately evaluate and consider their positions.
20

21 7. The Settlement provides sufficient benefits to Settlement Class
22 Members in consideration of the maximum statutory damages set out in the
23 Electronic Funds Transfer Act. [In addition, there were no objections to the
24 Settlement, and there were a small number of opt-outs, indicating an overwhelming
25 positive reaction from the Settlement Class].
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1 8. The Claims process and Plan of Allocation are fair, reasonable, and
2 adequate.
3

4 9. **Class Notice.** The Settlement Administrator completed the delivery of
5 Notice to the Settlement Class according to the Agreement terms. This Notice was
6 the best notice practicable under the circumstances, and constituted due and sufficient
7 notice of the proceedings and matters set forth therein, to all persons entitled to notice.
8 The Notice and the Notice Program fully satisfied the requirements of due process,
9 Federal Rule of Civil Procedure 23, and all other applicable law and rules.
10
11

12 10. **Class Action Fairness Act Notice.** The Settlement Administrator
13 satisfied all notices and requirements of the Class Action Fairness Act of 2005
14 (CAFA), 28 U.S.C. § 1715. The Court has reviewed such notification and
15 accompanying materials and finds that the notification complies fully with the
16 applicable CAFA requirements. [No written objection or response to the Settlement
17 was filed by any federal or state official, including any recipient of the foregoing
18 notices. No federal or state official, including any recipient of the foregoing notices,
19 appeared or requested to appear at the Fairness Hearing.]
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23 11. **Class Representatives and Class Counsel.** The appointment of the
24 Plaintiffs Jeffrey Stephenson and Billy Smith II as Class Representatives is affirmed.
25

26 12. The appointment of Scott Edelsberg and Adam Schwartzbaum of
27 Edelsberg Law, P.A.; Edwin E. Elliott of Shamis & Gentile, P.A.; and Sophia Gold
28 and Jeffrey D. Kaliei of Kaliei Gold PLLC is affirmed.

1 13. The Class Representatives and Class Counsel have fairly and adequately
2 represented and will continue to adequately represent and protect the interests of
3 Settlement Class Members in connection with the Settlement.
4

5 14. **Opt Outs.** A list of the individuals who have opted out of the Settlement
6 is attached hereto as **Exhibit A**. Those individuals will not be bound by the Settlement
7 or the Releases contained therein.
8

9 15. **Implementation of Settlement.** Because the Court approves the
10 Settlement set forth in the Settlement Agreement as fair, reasonable, and adequate,
11 the Court authorizes and directs that the Parties and the Settlement Administrator
12 implement the Settlement according to the Agreement terms.
13

14 16. If, consistent with the Plan of Allocation set forth in the Settlement
15 Agreement, any Residual Funds remain after the first distribution, the Residual Funds
16 will reimburse Defendant for Settlement Administration Expenses. Any remaining
17 Residual Funds after reimbursing Defendant will go to an appropriate *cy pres*
18 recipient, either a consumer protection or financial services charity, to be decided by
19 the Court. All Parties to this Action, and all Settlement Class Members, are bound
20 by the Settlement as set forth in the Settlement Agreement and this Order.
21
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23

24 17. **Releases.** Upon the Effective Date, the Releasing Parties fully and
25 irrevocably release and forever discharge All Released Claims against the Released
26 Parties. The Released Claims are dismissed with prejudice and released regardless
27
28

1 of whether these claims are known or unknown, actual or contingent, liquidated or
2 unliquidated.
3

4 18. Upon the Effective Date, the Plaintiffs shall be deemed to have, and by
5 operation of the Final Judgment shall have, fully, finally, and forever agreed to
6 Plaintiffs' General Release.
7

8 19. **No Admissions.** Neither the Settlement Agreement, nor this Order, nor
9 the fact of the Settlement, is an admission or concession by Defendant or the Released
10 Parties of any fault, wrongdoing or liability whatsoever, or as an admission of the
11 appropriateness of class certification for trial or dispositive motion practice. This
12 Order is not a finding of the validity or invalidity of any of the claims asserted or
13 defenses raised in the Action. Nothing relating to the Settlement shall be offered or
14 received in evidence as an admission, concession, presumption or inference against
15 Defendant or the Released Parties in any proceeding, other than such proceedings as
16 may be necessary to consummate or enforce the Settlement Agreement or to support
17 a defense based on principles of res judicata, collateral estoppel, release, good faith
18 settlement, judgment bar or reduction, or any other theory of claim preclusion or issue
19 preclusion or similar defense.
20
21
22
23

24 20. **Continuing Jurisdiction.** The Court hereby retains and reserves
25 exclusive jurisdiction over: (a) implementation of this Settlement and any
26 distributions from the Settlement Fund; (b) the Action, until the Effective Date, and
27 until each and every act agreed to be performed by the Parties shall have been
28

1 performed pursuant to the terms and conditions of the Settlement Agreement,
2 including the exhibits appended thereto; and (c) all Parties, for the purpose of
3 enforcing and administering the Settlement.
4

5 21. In the event that the Effective Date of the Settlement Agreement, does
6 not occur, the Settlement shall be rendered null and void to the extent provided by
7 and in accordance with the Settlement Agreement, and this Order shall be vacated. In
8 such event, all orders entered and releases delivered in connection with the Settlement
9 shall be null and void and the Action shall return to its status immediately prior to
10 execution of the Settlement Agreement.
11

12 22. **Final Judgment.** Judgment shall be, and hereby is, entered dismissing
13 the Action with prejudice, on the merits, and without taxation of costs in favor of or
14 against any Party.
15

16 23. With the exception of those listed on Exhibit A, the Court adjudges that
17 the Class Representatives and all Settlement Class Members shall be bound by this
18 Final Approval Order.
19

20 24. There being no just reason for delay, the Clerk of Court is hereby
21 directed to enter final judgment forthwith pursuant to Rule 54(b) of the Federal Rules
22 of Civil Procedure.
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1 IT IS SO ORDERED.

2
3 DATED:

4 Hon. William Q. Hayes
United States District Court Judge

EXHIBIT 2



KALIELGOLD PLLC

KalielGold PLLC was founded in 2017 and is a 100% contingency Plaintiff-side law firm. Our attorneys have decades of combined experience and have secured hundreds of millions of dollars for their clients. Our firm's practice focuses on representing consumers in class action litigation and specifically on cases in the consumer financial services sector. In the four years since our firm was founded, our firm has been appointed lead counsel or co-lead counsel in numerous class action and putative class action lawsuits in state and federal courts nationwide including most recently in *Roberts v. Capital One*, No. 1:16-cv-04841 (S.D.N.Y.); *Walters v. Target Corp.*, No. 3:16-cv-00492 (S.D. Cal.); *Robinson v. First Hawaiian Bank*, Civil No.17-1-0167-01 GWBC (1st Cir. Haw.); *Liggio v. Apple Federal Credit Union*, No. 18-cv-01059 (E.D. Va.); *Morris et al. v. Bank of America, N.A.*, No. 3:18-cv-00157-RJC-DSC (W.D.N.C.); *Brooks et al. v. Canvas Credit Union*, 2019CV30516 (Dist. Ct. for Denver Cnty., Colo.); *Figueroa v. Capital One, N.A.*, Case No. 3:18-cv-00692-JM-BGS (S.D. Cal.); *White v. Members 1st Credit Union*, Case No. 1:19-cv-00556-JEJ (M.D. Pa.); *Plummer v. Centra Credit Union*, Case No. 03D01-1804-PL-001903 (Cnty. Of Bartholomew, Ind.); *Holt v. Community America Credit Union*, Case No. 4:19-cv-00629-FJG (W.D. Mo.); *Trinity Management v. Charles Puckett*, Case No. GCG-17-558960 (Super. Ct., San Francisco Cnty, Cal.); *Martin v. Le^oN Federal Credit Union*, No. 19-CI-022873 (Jefferson Cir. Ct., Div. One); *Clark v. Hills Bank and Trust Company*, No. LACV080753 (Iowa Dist. Ct. Johnson Cnty.); *Morris v. Provident Credit Union*, Case No. CGC-19-581616 (Super. Ct., San Francisco Cnty., Cal.).

As shown in the biographies of our attorneys and the list of class counsel appointments, Kaliel Gold PLLC is well versed in class action litigation and zealously advocates for its clients. To learn more about Kaliel Gold PLLC, or any of the firm's attorneys, please visit www.kalielgold.com.



JEFFREY D. KALIEL

Jeffrey Kaliel earned his law degree from Yale Law School in 2005. He graduated from Amherst College summa cum laude in 2000 with a degree in Political Science, and spent one year studying Philosophy at Cambridge University, England.

Over the last 10 years, Jeff has built substantial class action experience. He has received "Washington D.C. Rising Stars Super Lawyers 2015" recognition.

Jeff has been appointed lead Class Counsel in numerous nationwide and state-specific class actions. In those cases, Jeff has won contested class certification motions, defended dispositive motions, engaged in data-intensive discovery and worked extensively with economics and information technology experts to build damages models. Jeff has also successfully resolved numerous class actions by settlement, resulting in hundreds of millions of dollars in relief for millions of class members.

Currently Jeff is actively litigating several national class action cases, including actions against financial services entities and other entities involved in predatory lending and financial services targeting America's most vulnerable populations.

Jeff's class action successes extend beyond financial services litigation. He seeks to lead cases that serve the public interest. Jeff has worked with nonprofits such as the Humane Society, Compassion Over Killing, and the National Consumers League to fight for truth in the marketplace on food and animal products.

Jeff has over a decade of experience in high-stakes litigation. He was in the Honors Program at the Department of Homeland Security, where he worked on the Department's appellate litigation. Jeff also helped investigate the DHS response to Hurricane Katrina in preparation for a Congressional inquiry. Jeff also served as a Special Assistant US Attorney in the Southern District of California, prosecuting border-related crimes.

Jeff is a former Staff Sergeant in the Army, with Airborne and Mountain Warfare qualifications. He is a veteran of the second Iraq war, having served in Iraq in 2003.

Jeff is admitted to practice in California and Washington, DC, and in appellate and district courts across the country.

Jeff lives in Washington, D.C. with his wife, Debbie, and their three children.



SOPHIA GOREN GOLD

Sophia Goren Gold is a third-generation Plaintiff's lawyer. A *summa cum laude* graduate of Wake Forest University and the University of California, Berkeley, School of Law, Sophia has spent her entire career fighting for justice.

A fierce advocate for those in need, Sophia's practice centers around taking on financial institutions, insurance companies, and other large corporate interests. Sophia has participated in hundreds of individual and class cases in both state and federal courts across the country. Collectively, she has helped secure tens of millions of dollars in relief on behalf of the classes she represents.

In addition to providing monetary relief, Sophia's extensive litigation experience has resulted in real-world positive change. For example, she brought litigation which resulted in the elimination of the Tampon Tax in the State of Florida, and she was influential in changing the state of Delaware's Medicaid policy, resulting in greater access to life-saving medication.

Sophia is currently representing consumers in numerous cases involving the assessment of improper fees by banks and credit unions, such as overdraft fees, insufficient funds fees, and out of network ATM fees. She is also currently representing consumers who have been the victims of unfair and deceptive business practices.

Sophia is admitted to practice in California and Washington, D.C. When not working, Sophia enjoys spending time with her husband, daughters, and their goldendoodle.



BRITTANY BERTOLINI

Brittany Bertolini attended the University of Central Florida in Orlando and graduated in 2012 with a Bachelor's Degree in Political Science and a minor in Spanish. Brittany earned her Juris Doctorate from California Western School of Law in 2015 and graduated magna cum laude in the top 10% of her class.

Throughout the course of her law school career, she served as a judicial extern to the Honorable Anthony J. Battaglia for the United States District Court, Southern District of California and worked multiple semesters as a certified legal intern for the San Diego County District Attorney's Office. Brittany was awarded Academic Excellence Awards in law school for receiving the highest grade in Trial Practice, Health Law & Policy, and Community Property.

Before joining KalielGold PLLC, Brittany worked as a judicial law clerk for the Honorable Anthony J. Battaglia and as an associate attorney for Carlson Lynch LLP, specializing in consumer complex litigation.



AMANDA ROSENBERG

Amanda Rosenberg graduated *cum laude* from the University of California, Hastings College of the Law in 2011 and the University of California, San Diego in 2008, where she earned departmental Honors with Highest Distinction in history.

Before joining KalielGold PLLC, Amanda represented and advised small businesses and financial institutions in litigation matters including employment disputes, merchant disputes, credit and charge card disputes, wrongful foreclosures, and securities. She has successfully litigated cases in California, Illinois, and Michigan.

Amanda is an active volunteer in her community and has helped numerous individuals understand and navigate their rights in the workplace.

In law school, Amanda worked as an extern for the Honorable Judge Vaughn Walker in the United States District Court, Northern District of California. Amanda was awarded academic excellence awards for receiving the highest grades in Trial Advocacy and Litigating Class Action Employment.

When not working, Amanda loves exploring Michigan's outdoors with her husband, kids, and rescue dog.



SARAH LEVIN

Sarah Levin helps clients navigate complex litigation. She has represented clients in state and federal court, as well as arbitration, and maintains an active pro bono practice. She serves on several local and national committees working to advance gender equity and reproductive health care.

Before joining KalielGold, Ms. Levin practiced at Skadden, Arps, Slate, Meagher & Flom LLP in New York, NY and the Legal Aid Society as the Skadden Pro Bono Fellow. She also served as a law clerk for the Honorable Jane A. Restani of the U.S. Court of International Trade.

Sarah graduated from New York University School of Law. During law school, she was Managing Editor of the Journal of International Law and Politics; a research assistant to Professor Robert Howse; a legal extern in the Southern District of New York for Judge Edgardo Ramos; and a legal intern for the Organisation for Economic Co-operation and Development (OECD) in Paris, France. Before law school, she worked for Goldman, Sachs & Co. and Cargill, Inc.

Sarah received her undergraduate degree from Hamilton College *magna cum laude* and *Phi Beta Kappa*, and was awarded the Judge John Wells Fellowship for Graduate Study for outstanding undergraduate research. She received her M.A. in International Affairs from the George Washington University, Elliott School of International Affairs.

Ms. Levin is admitted to practice in New York and Florida, as well as the U.S. District Courts for the Eastern District of New York and the Southern District of New York.



CLASS COUNSEL APPOINTMENTS

- *Roberts v. Capital One*, No. 1:16-cv-04841 (S.D.N.Y.);
- *Walters v. Target Corp.*, No. 3:16-cv-00492 (S.D. Cal.);
- *Figueroa v. Capital One, N.A.*, Case No. 3:18-cv-00692-JM-BGS (S.D. Cal.).
- *Robinson v. First Hawaiian Bank*, Civil No.17-1-0167-01 GWBC (1st Cir. Haw.);
- *Brooks et al. v. Canvas Credit Union*, 2019CV30516 (Dist. Ct. for Denver Cnty., Colo.).
- *Liggio v. Apple Federal Credit Union*, Civil No. 18-cv-01059 (E.D. Va.);
- *Morris et al. v. Bank of America, N.A.*, Civil No. 3:18-cv-00157-RJC-DSC (W.D.N.C.);
- *White v. Members 1st Credit Union*, Case No. 1:19-cv-00556-JEJ (M.D. Pa.);
- *Plummer v. Centra Credit Union*, Case No. 03D01-1804-PL-001903 (Bartholomew Cnty., Ind.);
- *Holt v. Community America Credit Union*, Case No. 4:19-cv-00629-FJG (W.D. Mo.);
- *Trinity Management v. Charles Puckett*, Case No. GCG-17-558960 (Super. Ct., San Francisco, Cnty., Cal.);
- *Martin v. Le&N Federal Credit Union*. No. 19-CI-022873 (Jefferson Cir. Ct., Division One);
- *Clark v. Hills Bank and Trust Company*, No. LACV080753 (Iowa Dist. Ct. Johnson Cnty.);
- *Morris v. Provident Credit Union*, Case No. CGC-19-581616 (Super. Ct. San Francisco Cnty., Cal.).
- *Bodnar v. Bank of America, N.A.*, 5:14-cv-03224 (E.D. Pa.);
- *In re Higher One OneAccount Marketing and Sales Practice Litigation.*, No. 12-md-02407-VLB (D. Conn.).
- *Shannon Schulte, et al. v. Fifth Third Bank.*, No. 1:09-cv-06655 (N.D. Ill.);
- *Kelly Mathena v. Webster Bank*, No. 3:10-cv-01448 (D. Conn.);
- *Nick Allen, et al. v. UMB Bank, N.A., et al.*, No. 1016 Civ. 34791 (Cir. Ct. Jackson Cnty., Mo.);
- *Thomas Casto, et al. v. City National Bank, N.A.*, 10 Civ. 01089 (Cir. Ct. Kanawha Cnty., W. Va.);
- *Eaton v. Bank of Oklahoma, N.A., and BOK Financial Corporation, d/b/a Bank of Oklahoma, N.A.*, No. CJ-2010-5209 (Dist. Ct. for Tulsa Cnty., Okla.);
- *Lodley and Tehani Taulva, et al., v. Bank of Hawaii and Doe Defendants 1-50*, No. 11-1-0337-02 (Cir. Ct. of 1st Cir., Haw.);
- *Jessica Duval, et al. v. Citizens Financial Group, Inc., et al*, No. 1:10-cv-21080 (S.D. Fla.);
- *Mascaro, et al. v. TD Bank, Inc.*, No. 10-cv-21117 (S.D. Fla.);
- *Theresa Molina, et al., v. Intrust Bank, N.A.*, No. 10-cv-3686 (18th Judicial Dist., Dist. Ct. Sedgwick Cnty., Kan.);
- *Trombley v. National City Bank*, 1:10-cv-00232-JDB (D.D.C.); *Galdamez v. I.Q. Data International, Inc.*, No. 1:15-cv-1605 (E.D. Va.);
- *Brown et al. v. Transurban USA, Inc. et al.*, No. 1:15-CV-00494 (E.D. Va.);
- *Grayson v. General Electric Co.*, No. 3:13-cv-01799 (D. Conn.);
- *Galdamez v. I.Q. Data International, Inc.*, No. 1:15-cv-1605 (E.D. Va.).

EXHIBIT 3

EDELSBERG **LAW**

MIAMI

20900 NE 30TH AVE #417 AVENTURA, FL 33180
786 289 9471 | EDELSBERGLAW.COM

ABOUT US

Your Trusted Class Action Law Firm. We are a dedicated class action firm committed to providing wide-ranging legal representation focused on delivering for our clients. Edelsberg Law is one of the top class action and commercial litigation law firms in the country.

THE EDELSBERG LAW PROMISE

Never shying away from litigating large consumer national class actions, Edelsberg Law is trusted by clients across the country to represent their interests and resolve their legal matters.

OUR MISSION

The attorneys and legal professionals at Edelsberg Law take pride in offering the highest caliber legal representation. We strive to help those that need help vindicating their rights and do not shy away from the difficult cases. If we take your case, we promise to work hard, efficient, and in your best interest.

SETTLEMENTS

Defranks V. Nastygyl Class Settlement For \$5 Million Case No. 19-Cv-23028 (S.D. Fla 2020), Picton V. Greenway Dodge Class Settlement For \$2,745,000 Case No. 19-Cv-196-Orl (M.D. Fla 2020), Ostendorf V. Grange Indem. Ins. Co. Class Settlement For \$12 Million Case No. 2:19-Cv-1147, 2020 WL 134169 (S.D. Ohio 2020), Banks V. Fuccilloo Affiliates Of Florida Class Settlement For \$1,854,260 Case No. 19-Cv-00227 (M.D. Fla 2020), Goldschmidt V. Rack Room CLASS SETTLEMENT FOR \$25.9 MILLION Case No. 18-CV-21220 (S.D. FLA 2020), PENA V. LEX LAW CLASS SETTLEMENT FOR \$11.5 MILLION Case No. 18-CV-24407 (S.D. FLA 2020, Cortazar V. Ca Ventures Class Settlement For \$600,000 Case No. 19-Cv-22075 (S.d. Fla 2020), Albrecht V. Oasis Power Class Settlement For \$11 Million Case No. 18-Cv-1061 (S.D. Fla 2020), Robley V. Ids Property Casualty Ins. Co. Class Settlement For \$275,000 Case No. 2019-022263-Ca-01 (Fla. 11th Cir. Ct.), Bracero V. Mendota Ins. Co. Class Settlement For \$1.1 Million Case No. 2019-015886-Ca-01 (Fla. 11th Cir. Ct.), Avila-Preciado V. Horace Mann Property & Casualty Insurance Co. Class Settlement for \$290,000 Case No. 19-Ca-004683 (Fla. 20th Cir. Ct.), Colon V. Direct General Ins. Co. Class Settlement For \$780,000 Case No. 2019-Ca-1636 Oc, (Fla. 9th Cir. Ct.), Junior Et Al. V. Infinity Auto Insurance Company Over \$20 Million Settlement For Unpaid Sales Tax And Certain Fees, Final Approval Pending Case No. 6:18-Cv-01598-Wwbejk (M.D. Fla), Smart Et Al. V. Auto Club Insurance Et Al. Class Settlement For Over \$850,000 Case No. 19-Ca-005580 (Fla. 13th Cir. Ct.), Suarez V. Mapfre Insurance Co. Of Florida Class Settlement For \$800,000 Case No. 2019-020729-Ca-01 (Fla. 11th Cir. Ct.), George V. Peachtree Casualty Insurance Co. Class Settlement For \$580,000 Case No. Ca-19-674 (Fla. 7th Cir. Ct.), Dunleavy V. Surinse Detox Class Settlement For \$500,000 Case No. 18-Cv-25090 (S.D. Fla 2019), Eisenband V. Schumacher Automative Class Settlement For \$5 Million Case No. 9:18-Cv-80911 (S.D. Fla 2019), Poirier V. Cubamax Class Settlement For \$800,000 Case No. 1:18-Cv-23240 (S.D. Fla 2019), Mclean V. Osborn Class Settlement For \$800,000 Case No. 18-Cv-81222 (S.D. Fla 2019), Bloom V. Jenny Craig Class Settlement For \$3 Million Case No. 1:18-Cv-21820 (S.D. Fla 2019), Papa V. Greico Ford Class Settlement For \$4.9 Million Case No. 18-21897 (S.D. Fla 2019), Wijesinha V. Susan B. Anthony Class Settlement For \$1,017,430 Case No. 18-Cv-22880 (S.D. Fla 2019), Halperin V. Youfit Heath Clubs Class Settlement For \$1,418,635 Case No. 18-Cv-61722 (S.D. Fla 2019), Dipuglia V. U.S. Coachways, Inc. Class Settlement For \$2.6 Million Case No. 17-23006-Civ (S.D. Fla 2018), Gottlieb V. Citgo Class Settlement For \$8.3 Million Case No. 9:16-81911 (S.D. Fla 2017), Masson V. Tallahassee Dodge Jeep Chrysler, Llc. Class Settlement For \$850,000 Case No. 1-17-Cv-22967 (S.D. 2017), Stathakos V. Columbia Sportswear Company Obtained Classwide Injunctive Relief Case No. 4:15-Cv-04543 (N.D. California 2017).



SCOTT EDELSBERG

PARTNER

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C: 305-975-3320

Scott Edelsberg's broad-based litigation experience representing both plaintiffs and defendants provides him with an invaluable perspective when prosecuting claims on behalf of consumers who have been harmed by corporate wrongdoing.

Scott Edelsberg is the founding partner of Edelsberg Law, PA and focuses his practice in the areas of class actions, consumer fraud and personal injury.

In connection with his representation in class action matters, Edelsberg has litigated cases in multiple state and federal jurisdictions throughout the country, including two multi-district litigation proceedings. In those cases, Edelsberg has won contested class certification motions, defended dispositive motions, engaged in data-intensive discovery and worked extensively with economics and information technology experts to build damages models. His efforts have lead to numerous class settlements, resulting in millions of dollars in relief for millions of class members.

Edelsberg is a native of South Florida and earned a Bachelor of Arts degree in Political Science from the University of Michigan. While at Michigan, he was awarded the Michigan Merit Scholar award and served as an intern for the Washtenaw County Public Defender's office. Edelsberg went on to receive a Juris Doctor degree, Cum Laude, from the University of Miami School of Law. While attending law school, he was on the Dean's List, a member of the International and Comparative Law Review, a Merit Scholarship recipient and served as an Equal Justice for America Fellow.

EDUCATION

University of Miami School of Law,
J.D. - 2012

University of Michigan, B.A. - 2009

BAR ADMISSIONS

Florida
California

COURT ADMISSIONS

Southern District of Florida
Middle District of Florida

PRIMARY PRACTICE

Class Action



ADAM SCHWARTZBAUM

PARTNER

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C: 305-725-1245

Adam Schwartzbaum is a Partner at Edelsberg Law in Miami, Florida, where he plays a leading role representing individuals in class action litigation across the country. Adam has a wealth of experience representing both plaintiffs and defendants in state and federal court and at the trial and appellate levels. Adam's passion for using the law to better the lives of ordinary people makes him a fierce advocate for his clients and a champion for justice. Further, Adam has helped recover over \$1.6 billion for his clients over the course of his legal career.

Adam was previously a partner at The Moskowitz Law Firm, where he worked on some of the country's largest class actions and multi-district litigation cases. Adam directly represented many survivors of the Champlain Towers South Condominium Collapse Litigation in the firm's role as lead counsel for the economic loss victims and helped achieve a historic \$1.1 billion settlement. Adam also worked directly with Co-Lead Counsel to help organize and run two federal multi-district litigations: the FieldTurf Artificial Turf Marketing and Sales Practices Litigation, and the Erie COVID-19 Business Interruption Insurance Protection Litigation. Other representative matters include the Transamerica and Lincoln cost of insurance litigation; the COVID-19 student fee cases against Florida public schools, including appeals in all of Florida's District Courts of Appeal; several Ponzi scheme cases on behalf of investors against both principals and aiders and abettors; suits challenging illegal and deceptive and unfair business practices in the insurance industry; and a certified issue class concerning the Fort Lauderdale Water Main Break against Florida Power & Light and several of its subcontractors that was affirmed on appeal and resulted in a trial victory for the certified class. Adam also chaired the firm's busy appellate practice, utilizing his twelve years of appellate experience to lead over a dozen appeals in the Florida District Courts of Appeal and the federal Circuit Courts of Appeal. For example, Adam helped lead a team of lawyers to brief and argue *Cherry v. Dometic*, 986 F.3d 1296 (11th Cir. 2021), an appeal that resulted in an opinion clarifying and revising the "ascertainability" standard to the benefit of class action plaintiffs across the country.

Adam began his legal career with a defense-oriented practice split between appellate and trial level advocacy. At Weiss Serota Helfman Cole & Bierman, Adam represented many local governments, as well as businesses and individuals, in both state and federal court, in a variety of commercial disputes and lawsuits involving complex constitutional and statutory issues. Prior to that, Adam practiced complex commercial litigation at White & Case.

Adam was raised in the Cuban-Jewish community in Miami Beach. He attended Brandeis University as a Justice Brandeis Scholar where he earned a Bachelor of Arts with highest honors and graduated summa cum laude and Phi Beta Kappa. Adam performed a year of national service in Washington, D.C. with City Year before attending the University of Pennsylvania Law School as a Levy Scholar. Adam was a Senior Editor of the University of Pennsylvania Law Review (which published his scholarship) and a member of the Penn Moot Court Board. Adam was President of the Penn Law student chapter of the American Constitution Society and was honored for his outstanding contributions to pro bono work on behalf of workers and children in Philadelphia.

Since 2015, Adam has served on the Board of Directors of Nu Deco Ensemble, Miami's 21st Century chamber orchestra, and is currently the corporate Secretary. Adam is the founder and Team Captain for Jewish Community Service's Miami Marathon and Half Marathon Team Blue Card, which since 2013 has raised over half a million dollars to support indigent Holocaust Survivors. Adam also sits on the Board of Directors of Temple Menorah in Miami Beach.

EDUCATION

Brandeis University, B.A., 2007

University of Pennsylvania Law School,
2011

BAR ADMISSIONS

Florida Bar

Southern District of Florida

Middle District of Florida

Eleventh Circuit Court of Appeals

Third Circuit Court of Appeals

AWARDS & RECOGNITION

Rising Star, Super Lawyer Magazine,
2018, 2019, 2020, 2021, 2022, 2023

Miami Dade County Bar Association
"40 Under 40" Award (2023)

Palm Beach Media Group
Top Lawyers, 2023

PRIMARY PRACTICE

Class Action



GABRIEL MANDLER

PARTNER

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Gabriel Mandler is a Senior Associate at Edelsberg Law. His practice focuses on multi-state consumer class action litigation, representing clients in both state and federal courts at the trial and appellate levels.

Gabriel has experience litigating a broad range of class action disputes, including employment discrimination, insurance disputes and mass torts. Gabriel previously worked at Stroock & Stroock & Lavan LLP, where he was part of a team in the remedial phase of a Title VII class action that recovered approximately \$2 billion for African American and Latino teachers who were discriminated against by New York City's Board of Education. Gabriel also has extensive experience handling complex commercial litigation disputes through trial.

A Miami native, Gabriel graduated magna cum laude from the University of Miami School of Law, where he was a member of the Business Law Review and Charles C. Papy, Jr. Moot Court Board. During this time, Gabriel interned for the Honorable Jonathan Goodman, a United States Magistrate Judge for the Southern District of Florida. Prior to law school, Gabriel earned his Bachelor of Arts Degree in Journalism and Communications from the University of Florida.

EDUCATION

University of Miami Law School, J.D.
University of Florida, B.A.

RACHEL DAPEER**OF COUNSEL****E:** rachel@edelsberglaw.com**C:** 305-610-5223

Rachel Dapeer's practice focuses on multi-state consumer class action litigation and complex commercial litigation. She handles a broad range of disputes involving insurance policies, fraudulent business practices, labeling claims, and other consumer matters.

Rachel is of-counsel at Edelsberg Law and manages her own law firm, Dapeer Law, P.A. where her litigation practice spans a variety of industries including real estate, automotive, banking and retail. Prior to joining Edelsberg law, Rachel was an Associate at Greenspoon Marder, LLP., where she represented businesses and individuals in a variety of disputes involving breach of contract, commercial transactions, fraud, business torts, deceptive and unfair trade practices, tax lien and real estate litigation.

Rachel attended undergraduate school at the University of North Carolina at Chapel Hill (B.S.B.A., 2007) and obtained a Juris Doctorate degree from Cardozo Law School (J.D., 2011). Before returning home to Miami, Rachel practiced in New York City at Windels, Marx, Lane & Mittendorf, LLP, representing lenders, financial institutions, and servicers with complex tax lien and mortgage foreclosure proceedings.

EDUCATION

Cardozo Law School, J.D. - 2011

University of North Carolina,
B.S., B.A. - 2007

EXHIBIT 4



Our Firm

Shamis & Gentile, P.A. has and continues to provide outstanding legal services in the Florida, New York, New Jersey, Texas, Georgia, Illinois, Ohio, Arizona, Missouri, and Washington communities. Shamis & Gentile, P.A. distinguishes itself because of our experience and legal resources to handle virtually any case involving class action, mass tort, mass arbitration, personal injury, personal injury protection, and contract disputes. Specifically, as it relates to class actions, Shamis & Gentile, P.A. has filed and litigated thousands of banking, insurance, data privacy, deceptive and unfair trade practice and product liability cases, often through contested class certification and even until trial. At Shamis & Gentile, P.A. our seasoned attorneys are some of the most innovative and progressive attorneys in the profession. Often, Shamis & Gentile, P.A. is called upon to litigate and settle cases that other law firms may not be able to handle on their own.

Shamis & Gentile, P.A. is committed to practicing law with the highest level of integrity in an ethical and professional manner. We are a diverse firm with lawyers and staff from all walks of life. Our lawyers and other employees are hired and promoted based on the quality of their work and their ability to treat others with respect and dignity.

Who We Are

Andrew Shamis is the managing partner at Shamis & Gentile, P.A. Mr. Shamis heads the class action and mass torts divisions of the firm, where his extensive experience in civil litigation has gained him the reputation of an attorney who can deliver where it matters the most, monetary results for his clients. Mr. Shamis has recovered over 1 billion dollars for consumers and plaintiffs throughout the country through his relentlessness, expertise, and calculated approach. Mr. Shamis is routinely certified class counsel and has successfully litigated over 10,000 civil cases in his young career.

Mr. Shamis is admitted to practice law in the states of Arizona, Florida, Georgia, Illinois, Missouri, New York, Ohio, Texas, and Washington as well as the U.S. District Courts for the Southern, Middle, and Northern Districts of Florida, Northern, Eastern, Western, and Southern Districts of New York, Northern, Southern, Central Districts of Illinois, Northern, Middle, and Southern Districts of Georgia, Eastern and Western Districts of Michigan, Eastern and Western Districts of Wisconsin, Northern and Southern Districts of Ohio, Eastern and Western Districts of Missouri, Eastern, Western, and Northern Districts of Oklahoma, Northern, Western, Eastern, and Southern Districts of Texas, Southern District of Indiana, U.S. District Court of Colorado, U.S. District Court of Connecticut, U.S. District Court of Arizona, and the U.S. District Court of Nebraska.

Mr. Shamis specializes in Consumer Protection Class Action Litigation, Mass Torts, Mass Arbitration, Personal Injury, Wrongful Death, as well as General Civil Litigation.

Angelica Gentile is a named partner at Shamis & Gentile P.A. Ms. Gentile heads the catastrophic injury, personal injury, and personal injury protection divisions of Shamis & Gentile, P.A. Ms. Gentile is recognized throughout the legal community as an extremely professional and efficient attorney. Ms. Gentile is admitted to practice law in both Florida and Texas and has extensive civil litigation experience, involving hundreds of depositions and motions throughout the state of Florida. Ms. Gentile not only prides herself in collecting millions of dollars in benefits owed to clients, but also in forging long lasting, successful relationships with clients.

Ms. Gentile specializes in Personal Injury, Personal Injury Protection, Class Action Litigation (TCPA, banking, insurance breach of contract, data breach, unfair and deceptive trade practices), Wrongful Death, Wrongful Termination, as well as General Civil Litigation.

Edwin Elliott is a partner at Shamis & Gentile, P.A. Mr. Elliott's practice involves all aspects of complex, high-level class action litigation. Mr. Elliott represents clients in federal and state courts across the nation in class actions involving consumer fraud, deceptive and unfair trade practices, false advertising, predatory financial services, digital privacy, and complex insurance disputes. Having prosecuted numerous class actions through all stages of the litigation process, Mr. Elliott's work has contributed to hundreds of millions in recoveries for consumers.

Leanna Loginov is a partner at Shamis & Gentile, P.A. and leads the firms' Data Privacy department. Ms. Loginov's practice primarily focuses on protecting individuals impacted by data breaches by ensuring their highly sensitive personal and health-related information is safeguarded. Ms. Loginov represents clients in federal and state courts across the nation. Ms. Loginov's work has helped consumers recover millions of dollars.

Our staff sets the standard on being innovative and technologically savvy. This innovation and use of fully customized cutting-edge case management software allows us to create an unparalleled level of customer service and attention to detail with our clients, which has led to an exceptional growth rate rarely seen in law firms.

Shamis & Gentile, P.A. has the resources, infrastructure and staff to successfully represent large putative classes. The attorneys and staff are not simply litigators, but directors of creating successful results with the ultimate level of satisfaction by the clients.

Class Actions

Shamis & Gentile, P.A. has initiated and served as both lead counsel and co-lead counsel in hundreds of class actions, many of which have generated internet articles. Currently, the firm serves as lead counsel or co-counsel on over 300 class action lawsuits. The lawsuits range from all Districts of Florida to the Central District of California. Shamis & Gentile, P.A. has also successfully settled many Class Action cases prior to verdict.

Prominent Class Action Settlements

Over the years, Shamis & Gentile attorneys have obtained outstanding results in some of the most well-known cases.

- *Andrews v. State Auto Mut. Ins. Co.*, No. 2:21-CV-5867 (S.D. Ohio 2023) (\$6,500,000.00 Class Settlement)
- *Angell, et al. v. GEICO Advantage Insurance Company, et al.*, No. 4:20-CV-00799 (S.D. Tex. 2024) (\$33,000,000 Class Settlement)
- *Arevalo, et. al. v. USAA Casualty Insurance Company, et. al.*, No. 2020CI16240 (Bexar County, Texas 2023) (\$4,089,287.50 Class Settlement)
- *Albrecht v. Oasis Power, LLC*, No. 1:18-cv-1061 (N.D. Ill. 2018) (\$7,000,000.00 Class Settlement)
- *Bobo v. Clover Network, LLC*, No. 2023CH000168 (DuPage County, Illinois 2024) (\$15,000,000 Class Settlement)
- *Brown v. Progressive Mountain Ins. Co.*, No. 3:21-cv-00175 (N.D. Ga. 2025) (\$43,000,000 Class Settlement)
- *Bruin, et al. v. Bank of America, N.A.*, Case No. 1:21-cv-02272 (S.D. NY 2024) (\$8,000,000 Class Settlement)
- *Davis, et. al. v. Geico Casualty Company, et. al.*, No. 19-cv-02477 (S.D. Ohio 2023) (\$5,756,500.00 Class Settlement)
- *DeFranks v. Nastygal.com USA Inc.*, No. 19-cv-23028-DPG (S.D. Fla. 2019) (\$4,025,000.00 Class Settlement)
- *Dipuglia v. US Coachways, Inc.*, No. 17-23006-Civ, 2018 U.S. Dist. LEXIS 72551 (S.D. Fla. 2018) (\$2,600,000.00 Class Settlement)
- *Eisenband v. Schumacher Automotive, Inc.*, No. 18-cv-01061 (S.D. Fla 2018) (\$5,000,000.00 Class Settlement)
- *Gottlieb v. Citgo Corporation*, No. 16-cv-81911 (S.D. Fla. 2016) (\$8,300,000.00 Class Settlement)
- *In re: GEICO General Insurance Co.*, No. 4:19-cv-03768 (N.D. Cal. 2022) (\$19,500,000 Class Settlement)
- *Jacques, et. al. v. Security National Insurance Company*, No. CACE-19-002236 (Fla. 17th Cir. Ct.) (\$6,000,000.00 Class Settlement)

- *Jones v. Washington State Employee's Credit Union*, No. 20-2-06596-5 (Superior Court of the State of Washington, County of Pierce) (\$2,400,000.00 Class Settlement)
- *Johnson, et al. v. American Family Insurance Company, et al.*, No. 24SL-CC00378 (St. Louis County, Missouri 2024) (\$22,000,000 Class Settlement)
- *McPheeters v. United Services Automobile Association and Garrison Property and Casualty Ins. Co.*, No. 1:20-CV-00414-TSB (S.D. Ohio 2022) (\$10,250,00.00 Class Settlement)
- *Middleton v. Liberty Mut. Ins. Co.*, No. 1:20-cv-00668-DRC (S.D. Ohio 2023) (\$14,404,00.00 Class Settlement)
- *Hinds-Thomas et al. v. LM General Insurance Company et al.*, No. 22SL-CC04131 (Circuit Court of St. Louis County, MO) (\$8,669,083.00 Class Settlement)
- *Ostendorf v. Grange Indem. Ins. Co.*, No. 2:19-CV-1147 (S.D. Ohio 2020) (\$12,000,000.00 Class Settlement)
- *Papa v. Greico Ford Fort Lauderdale, LLC*, No. 1:18-cv-21897 (S.D. Fla. 2018) (\$4,800,000.00 Class Settlement)
- *Pena v. John C. Heath, Attorney at Law, PLLC, d/b/a Lexington Law Firm*, No. 18-cv-24407-UU (S.D. Fla. 2018) (\$11,450,863.00 Class Settlement)
- *Petit Beau, et. al., v. Ocean Harbor Casualty Insurance Company*, No. CACE-18-029268 (Fla. 17th Cir. Ct.) (\$4,500,000.000 Class Settlement)
- *Sellers, et al. v. Bleacher Report, Inc.*, No. 2024-003537-CA-01 (Miami-Dade County, Florida 2024) (\$4,800,000 Class Settlement)
- *Soto-Melendez v. Banco Popular de Puerto Rico*, No. 3:20-cv-01057 (D.P.R. 2023) (\$5,500,00.00 Class Settlement)
- *South, et. al. v. Progressive Select Insurance Company, et. al.*, No. 19-cv-21760 (S.D. Fla. 2023) (\$48,800,000.00 Class Settlement)
- *Volino v. Progressive Casualty Ins. Co.*, No. 1:21-cv-06243 (S.D.N.Y. 2025) (\$48,000,000 Class Settlement)

More About Shamis & Gentile, P.A.

To learn more about our firm, please visit www.shamisgentile.com, or view links to our blogs at <https://www.sflinjuryattorneys.com/blog/>.

Exhibit B3

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JEFFREY STEPHENSON and BILLY SMITH II, individually, on behalf of himself and all others similarly situated,

Plaintiffs,

vs.

NAVY FEDERAL CREDIT UNION,

Defendant.

Case No. **3:23-CV-01851-WQH-KSC**

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Hon. William Q. Hayes
Hon. Karen S. Crawford

Before the Court is Plaintiffs' unopposed motion to grant preliminary approval of a proposed class action settlement and direct class notice in this action, the terms of which are set forth in a Class Action Settlement Agreement with accompanying exhibits (the "Agreement").¹

The Court has considered the Agreement, Plaintiffs' Motion for Preliminary Approval of Class Action Settlement and exhibits thereto, and all papers filed in support of the motion and the entire docket in this matter. Having fully considered the matter, pursuant to Federal Rule of Civil Procedure 23(e), it is hereby ORDERED that:

¹ All defined terms have the same meaning as set forth in the Agreement, which is attached to the Declaration of _____ as Exhibit ____ (ECF No. ____.)

1 1. The Court has jurisdiction over this action's subject matter and has
2 personal jurisdiction over the Parties and the Settlement Class members defined and
3 described below.
4

5 **Preliminary Approval of Proposed Settlement**
6

7 2. Subject to the Final Approval Hearing and any objections lodged by
8 Settlement Class Members, the Court will likely be able to approve the Settlement as
9 set forth in the Agreement as fair, reasonable, adequate under Rule 23(e), including
10 the releases contained therein, the Claims process, and the proposed Plan of
11 Allocation described therein.
12

13 3. The Court further finds that the Settlement substantially fulfills the
14 purposes and objectives of the class action and provides beneficial relief to the
15 Settlement Classes, considering the risks and delay of continued litigation and all
16 other relevant factors. The Court finds the Settlement (a) is the result of arm's-length
17 negotiations involving experienced counsel, with the assistance of a neutral mediator;
18 (b) is sufficient to warrant notice of the Settlement and the Final Approval Hearing
19 to the Settlement Classes; and (c) preliminarily meets all applicable requirements of
20 law, including Federal Rule of Civil Procedure 23 and the Class Action Fairness Act
21 ("CAFA"), 28 U.S.C. § 1715, for settlement purposes only.
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Preliminary Certification of Settlement Classes

4. Under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure, and in accord with the Settlement Agreement and solely for purposes of Settlement, the Court preliminarily approves the following Settlement Classes:

Written Explanation Settlement Class. All Accountholders whose claims of unauthorized electronic fund transfers were denied by Navy Federal Credit Union between October 10, 2022, and the date the Court grants preliminary approval of the Settlement

Document Request Settlement Subclass. All Accountholders in the Written Explanation Settlement Class who requested documents Navy Federal relied on in making its determination and who did not receive them.

5. Excluded from the Settlement Classes are (1) any judge presiding over this Action and members of their families; and (2) Defendant, its subsidiaries, parent companies, successors, predecessors, and any entity in which Defendant or its parents have a controlling interest and their current or former officers, directors, agents, attorneys, and employees.

6. All persons who are members of the Settlement Classes and who do not submit a valid request for exclusion are referred to collectively as “Settlement Class Members” or individually as a “Settlement Class Member.”

7. For purposes of the settlement only, the Court preliminarily finds that the Settlement Classes satisfy the requirements of Rule 23(a) and (b)(3) in that: (1) the number of Settlement Class Members is so numerous that joinder is impracticable; (2) there are questions of law and fact common to the Settlement Class members; (3) the claims of the Class Representatives are typical of the claims of the

1 Settlement Class members; (4) the Class Representatives are adequate representatives
2 for the Settlement Class, and have retained experienced counsel to represent them;
3
4 (5) the questions of law and fact common to the Settlement Class members
5 predominate over any questions affecting any individual Settlement Class member;
6
7 and (6) a class action is superior to the other available methods for the fair and
8 efficient adjudication of the controversy.

9 8. The Court appoints Plaintiffs Jeffrey Stephenson and Billy Smith II as
10 Class Representatives for the Settlement Classes and the following counsel are hereby
11 appointed as Class Counsel for the Settlement Classes: Scott Edelsberg and Adam
12 Schwartzbaum of Edelsberg Law, P.A.; Edwin E. Elliott of Shamis & Gentile, P.A.;
13 and Sophia Gold and Jeffrey D. Kalil of Kalil Gold PLLC.
14
15

16 9. The Court preliminarily finds for purposes of settlement only that the
17 above attorneys are competent and capable of exercising the responsibilities of Class
18 Counsel, and that Plaintiffs and Class Counsel will adequately protect the interests of
19 the Settlement Classes within the meaning of Fed. R. Civ. P. 23(a)(4) and (g).
20

21 **Notice and Administration**

22 10. The Court approves Kroll Settlement Administration LLC (Kroll) as the
23 Settlement Administrator and directs Kroll to perform the functions and duties of the
24 Settlement Administrator set forth in the Settlement—including providing notice to
25 the Settlement Classes and effectuating the Notice Program—and to provide such
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1 other administration services as are reasonably necessary to facilitate the completion
2 of the Settlement.
3

4 11. The Court has carefully considered the forms and methods of notice to
5 the Settlement Classes as set forth in the Settlement. The Court finds the Notice
6 Program satisfies the requirements of due process and complies with Rule 23 of the
7 Federal Rules of Civil Procedure. Namely, the Notice Program described in Section
8 Four of the Settlement Agreement is reasonably calculated to apprise Settlement
9 Class members of the nature of this Action, the scope of the Settlement Classes, the
10 terms of the Settlement Agreement, the rights of Settlement Class members to submit
11 a claim, object to or opt out of the Settlement and the process for doing so, and the
12 date, time, and location of the Final Approval Hearing. The Court therefore approves
13 the Notice Program and directs the Parties and the Settlement Administrator to
14 proceed with providing notice to Settlement Class members pursuant to the terms of
15 the Settlement Agreement and this Order.
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20 12. The Court hereby approves the Notice Program and the form, content,
21 and requirements of the Notices annexed as exhibits to the Agreement.² The Court
22 finds the Notice Program fully satisfies the requirements of Federal Rule of Civil
23 Procedure 23 and due process, constitutes the best notice practicable under the
24

25 _____
26 ² The Parties, by agreement, may revise the Notices in ways that are not material, or in ways that
27 are appropriate to update those documents for purposes of accuracy or formatting, consistent with
28 this Order.

1 circumstances, and shall constitute due and sufficient notice to all persons entitled
2 thereto.

3
4 13. The Settlement Administrator shall send the agreed-upon Notices to the
5 Settlement Class within sixty (60) calendar days following the entry of this Order (the
6 “Notice Date”) and will carry out all requirements of the Notice Program set out in
7 Section Four of the Agreement. The Settlement Administrator shall maintain the
8 Settlement Website to provide full information about the Settlement.
9

10
11 14. No later than 10 days before the Final Approval Hearing, Class Counsel
12 shall file with the Court a declaration executed by the Settlement Administrator
13 attesting to the timely completion of the Notice Program, describing how the Notice
14 Program and the Claim Form process were completed, and providing the names of
15 members of the Settlement Class who timely and properly opted out from the
16 Settlement Class, as well as those Settlement Class Members who timely filed
17 objections, and other information as may be necessary to allow the Parties to seek
18 and obtain Final Approval.
19
20

21 **Requests for Exclusion, Objections, and Appearances**

22
23 15. Any Settlement Class member who wishes to request to be excluded
24 from the Settlement must send a written request for exclusion to the Settlement
25 Administrator at the following address: *Stephenson, et al. v. Navy Federal Settlement*
26 Administrator, [address]. To be valid, the Request for Exclusion must be postmarked
27 on or before forty-five (45) days after the Notice Date; must include: the case name;
28

1 a statement indicating the Settlement Class member's desire to be excluded from the
2 Settlement Class, the Settlement Class member's name, current address, and
3 signature. If an Account has more than one Accountholder, and if one Accountholder
4 opts-out himself or herself from the Settlement Class, then all Accountholders on that
5 Account shall be deemed to have opted-out of the Settlement with respect to that
6 Account, and no Accountholder shall be entitled to a payment under the Settlement.
7

8
9 16. Settlement Class members who timely request exclusion from the
10 Settlement will relinquish their rights to benefits under the Settlement and will not
11 release any claims against Defendant.
12

13 17. If a request for exclusion is not postmarked on or before forty-five (45)
14 days after the Notice Date, it will be invalid and the Settlement Class Member will
15 be bound by the terms of the Settlement and the Final Approval Order and Final
16 Judgment even if the Settlement Class Member has previously initiated or
17 subsequently initiate individual litigation or any other proceedings against Defendant.
18
19 A Settlement Class member who does not file a timely request for exclusion shall be
20 bound by all subsequent proceedings, orders, and judgments in this Action.
21
22

23 18. The Settlement Administrator shall promptly provide counsel for all
24 Parties with copies of any request for exclusion.

25 19. Settlement Class Members have a right to object to approval of the
26 proposed Settlement, to the award of attorneys' fees and litigation expenses, or to the
27 Service Awards to the Class Representatives. Any Settlement Class Member who
28

1 wishes to do so must file with the Court a written statement (along with any
2 supporting papers), postmarked or filed on or before forty-five (45) days after the
3 Notice Date. To be valid, objections must contain materially the following
4 information: (i) the name of the Action, (ii) the objector's name, address, telephone
5 number, and e-mail address; (iii) grounds for the objection including any legal
6 support; (iv) the name and contact information of any attorneys representing,
7 advising, or assisting the objector in connection with the preparation or submission
8 of the objection or who may profit from the pursuit of the objection (the "Objecting
9 Attorneys"); (v) a statement advising whether the Settlement Class Member or his/her
10 attorney intends to appear and/or testify at the Final Approval Hearing; and (vi) the
11 objector's signature.

12
13 20. Any Settlement Class Member who does not make an objection to the
14 Settlement in the manner provided herein or appear and state an objection at the Final
15 Approval Hearing shall be deemed to have waived and forfeited any and all rights he
16 or she may have to object, appear, present witness testimony, and/or submit evidence;
17 shall be precluded from seeking review of the Settlement by appeal or other means;
18 and shall be bound by all terms of the Settlement and by all proceedings, orders, and
19 judgments in the Action.

20 **Final Approval Hearing**

21
22 21. The Court will hold a Final Approval Hearing on [date] at [time] at the
23 United States District Court for the Southern District of California, James M. Carter
24

1 and Judith N. Kep United States Courthouse, 333 West Broadway, Courtroom 14B,
2 San Diego, CA 92101, for the following purposes:

3
4 (a) to finally determine whether the applicable prerequisites for
5 settlement class action treatment under Federal Rules of Civil Procedure
6 23(a) and (b)(3) are met;

7
8 (b) to determine whether the Settlement is fair, reasonable, and adequate,
9 and should be granted final approval by the Court;

10
11 (c) to determine whether the Judgment as provided under the Settlement
12 Agreement should be entered dismissing the claims of the Settlement
13 Class Members with prejudice;

14
15 (d) to consider the application for an award of attorneys' fees and
16 litigation expenses of Class Counsel;

17
18 (e) to consider the application for service awards to the Settlement Class
19 Representatives; and

20 (g) to rule upon such other matters as the Court deems appropriate.

21 22. At least fifteen (15) days prior to the Exception/Exclusion Deadline,
22 Class Counsel shall file their motion for final approval and any application for
23 attorneys' fees, litigation expenses and Service Awards to the Class Representatives.
24 The Settlement Administrator is directed to post such fee petition to the Settlement
25 Website. At least fourteen days before the Final Approval Hearing, Class Counsel
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shall file any supplemental papers in support of Final Approval of the Settlement, including a response to any objections filed by Settlement Class Members, if any.

23. The Final Approval Hearing may be postponed, adjourned, transferred, or continued by order of the Court without further notice to the Settlement Classes, except that any postponement, rescheduling, continuation, or transfer shall be posted to the Settlement Website. At, or following the Final Approval Hearing, the Court may enter a Final Approval Order and Final Judgment in accordance with the Settlement Agreement that will adjudicate the rights of all Settlement Class Members.

24. For clarity, the deadlines the Parties and members of the Settlement Classes shall adhere to are as follows:

DEADLINES SUMMARY

Event	Date
Deadline for Navy Federal to provide Settlement Class List to Class Counsel and the Settlement Administrator	No later than 30 calendar days after entry of the Preliminary Approval Order
Deadline for commencing emailing and mailing of the Notice to Settlement Class Members and posting the Notice and Claim Form on the Settlement website (the "Notice Date")	No later than 60 calendar days after entry of the Preliminary Approval Order
Deadline for Plaintiffs to file application for attorneys' fees and expenses and Service Awards	30 calendar days after the Notice Date (up to 90 calendar days after entry of the Preliminary Approval Order)
Deadline for submitting of exclusion requests or objections	Postmarked no later than 45 calendar days after the Notice Date (up to 105 calendar days after entry of the Preliminary Approval Order)
Deadline for submitting Claim Forms	Postmarked or electronically filed no later than 60 calendar days after the Notice Date (up to 120 calendar days after entry of the Preliminary Approval Order)
Deadline for any response to any timely and valid objections and any supplemental brief re: final approval	70 days after the Notice Date (up to 130 calendar days after entry of the Preliminary Approval Order)

Deadline for Settlement Administrator to Submit Declaration Identifying Opt Outs and Confirming Compliance with Notice Plan	At least 10 days before Final Approval Hearing
Final Approval Hearing	At least 5 months after entry of the Preliminary Approval Order

25. Settlement Class Members do not need to appear at the Final Approval Hearing or take any other action to indicate their approval.

Further Matters

26. In order to protect its jurisdiction to consider the fairness of the Settlement and to enter a Final Approval order and Final Judgment having binding effect on all Settlement Class Members, the Court hereby enjoins all members of the Settlement Classes, and anyone who acts or purports to act on their behalf, from pursuing or continuing to pursue all other proceedings in any state or federal court or any other proceeding that seeks to address Releasing Parties' or any Settlement Class Member's rights or claims relating to, or arising out of, any of the Released Claims.

27. The Settlement does not constitute an admission, concession, or indication by the Parties of the validity of any claims or defenses in the Action or of any liability, fault, or wrongdoing of any kind by Defendant, which vigorously denies all the claims and allegations raised in the Action.

28. In the event that the Settlement is terminated under the terms of the Settlement Agreement, or if for any reason whatsoever the Settlement is not finally approved, is not upheld on appeal, or is otherwise terminated for any other reason, then: (i) the Settlement shall be null and void, including any provisions related to the

1 award of attorneys' fees and costs, shall have no further force and effect with respect
2 to any Party in this Action, and may not be referred to or used as evidence or for any
3 other purpose whatsoever in the Action or any other action or proceeding; (ii) all
4 negotiations, proceedings, documents prepared, and statements made in connection
5 therewith shall be without prejudice to any person or Party hereto, shall not be
6 deemed or construed to be an admission by any Party of any act, matter, or
7 proposition, and shall not be used in any manner of or for any purpose in any
8 subsequent proceeding in this Action or in any other action in any court or other
9 proceeding, provided, however, that the termination of the Settlement shall not shield
10 from subsequent discovery any factual information provided in connection with the
11 negotiation of this Settlement that would ordinarily be discoverable but for the
12 attempted settlement; (iii) this Order shall be vacated and of no further force or effect
13 whatsoever, as if it had never been entered; and (iv) any Party may elect to move the
14 Court to implement the provisions of this paragraph, and none of the non-moving
15 Parties (or their counsel) shall oppose any such motion.

21 29. The Court retains jurisdiction to consider all further matters arising out
22 of or connected with the Settlement. The Court may approve the Settlement, with
23 such modifications as may be agreed to by the Parties, if appropriate, without further
24 notice to the Settlement Classes.

27
28 IT IS SO ORDERED.

1
2 DATED:

3 Hon. William Q. Hayes
4 United States District Court Judge
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Exhibit C

EXHIBIT C

To: <<Class Member Email>>
From: Settlement Administrator <xxxx@XXXXXXXXX.com>
Subject: Notice of Class Action Settlement

Unique ID: <<UniqueID>>

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Jeffrey Stephenson, et al. v. Navy Federal Credit Union
United States District Court for the Southern District of California
Case No. 3:23-CV-01851

If You Had an Account with Navy Federal Credit Union and Submitted a Claim for Unauthorized and/or Fraudulent Transactions That Was Denied Between October 10, 2022, and [Preliminary Approval Date], You May Be Entitled to a Payment from a Class Action Settlement.

A court authorized this notice. This is not a solicitation from a lawyer.

File a Claim Form [here](#) to be eligible.

IMPORTANT: You must file a claim for your potential payment by Month XX, 20YY.

What is this Notice About? The parties have reached a proposed settlement in a class action lawsuit in which Plaintiffs claim that Navy Federal Credit Union (Navy Federal) violated the Electronic Funds Transfer Act by: a) improperly denying claims by credit union members of unauthorized electronic fund transfer(s), b) failing to provide sufficient explanation regarding the basis for its denial; and c) failing to provide, upon request of a member, documents relied on in making its determination. Navy Federal denies that it did anything wrong, but it agreed to the Settlement to avoid the uncertainties and expenses associated with continuing the case. The Court has not decided which side is right. **This Settlement does not release any claims for actual damages based on or related to Navy Federal's purported improper denial of a claim of unauthorized electronic transfer(s).**

Am I a Settlement Class Member? Our records indicate you may be a Settlement Class member. Settlement Class members are all Accountholders whose claims of unauthorized electronic fund transfers were denied by Navy Federal between October 10, 2022, and [Preliminary Approval Date] (the "Written Explanation Settlement Class"). You may also be a member of the Document Request Settlement Subclass if you requested documents Navy Federal relied on in making its determination and did not receive them.

What are the Settlement Benefits? If approved by the Court, Navy Federal has agreed to provide \$1,700,000 ("Settlement Fund") to fund: (a) payments or account credits to Settlement Class Members who file a valid and timely Claim Form, and (b) any award of attorneys' fees, costs, and

expenses. Navy Federal has also agreed to pay Settlement Administration Costs and Service Awards to the Plaintiffs separate from the Settlement Fund. Settlement Administration Costs are subject to reimbursement in whole or in part if there are uncashed checks remaining after the initial payments and account credits to Settlement Class Members

In addition to this monetary relief, Navy Federal has also agreed to implement changes to its policies and procedures relating to the handling of claims concerning unauthorized electronic fund transfers, including changes to the written communications sent to members whose claims of unauthorized electronic fund transfer(s) are denied and enhancements to the procedures for responding to member requests for documents in connection with such denials.

How Do I Get a Payment? You must submit a timely and complete Claim Form **no later than [claims deadline]**. You can file a claim by clicking [[here](#).]

What are My Other Options? If you do not want to be legally bound by the Settlement, you must exclude yourself from the Class postmarked no later than [[objection/exclusion deadline](#)]. If you exclude yourself, you cannot get a settlement payment, but you keep any rights you may have to sue Navy Federal for the legal claims that are the subject of the lawsuit at your own expense. You and/or your lawyer have the right to appear before the Court and/or object to the proposed settlement, request for attorneys' fees & costs, or the Service Awards. Your written objection must be postmarked no later than [[objection/exclusion deadline](#)]. Specific instructions about how to object to, or exclude yourself from, the Settlement are available at www.stephensoneftlitigation.com.

If you do nothing, and if the Settlement becomes final, you will not be eligible for a Settlement Payment and you will give up your right to sue Navy Federal for the claims released by Settlement Class Members (see the next section below).

If I Do Not Exclude Myself, What Claims Am I Giving Up? Unless you exclude yourself from the Settlement by submitting a timely and valid request for exclusion, you are agreeing to stay in the Settlement Classes, and you give up any right to sue Navy Federal as part of any other lawsuit about the claims resolved in this Settlement. This means that on the Effective Date of the Settlement, you and related parties (the “**Releasing Parties**”) shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all **Released Claims** against the **Released Parties**. The terms in bold are explained in the Settlement Agreement, which you can review by clicking [[here](#)].

Who Represents Me, How Will the Lawyers Be Paid, What Will the Plaintiffs Receive? The Court has appointed lawyers from the law firms of Edelsberg Law, P.A., Shamis & Gentile, P.A., and KalieGold PLLC to represent you. These attorneys are called Class Counsel. You will not be charged for these lawyers, they will be paid from the Settlement Fund. If you want to be represented by your own lawyer in this case, you may hire one at your own expense.

Class Counsel will be filing a motion seeking attorneys' fees of up to one-third of the value of the Settlement and reimbursement of litigation costs to be paid out of the Settlement Fund. The Court will determine how much Class Counsel will be paid for fees and expenses.

Class Counsel will also seek a Service Award for Plaintiff Stephenson and Plaintiff Smith as the Class Representatives in the amount of 5,000 each, subject to Court approval. The Service Award will be paid separate and apart from the Settlement Fund. It is intended to compensate the Class Representatives for the time spent participating in the lawsuit and prosecuting the legal claims for the benefit of the Settlement Classes

Navy Federal and the Plaintiffs have reached a settlement of the Plaintiffs' individual claims for actual damages. Under that settlement, Navy Federal will pay each Plaintiff \$5,000, to be paid separately from the Settlement Fund and separately from the Service Award.

When Will the Court Decide Whether to Approve the Settlement? The Court will hold the Final Approval Hearing at [a/p].m. on [Month 00], 2025 at the United States District Court for the Southern District of California, James M. Carter and Judith N. Kep United States Courthouse, 333 West Broadway, Courtroom 14B, San Diego, CA 92101. At that hearing, the Court will: consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will also decide whether to approve Class Counsel's request for attorneys' fees and costs; and decide whether to award the Class Representatives a Service Award.

How Do I Get More Information? For more information, including the full Notice, Claim Form and Settlement Agreement go to www.stephensoneftlitigation.com, contact the Settlement Administrator at 1- [XXX-XXX-XXXX] [address], or visit www.shamisgentile.com.

Exhibit D

Stephenson, et al. v. Navy Federal Credit Union
Settlement Administrator
PO Box XXXX
[City, State] xxx-xxxx

**BARCODE
NO-PRINT
ZONE**

FIRST-CLASS MAIL
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[city, state]
PERMIT NO. xxxx

Court-Approved Legal Notice

Stephenson, et al. v. Navy Federal Credit Union,
Case No. 3:23-CV-01851, United States District
Court for the Southern District of California

**If You Had an Account with Navy Federal
Credit Union and Submitted a Claim for
Unauthorized and/or Fraudulent
Transactions That Was Denied Between
October 10, 2022, and [Preliminary
Approval Date], You May Be Entitled to a
Payment from a Class Action Settlement.**

A Court has authorized this notice.

*This is **not** a solicitation from a lawyer.*

www.XXXXXXXXXXXXXX.com
1-XXX-XXX-XXXX

<<MAIL ID>>
<<NAME 1>>
<<NAME 2>>
<<ADDRESS LINE 1>>

<<ADDRESS LINE 2>>
<<ADDRESS LINE 3>>
<<ADDRESS LINE 4>>
<<ADDRESS LINE 5>>
<<CITY, STATE ZIP>>
<<COUNTRY>>

Complete and postmark the attached Claim Form by **Month __, 20YY to be eligible to receive a payment.** (Postage is prepaid)

What does the Settlement Provide? There is a proposed settlement a class action lawsuit alleging Navy Federal violated the Electronic Funds transfer Act by a) improperly denying credit union members' claims for unauthorized transactions, failing to provide sufficient explanation of the basis for its denial, and failing to provide, upon the member's request, documents it relied on in making its determination. If approved by the Court, Navy Federal will provide \$1,700,000 (the "Settlement Fund") for class member payments and any award of attorney's fees and costs. **This Settlement does not release any claims for actual damages related to Navy Federal's purported improper denial of a claim of unauthorized electronic fund transfer(s).**

Other Options. If you do not want to be bound by the Settlement, you must opt-out of the Settlement by **Month XX, 20YY**. If you do not opt-out, you and related parties will give up the right to sue and will release Navy Federal and the Released Parties from the Released Claims in the Action. If you do not opt out, you may object to the Settlement, attorneys' fees & costs request, and Service Awards by **Month XX, 20YY**. The Settlement Website explains how to opt-out or object. If you do nothing, you will get no payment, and you will be bound by the Settlement and any judgments and orders.

Who represents me? The Court has appointed lawyers from Edelsberg Law, P.A.; Shamis & Gentile, P.A.; and KalieGold PLLC to serve as Class Counsel. You do not have to pay them to participate. Instead, if they

recover money for the Settlement Class, the lawyers will ask the Court to be paid from the Settlement Fund. Visit www.stephensoneftlitigation.com to review the attorneys' fee & expense request.

The Court will hold a Final Approval Hearing on **Month XX, 20YY**, to consider whether to approve the Settlement, request for attorneys' fees and expenses, Service Awards, and any objections. You or your lawyer may attend and speak at the hearing, but you are not required to do so.

This notice is a summary. Learn more at www.stephensoneftlitigation.com, or contact the Administrator at 1-XXX-XXX-XXXX] or Class Counsel at www.shamisgentile.com.

<<UNIQUE ID>>

CLAIM FORM

Claims must be postmarked or submitted online by **Month Day, 20YY**.

First Name: <<NAME 1>>

Last Name: <<NAME 2>>

Mailing Address:

<<ADDRESS LINE 1>>

<<ADDRESS LINE 2>>

<<ADDRESS LINE 3>>

<<CITY, STATE ZIP>>

Please update your information below if it is different than above:

[illegible][illegible][illegible][illegible]

Check this box if you made a request to Navy Federal for the documents Navy Federal relied upon to deny your fraud claim but you did not receive the documents: ☐

**BARCODE
NO-PRINT
ZONE**

PREPAID
POSTAGE

*Stephenson, et al. v. Navy Federal Credit
Union*
Settlement Administrator
PO Box XXXX
[City, State] xxx-xxxx

Exhibit E

EXHIBIT E

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA
Jeffrey Stephenson, et al. v. Navy Federal Credit Union
Case No. 3:23-cv-01851

If You Had an Account with Navy Federal Credit Union and Submitted a Claim for Unauthorized and/or Fraudulent Transactions That Was Denied Between October 10, 2022, and [Preliminary Approval Date], You May Be Entitled to a Payment from a Class Action Settlement.

A court authorized this Notice. This is not a solicitation from a lawyer. You are not being sued.

PLEASE READ THIS NOTICE CAREFULLY

There is a proposed settlement in the class action lawsuit *Jeffrey Stephenson, et al. v. Navy Federal Credit Union*, Case No. 3:23-cv-01851 (the “Class Action”), which claims that Navy Federal Credit Union (Navy Federal) violated the Electronic Funds Transfer Act (EFTA) by: a) improperly denying claims by credit union members of unauthorized electronic fund transfer(s), (b) failing to provide sufficient explanation regarding the basis for its denial, and (c) failing to provide, upon request by a member, documents relied on in making its determination. Navy Federal denies that it did anything wrong, but it agreed to the settlement to avoid the uncertainties and expenses associated with continuing the case. The Court has not decided which side is right.

Settlement Class Members will be eligible to receive a *pro rata* (meaning equal) portion of the Settlement Fund if they submit a valid and timely Claim Form. As part of the Settlement, Navy Federal agreed to implement changes to its policies and procedures relating to the handling of claims concerning unauthorized electronic fund transfers. **This Settlement does not release any claims for actual damages based on or related to Navy Federal’s purported improper denial of a claim of unauthorized electronic transfer(s).**

The Court will hold a Final Approval Hearing on **MONTH DD, 20YY**. The motion for final approval and motion for attorney’s fees and costs will posted on the Settlement Website by **MONTH DD, 20YY**.

IF YOU ARE A SETTLEMENT CLASS MEMBER, YOUR LEGAL RIGHTS ARE AFFECTED
WHETHER YOU ACT OR DON’T ACT

Your Legal Rights & Options		Deadline
Submit a Claim Form	- Stay in the Settlement Class - Submit a timely and valid Claim Form to be eligible for payment or account credit. - Be bound by the Settlement. - Give up any rights to sue Navy Federal separately for the claims resolved in the Settlement.	Submitted Online or Postmarked by: MONTH DD, 20YY
Exclude Yourself (Opt Out)	- Remove yourself from the Settlement Class - Get no Settlement Class Member Payment. - Keep your right to sue Navy Federal separately about the claims resolved in the Settlement.	Postmarked by: MONTH DD, 20YY
Object to the Settlement	- Stay in the Settlement but tell the Court why you don't agree with the Settlement, the request for attorneys' fees and costs, or the Service Awards to the Plaintiffs. - You will be bound by the Settlement if the Court approves it. - To object, you must submit a timely written objection.	Postmarked by: MONTH DD, 20YY
Do Nothing	- Get no Settlement Class Member Payment. - Stay in the Settlement Class. - Give up any rights to sue Navy Federal separately about the claims resolved in the Settlement.	

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court must decide whether to approve the Settlement, attorneys' fees, expenses and service awards. No Settlement benefits will be provided unless the Court approves the Settlement.

Call 1-**XXX-XXX-XXXX** toll free or visit www.stephensoneftallitigation.com for more information.

What Is a Class Action?

A class action is a lawsuit in which one or more individuals called Plaintiffs sue on behalf of other persons or entities who have similar legal claims. These persons or entities are referred to as a class or class members. In a class action, one Court resolves the issues, legal claims, and/or defenses for all class members in a single lawsuit, except for those persons or entities who ask in writing to be excluded from the class.

What Is this Lawsuit About?

Plaintiffs Jeffrey Stephenson and Billy Smith II allege that Navy Federal violated certain provisions of the EFTA and the Navy Federal Account Agreement by: improperly denying their claims of unauthorized electronic fund transfer(s); b) failing to provide sufficient written explanation regarding the basis for the denial; and (c) failing to provide, on request by them, the documents it relied on in denying their claims. The Second Amended Complaint in this Action is posted on the Settlement Website and contains the allegations and claims asserted against Navy Federal.

Navy Federal denies that it violated any law or did anything wrong but has agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of litigation. The Settlement is not an admission of wrongdoing. The Court has not determined who is right.

Plaintiffs filed this case as a proposed class action. When the parties reached this proposed Settlement, the Court had not decided whether the case could proceed as a class action.

What benefits does the Settlement provide?

Settlement Class Members are eligible for the following benefits:

Monetary Relief: Navy Federal has agreed provide \$1,700,000) (Settlement Fund)to fund (a) payments or Account credits to Settlement Class Members who file a valid and timely Claim Form, and (b) any award of attorneys’ fees, costs, and expenses.

Other Payments. Navy Federal has also agreed to pay Settlement Administration Costs and Service Awards to the Plaintiffs separate and apart from the Settlement Fund. Settlement Administration Costs are subject to reimbursement in whole or in part if there are uncashed checks remaining after the initial payments and credits to Settlement Class Members.

Prospective Changes: In addition to this monetary relief, Navy Federal has agreed to implement changes to its policies and procedures relating to the handling of claims concerning unauthorized electronic fund transfers, including changes to the written communications sent to members whose claims of unauthorized electronic fund transfers) are denied and enhancements to the procedures for responding to member requests for documents in connection with such denials.

A detailed description of the settlement benefits can be found in the Settlement Agreement. [\[insert hyperlink\]](#)

How Do I Know if I’m a Member of the Settlement Classes?

If you received Notice of the Settlement from a postcard or email addressed to you, then the Parties believe you may be in the Settlement Classes.

You are a member of the Settlement Classes if you fall into one of these two categories:

(1) Written Explanation Settlement Class. All Accountholders whose claims of unauthorized electronic fund transfers were denied by Navy Federal Credit Union between October 10, 2022, and [\[insert Preliminary Approval Date\]](#).

(2) Document Request Settlement Subclass. All Accountholders in the Written Explanation Settlement Class who requested documents Navy Federal relied on in making its determination and who did not receive them.

If I Am a Settlement Class Member, What Are My Options?

If you are a Settlement Class Member, you have four options.

Option 1: Submit a Claim Form for Payment.

To be eligible for a payment or account credit, you must submit a timely and valid Claim Form. Settlement Class Members who submit timely and valid Claim Forms will receive a pro rata (meaning equal) portion

of the Settlement Fund, after the deduction of Court-approved attorneys' fees, costs, and expenses. You can submit a claim by signing the Claim Form you receive in the mail, carefully tearing at the perforation, and putting the Claim Form in the mail. You can call 1-XXX-XXX-XXXX to ask the Settlement Administrator to send you a Claim Form or visit www.stephensoneftlitigation.com to access and submit the Claim Form online.

If you submit a Claim Form in the mail, it must be postmarked no later than **[CLAIMS DEADLINE]** and mailed to:

Stephenson, et al. v. Navy Federal Credit Union
Settlement Administrator
[ADDRESS]

If the address you submit on your Claim Form changes, you must contact the Settlement Administrator to provide a current address or you may not receive your Settlement Class Member Payment if it's made by check instead of account credit.

You can also submit a Claim Form online at www.stephensoneftlitigation.com by entering your Claimant ID. Online Claim Forms must be submitted by 11:59pm EST on **[Date]**. Your Claimant ID can be found on the postcard and/or email notice you received.

If you submit a Claim Form, even if the Settlement Administrator finds the Claim Form is invalid, you are agreeing to stay in the Settlement Class and give up any right to sue Navy Federal as part of any other lawsuit about the claims resolved in the Settlement.

Option 2. Exclude yourself from the Settlement.

You have the right to not be part of the Settlement by excluding yourself or "opting out" of the Settlement Classes. If you wish to exclude yourself, you must do so on or before **[OBJECTION/EXCLUSION DEADLINE]** as described below. You do not need to hire your own lawyer to request exclusion from the Settlement Classes. If you exclude yourself from the Settlement Classes, you give up your right to receive any monetary benefits as part of this Settlement, and you will not be bound by any judgments or orders of the Court, whether favorable or unfavorable. However, you will keep any rights you may have to sue Navy Federal separately for the same legal claims that are the subject of this lawsuit at your own expense.

To exclude yourself from this lawsuit and/or preserve any right you may have to bring a separate lawsuit, you must make a request to be excluded in writing and, with sufficient postage, mail the request to:

Stephenson, et al. v. Navy Federal Credit Union
Settlement Administrator
[ADDRESS]

A request for exclusion must be postmarked on or before **[OBJECTION/EXCLUSION DEADLINE]**.

Your request for exclusion must contain the following:

1. The name of the case, *Stephenson v Navy Federal Credit Union*;
2. Your name and address;
3. A statement that you wish to be excluded from the Settlement Classes, such as: "I request exclusion from the Settlement"; and
4. Your signature.

If an Account has more than one Account Holder, and one Account Holder opts out, then all Account Holders on that Account will be deemed to have opted out of the Settlement with respect to that Account, and no Account Holder will be entitled to a payment or credit under the Settlement.

The Settlement Administrator will file your request for exclusion with the Court. A request for exclusion must be exercised individually and not on behalf of a group.

Option 3: Object to the Settlement.

The full terms of the Settlement can be found www.stephensoneftlitigation.com. If you think the terms of the Settlement, the requested attorneys' fees and expenses, and/or the Service Awards to the Plaintiffs and costs are not fair, not reasonable, or not adequate to the Settlement Class Members, you may submit a written objection. If you object to the terms of the Settlement, you cannot request exclusion from the Settlement. If you object to the terms of the Settlement you will still be bound by the terms of the Settlement and all rulings and orders from the Court.

To object to the terms of the Settlement, Class Counsel's request for attorney's fees and costs or Service Awards to the Plaintiffs, you must send a written objection postmarked by **DATE** to the following:

Stephenson, et al. v. Navy Federal Credit Union
Settlement Administrator
[**ADDRESS**]

The objection should include:

1. The name of the case;
2. Your name, address, telephone number, and email (if any);
3. Information identifying you as a Settlement Class Member;
4. A written statement of the grounds for the objection, including any legal support;
5. The name, address, bar number, email address, and telephone number of any lawyer who represents you related to your objection;
6. A statement advising whether you and/or your lawyer intend to appear and/or address the Court at the Final Approval Hearing; and
7. Your signature.

If you submit an objection and the Court approves the Settlement, you will be bound by any decisions and orders from the Court and by the terms of the Settlement. If you do not want to be bound by the decisions and rulings by the Court, you must file a request for exclusion and not an objection.

Option 4. Do Nothing Now. Stay in the Lawsuit.

You have the right to do nothing. If you do nothing, and if the Settlement becomes final, you will not be eligible for a Settlement Payment and you will give up your right to sue Navy Federal for the claims released by Settlement Class Members (see the next section below).

If I Do Not Exclude Myself from the Settlement, What Claims Am I Giving Up?

Unless you exclude yourself from the Settlement by submitting a timely and valid request for exclusion, you are agreeing to stay in the Settlement Classes and you give up any right to sue Navy Federal as part of any other lawsuit about the claims resolved in this Settlement. This means that on the Effective Date of the Settlement, you and related parties (the “**Releasing Parties**”) shall be deemed to have, and by

operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all **Released Claims** against the **Released Parties**.

The **Releasing Parties** means Plaintiffs, those Settlement Class Members who do not timely opt out of the Settlement Class, and all of their respective present or past or future heirs, executors, estates, administrators, predecessors, successors, assigns, parent companies, subsidiaries, associates, affiliates, employers, employees, agents, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and companies, firms, trusts, and corporations.

The **Released Claims** means any and all claims to statutory damages or injunctive relief, regardless of legal basis and on account of any and all claims, suits, obligations, causes of action of every kind and/or nature, liabilities, rights, claims, actions, causes of action, and demands, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, based on contract, tort or any other theory, that result from, arise out of, are based upon, or relate to the conduct, omissions, duties or matters during the Class Period that were or could have been alleged in the Action. **The Released Claims exclude any claims for actual damages based on or related to Navy Federal's purported improper denial of a claim of unauthorized electronic transfer(s).** Nothing herein is intended to release any claims any governmental agency or governmental actor may have against Defendant

The **Released Parties** means Defendant Navy Federal Credit Union, as well as any and all of its respective present or past or future heirs, executors, estates, administrators, predecessors, successors, assigns, parent companies, subsidiaries, licensors, licensees, associates, affiliates, employers, employees, agents, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and companies, firms, trusts, and corporations.

Bar to Future Suits. Upon the Effective Date, and to the fullest extent permitted by law, each Settlement Class Member, shall, either directly, indirectly, representatively, or in any capacity, be permanently barred and enjoined from filing, commencing, prosecuting, intervening in, or participating (as a class member or otherwise) in any lawsuit, action, or other proceeding in any jurisdiction (other than participation in the Settlement as provided herein) against any Released Party based on the Released Claims.

Who Is Representing the Settlement Class Members, How Will the Lawyers Be Paid, and What Will the Plaintiffs Receive?

The Court has appointed lawyers from the law firms of Edelsberg Law, P.A., Shamis & Gentile, P.A., and KalieGold PLLC to represent you and the other Settlement Class Members. These attorneys are called Class Counsel. These lawyers are experienced in handling class action lawsuits, including actions on behalf of account holders at financial institutions. More information about Class Counsel is available on their websites. They believe, after conducting an extensive investigation, that the Settlement Agreement is fair, reasonable, and in the best interests of the Settlement Class. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

Class Counsel will be filing a motion seeking attorneys' fees of up to one-third of the value of the Settlement and reimbursement of litigation costs to be paid out of the Settlement Fund. The Court will determine how much Class Counsel will be paid for fees and expenses.

Class Counsel will also seek a Service Award for Plaintiff Stephenson and Plaintiff Smith as the Class Representatives in the amount of \$5,000 each, subject to Court approval. The Service Award will be paid separately from the Settlement Fund. It is intended to compensate the Class Representatives for the time spent participating in the lawsuit and prosecuting the legal claims for the benefit of the Settlement Classes, and in exchange for a general release of any and all of the Plaintiffs' individual claims against the Released Parties.

Navy Federal and the Plaintiffs have also reached a settlement of the Plaintiffs' individual claims for actual damages. Under that settlement, Navy Federal will pay each Plaintiff \$5,000 total, to be paid separately from the Settlement Fund and separately from the Service Award.

When and Where will the Court Decide Whether to Approve the Settlement?

The Court will hold a **Final Approval Hearing** on **[HEARING DATE]**, at **[HEARING TIME]** EST at the United States District Court for the Southern District of California, James M. Carter and Judith N. Kep United States Courthouse, 333 West Broadway, Courtroom 14B, San Diego, CA 92101. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will also decide Class Counsel's application for attorneys' fees and expenses and the Class Representatives' application for Service Awards. We do not know how long these decisions will take. The Court may change the date or time of the Final Approval Hearing without further notice, so please check the Settlement Website for any changes.

Do I need to Attend the Final Approval Hearing?

No. Settlement Class Members are not required to attend the Final Approval Hearing, but you may attend and speak at the hearing if you wish. Class Counsel will answer any questions the Court may have at the Final Approval Hearing. However, you may come at your own expense if you would like to attend the hearing. You may also pay your own lawyer to attend, but it is not necessary.

If you submit a written objection, you do not have to come to the Court to talk about it. As long as you mailed your written objection on time and followed the instructions above, the Court will consider it.

How Do I Find Out More About This Lawsuit?

This Notice only summarizes the Settlement. The Settlement Agreement includes additional details. You can review or download a copy of the Settlement Agreement, the Claim Form, and other important documents from the Settlement website at www.stephensoneftallitigation.com. You can also call the Settlement Administrator toll-free at 1-XXX-XXX-XXXX or [write](#) to **[INSERT ADDRESS]**.

PLEASE DO NOT CONTACT THE COURT, THE CLERK OF THE COURT, NAVY FEDERAL, OR NAVY FEDERAL'S COUNSEL REGARDING THIS NOTICE.

Exhibit F

CLASS ACTION SETTLEMENT AGREEMENT

This Settlement Agreement and Release (the “Settlement Agreement” or “Agreement”)¹ is made and entered into this 16th day of July, 2025, by and among (1) Plaintiffs, Jeffrey Stephenson and Billy Smith II, individually and on behalf of the Settlement Class, and (2) Navy Federal Credit Union, subject to Preliminary Approval and Final Approval as required by the Federal Rules of Civil Procedure. As provided herein, Plaintiffs, Class Counsel, and Navy Federal hereby stipulate and agree that, in consideration of the promises and covenants set forth in this Agreement and upon entry by the Court of a Final Order and Judgment, all claims of the Settlement Class against Navy Federal in the action titled *Jeffrey Stephenson and Billy Smith II v. Navy Federal Credit Union*, S.D. Cal. Case No. 3:23-cv-01851-WQH-KSC (the “Action”), shall be settled and compromised upon the terms and conditions contained herein.

RECITALS

1. This putative class action was originally filed on October 10, 2023, in the United States District Court for the Southern District of California against Navy Federal alleging breach of contract, breach of the implied covenant of good faith and fair dealing, violations of the Electronic Funds Transfer Act, 15 U.S.C. § 1693 *et seq.* (the “EFTA”), and violation of California’s Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 (the “UCL”). Plaintiff Stephenson brought claims individually and on behalf of a nationwide class of credit union members arising from Navy Federal’s handling of electronic fund transfers disputed by members as unauthorized and/or fraudulent. *Stephenson, et al. v. Navy Federal Credit Union*, No. 3:2023-cv-01851, ECF No. 1 (S.D. Cal. Oct. 10, 2023) (the “Action”).

¹ All capitalized terms herein have the same meanings as those given to them in Section I below.

2. On February 21, 2024, Defendant filed a motion to dismiss under Rule 12(b)(6), arguing, *inter alia*, that Plaintiff Stephenson failed to state a claim upon which relief could be granted. *Id.* at ECF No. 19. Plaintiff Stephenson filed his opposition brief on March 22, 2024, (*id.* at ECF No. 22), and Defendant filed its reply brief on April 5, 2024 (*id.* at ECF No. 24).

3. On September 20, 2024, the Court largely denied Defendant's motion to dismiss. *Id.* at ECF No. 25. Specifically, the Court upheld the claim for violations of the EFTA and also upheld the breach of express contract claim. The Court granted the motion with respect to the UCL claim, with leave to amend. Plaintiff Stephenson opted not to amend the UCL claim.

4. On October 4, 2024, Plaintiffs Stephenson and Smith II filed the Second Amended Complaint to add Plaintiff Smith. *Id.* at ECF No. 28.

5. Defendant thereafter answered Plaintiffs' Second Amended Complaint on November 1, 2024, by denying the allegations generally and raising seven (7) affirmative defenses. *Id.* at ECF No. 32.

6. Thereafter, the Parties engaged in written discovery, which included the exchange of initial disclosures pursuant to Rule 26(a)(1), requests for production and interrogatories, meet-and-confer conferences regarding the same, third-party subpoenas, and the production of documents.

7. On December 11, 2024, the parties participated in an Early Neutral Evaluation with Magistrate Judge Karen S. Crawford, which did not result in settlement.

8. On February 26, 2025, the Parties requested a stay of the case in order for the Parties to mediate. ECF No. 54.

9. On June 4, 2025, the Parties engaged in an in-person mediation with JAMS neutral retired Judge Diane M. Welsh (Ret.), a respected mediator experienced in mediating class actions

alleging EFTA claims. With the assistance of Judge Welsh, the parties agreed to the material terms of Settlement, which they memorialized in a term sheet executed on June 6, 2025.

10. The Parties stipulated to stay the case and extend deadlines pending the mediation and the Court granted that stipulation on March 3, 2025. ECF No. 55.

11. The Parties now agree to settle the Action in its entirety, without any admission of liability, with respect to all Released Claims of the Releasing Parties. The Parties intend this Agreement to bind the Plaintiffs, Navy Federal, and all Settlement Class Members.

NOW, THEREFORE, in light of the foregoing, for good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties agree, subject to approval by the Court, as follows:

1. DEFINITIONS.

As used in this Settlement Agreement, the following terms have the meanings specified below:

1.1 “Account” means the account for which a Navy Federal member has made a claim of an unauthorized electronic fund transfer that was denied during the Class Period.

1.2 “Accountholder” means any person who has or had any interest, whether legal or equitable, in an Account during the Class Period and includes Current Accountholders and Former Accountholders.

1.3 “Action” means *Jeffrey Stephenson, et al. v. Navy Federal Credit Union*, Case No. 3:23-cv-01851, pending in the United States District Court for the Southern District of California.

1.4 “Approved Claim” means a Claim Form submitted by a Settlement Class Member that: (a) is submitted timely and in accordance with the directions on the Claim Form and the provisions of the Settlement Agreement; (b) is fully and truthfully completed by a Settlement Class

Member; (c) is signed by the Settlement Class Member, physically or electronically; and (d) is approved by the Settlement Administrator pursuant to the provisions of this Agreement.

1.5 “Claim Form” means the document substantially in the form attached hereto as Exhibit A, or as approved by the Court. The Claim Form, to be completed by Settlement Class Members who wish to file a claim for a payment, shall be available in electronic and paper format in the manner described below.

1.6 “Claims Deadline” means the date by which all Claim Forms must be postmarked or received to be considered timely. The Claims Deadline, proposed to the Court, shall be no later than sixty (60) days after the Notice Date. The Claims Deadline shall be clearly set forth in the Preliminary Approval Order as well as in the Notice and the Claim Form.

1.7 “Class Counsel” means:

EDELSBERG LAW, P.A.
Scott Edelsberg
Adam Schwartzbaum
1925 Century Park East, Suite 1700
Los Angeles, CA 90067

SHAMIS & GENTILE, P.A.
Edwin E. Elliott
14 NE 1st Avenue, Suite 705
Miami, FL 33132

KALIEL GOLD PLLC
Jeffrey D. Kaliei
Sophia Goren Gold
490 43rd Street, No. 122
Oakland, CA 94609

1.8 “Class Period” means the period beginning from October 10, 2022, to the date the Court enters the Preliminary Approval Order of the Settlement.

1.9 “Class Representatives” means the named Plaintiffs Jeffrey Stephenson and Billy Smith II.

1.10 “Court” means the United States District Court for the Southern District of California.

1.11 “Current Accountholder” means a Settlement Class Member who continues to have his or her Account or any other open account with Navy Federal as of the date that the Net Settlement Fund is distributed to Settlement Class Members pursuant to this Agreement.

1.12 “Defendant” or “Navy Federal” means Navy Federal Credit Union.

1.13 “Defendant’s Counsel” means Defendant’s counsel of record in the Action.

1.14 “Effective Date” means the 10th business day after which all of the following events have occurred;

(a) The Court has entered without material change the Final Approval Order and Final Judgment; and

(b) The time for seeking rehearing or appellate or other review has expired, and no appeal or petition for rehearing or review has been timely filed; or the Settlement is affirmed on appeal or review without material change, no other appeal or petition for rehearing or review is pending, and the time period during which further petition for hearing, review, appeal, or certiorari could be taken has finally expired and relief from a failure to file same is not available.

1.15 “EFTA Dispute” means each Settlement Class Member’s electronic funds transaction reported as unauthorized or fraudulent under Regulation E and denied by Defendant, and which allegedly supports a claim for violation of the Electronic Funds Transfer Act (“EFTA”), 15 U.S.C. §§ 1693, *et seq.*, and Regulation E of the EFTA, 12 C.F.R. §§1005.1, *et seq.*

1.16 “Email Notice” means a short form of notice that shall be sent by email to Class Members for whom Navy Federal has a valid email address in the form attached as Exhibit B. The Email Notice shall contain an electronic link to the Settlement Website where a Settlement Class

Member can access an online Claim Form pre-filled with the Settlement Class Member's unique claim ID, if possible.

1.17 "Escrow Account" means the escrow account established by the Settlement Administrator under terms acceptable to all Parties at a depository institution insured by the Federal Deposit Insurance Corporation to receive and maintain funds contributed on behalf of Defendant for the benefit of the Settlement Classes. The Escrow Account shall be maintained by the Settlement Administrator.

1.18 "Fee Award" means the amount of attorneys' fees and reimbursement of expenses awarded by the Court to Class Counsel, which will be paid out of the Settlement Fund.

1.19 "Final Approval" means the date that the Court enters an Order granting final approval to the Settlement, issues a final judgment, and determines the amount of attorneys' fees, costs, and expenses awarded to Class Counsel. The proposed Final Approval Order shall be in the form of Exhibit F. In the event that the Court issues separate orders addressing the foregoing matters, then Final Approval means the date of the last such orders.

1.20 "Final Approval Hearing" means the hearing set by the Court to determine the fairness of the Settlement and whether to approve its terms.

1.21 "Final Judgment" means the Final Approval Order and Judgment that the Court enters upon Final Approval, which shall be substantially in the form attached as Exhibit F. In the event that the Court issues separate Orders addressing the matters constituting Final Judgment, then the Final Judgment includes all such Orders.

1.22 "Former Accountholder" means a Settlement Class Member who no longer has his or her Account or any other Navy Federal checking or savings account as of the date that the Net Settlement Fund is distributed to Settlement Class Members pursuant to this Agreement.

1.23 “Long Form Notice” means the form of notice that shall be posted on the Settlement Website and shall be available to the Settlement Class by mail on request made to the Settlement Administrator in the form attached as Exhibit D.

1.24 “Net Settlement Fund” means the Settlement Fund, minus (a) Settlement Administration Costs and (b) Court-approved attorneys’ fees, costs, and expenses.

1.25 “Notice” means the notice of this proposed Class Action Settlement Agreement, which is to be sent to the Settlement Class substantially in the manner set forth in this Agreement, is consistent with the requirements of Due Process, Federal Rule of Civil Procedure 23, and is substantially in the form of Exhibit B (the “Email Notice”), Exhibit C (the “Postcard Notice”), and Exhibit D (the “Long Form Notice”) hereto as well as the processes of sending Notice set out in Section Four below (collectively, the “Notice Program”).

1.26 “Notice Date” means the date of no later than sixty (60) days following entry of the Preliminary Approval Order by which the Settlement Administrator must commence emailing and mailing of the Notice to Settlement Class Members.

1.27 “Objection/Exclusion Deadline” means the date by which a written objection to this Settlement Agreement or a request for exclusion submitted by a Person within the Settlement Class must be made, which shall be designated as a date no later than forty-five (45) days after the Notice Date, or such other date as ordered by the Court.

1.28 “Parties” means Plaintiffs and Navy Federal.

1.29 “Person” means a natural person, firm, association, organization, partnership, business, trust, limited liability company, corporation, or public entity.

1.30 “Plaintiffs” means Jeffrey Stephenson and Billy Smith II.

1.31 “Plaintiffs’ General Release” means that as of the Effective Date, Plaintiffs, and each of their successors, assigns, heirs, personal representatives, and all those who claim through them or who assert claims on each of their behalf, shall each be deemed to have, and by operation of the Final Approval Order and Judgment shall have, expressly released, waived, and relinquished any and all claims, demands, rights, liabilities, and causes of action each of them has or has ever had against any of the Released Parties, whether for economic damages, noneconomic damages, exemplary damages, penalties, restitution, injunctive or declaratory relief, interest, attorneys’ fees, costs, or any other forms of monetary or non-monetary relief in any way arising out of or relating to any facts, transactions, events, policies, occurrences, acts, disclosures, statements, omissions, or failures to act from the beginning of time to the date each of them signs this Agreement, including but not limited to any claims arising from or related to Navy Federal’s denial of their claims for reimbursement of unauthorized electronic fund transfers. This general release by Plaintiffs shall include all statutory claims, common law claims (including but not limited to those sounding in contract, tort, and equity), claims for compensation to the fullest extent permitted by law, and Unknown Claims (as defined in this Agreement). Plaintiffs each further agree not to sue or otherwise make a claim against any of the Released Parties for any of the claims that are released pursuant to this paragraph.

1.32 “Plan of Allocation” means the manner in which the Net Settlement Fund shall be allocated to Settlement Class Members, as specified in paragraph 2.1(b).

1.33 “Preliminary Approval” means the Court’s certification of the Settlement Class for settlement purposes, preliminary approval of this Settlement Agreement, and approval of the form and manner of the Notice.

1.34 “Preliminary Approval Order” means the order preliminarily approving the Settlement Agreement, certifying the Settlement Class for settlement purposes, and directing notice thereof to the Settlement Class, which will be agreed upon by the Parties and submitted to the Court in conjunction with Plaintiffs’ motion for preliminary approval of the Agreement, which shall be substantially in the form of Exhibit E.

1.35 “Postcard Notice” means the short form of notice that shall be sent by mail to Class Members for whom Navy Federal does not have an email address, or for whom the Settlement Administrator is unable to send Email Notice using the email address provided by Navy Federal, in the form attached as Exhibit C. The Claim Forms provided with Postcard Notice will be pre-filled with a unique claim ID and the Settlement Class Member name.

1.36 “Released Claims” means any and all claims to statutory damages or injunctive relief, regardless of legal basis and on account of any and all claims, suits, obligations, causes of action of every kind and/or nature, liabilities, rights, claims, actions, causes of action, and demands, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, based on contract, tort or any other theory, that result from, arise out of, are based upon, or relate to the conduct, omissions, duties or matters during the Class Period that were or could have been alleged in the Action. The Released Claims exclude any claims for actual damages based on or related to Navy Federal’s purported improper denial of a claim of unauthorized electronic transfer(s). Nothing herein is intended to release any claims any governmental agency or governmental actor may have against Defendant.

1.37 “Released Parties” means Defendant Navy Federal Credit Union, as well as any and all of its respective present or past or future heirs, executors, estates, administrators, predecessors, successors, assigns, parent companies, subsidiaries, licensors, licensees, associates,

affiliates, employers, employees, agents, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and companies, firms, trusts, and corporations.

1.38 “Releasing Parties” means Plaintiffs, those Settlement Class Members who do not timely opt out of the Settlement Class, and all of their respective present or past or future heirs, executors, estates, administrators, predecessors, successors, assigns, parent companies, subsidiaries, associates, affiliates, employers, employees, agents, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and companies, firms, trusts, and corporations.

1.39 “Service Award” means any Court-ordered payment to Plaintiffs for serving as Class Representatives.

1.40 “Settlement Administration Costs” means the costs and expenses incurred by the Settlement Administrator in providing Notice, processing claims, responding to inquiries from members of the Settlement Class, mailing checks for Approved Claims, and related services, including notices required by the Class Action Fairness Act. Navy Federal will pay Settlement Administration Costs separate and apart from payment of the Settlement Fund and payments to the Plaintiffs.

1.41 “Settlement Administrator” means Kroll Settlement Administration LLC (Kroll) or such other administration company that has been selected by the Parties and approved by the

Court to oversee the distribution of Notice, as well as the processing and payment of Approved Claims to the Settlement Class as set forth in this Agreement.

1.42 “Settlement Class” or “Settlement Classes” means the following:

(a) **Written Explanation Settlement Class.** All Accountholders whose claims of unauthorized electronic fund transfers were denied by Navy Federal Credit Union between October 10, 2022, and the date the Court grants preliminary approval of the Settlement.

(b) **Document Request Settlement Subclass.** All Accountholders in the Written Explanation Settlement Class who requested documents Navy Federal relied on in making its determination and who did not receive them.

1.43 “Settlement Class List” means the list of all Settlement Class Members and their email addresses (to the extent available) and last known postal addresses provided by Navy Federal to the Settlement Administrator for the purposes of disseminating Notice.

1.44 “Settlement Class Member” means any person who falls within the definition of the Settlement Classes as set forth above and who does not submit a valid request for exclusion.

1.45 “Settlement Class Member Payment” means the distribution that will be made from the Net Settlement Fund to each Settlement Class Member who files an Approved Claim by the Settlement Administrator, pursuant to the Plan of Allocation.

1.46 “Settlement Fund” means the amount of one million seven hundred thousand dollars (\$1,700,000.00 USD), which Defendant will be obligated to pay to the Settlement Administrator on behalf of the Settlement Classes, as described herein. From the Settlement Fund, the Settlement Administrator shall pay all Approved Claims made by Settlement Class Members and any Fee Award to Class Counsel.

1.47 “Settlement Website” means the website that the Settlement Administrator will use as a means for Settlement Class Members to obtain notice of and information about the Settlement, through and including hyperlinked access to this Agreement, the Long Form Notice, the Preliminary Approval Order, the Claim Form, and such other documents as the Parties agree to post or that the Court orders posted on the website. These documents shall remain on the Settlement Website at least until the Settlement Administrator has distributed the Net Settlement Fund. The URL of the Settlement Website shall be www.stephensoneftlitigation.com, or such other URL as Class Counsel and Navy Federal agree upon in writing.

1.48 “Unknown Claims” means claims that could have been raised in the Action arising out of or related to EFTA Dispute that Plaintiffs do not know or suspect to exist, which, if known by him or her, might affect their agreement to release the Released Parties or the Released Claims or might affect their decision to agree, object or not to object to the Settlement. Upon the Effective Date, the Plaintiffs shall be deemed to have, and shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Upon the Effective Date, Plaintiffs also shall be deemed to have, and shall have, waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable or equivalent to Section 1542 of the California Civil Code. Plaintiffs acknowledge that they may discover facts in addition to or different from those that they now know

or believe to be true with respect to the subject matter of this release, but that it is their intention to finally and forever settle and release the Released Claims, notwithstanding any Unknown Claims they may have, as that term is defined in this Paragraph.

2. SETTLEMENT RELIEF.

2.1 Payments to Settlement Class Members and Plaintiffs.

(a) **Monetary Payments.** Subject to approval by the Court, under the Settlement, the total monetary consideration to be provided by Navy Federal shall be \$1,720,000:

a) \$1,700,000 for settlement of the Settlement Class Member Claims, inclusive of the amount paid to Settlement Class Members, any and all attorneys' fees, costs, and expenses awarded to Class Counsel; b) \$5,000 to each Plaintiff in settlement of their individual claims (as further specified in paragraph 2.1(a)(i), below); and (c) \$5,000 to each Plaintiff as a Service Award approved by the Court. Except as otherwise specified in this Agreement, Navy Federal shall not be responsible for any other payments under this Agreement. In accordance with the timing specified in paragraph 2.1(c), Navy Federal shall: a) deposit into the Escrow Account \$1,700,000 minus the amount of the Settlement Class Member Payments to be credited to the accounts of Current Accountholders; and b) after receipt of W9s from each Plaintiff, credit each Plaintiff's Account in the amount of \$10,000. Distribution of any funds remaining from uncashed checks for those settlement class members without active Navy Federal accounts is set forth in paragraph 2.1(j).

- i. As part of the Settlement, Navy Federal agrees to pay each Plaintiff \$5,000 in exchange for their release of the individual claims against Navy Federal, including their claims for actual damages under the EFTA and for breach of contract, including the implied covenant of good faith and fair dealing. Payments for Plaintiff's individual claims will be paid separate from the

Settlement Fund through a credit to each Plaintiff's Account within thirty (30) days after the Effective Date.

(b) **Plan of Allocation.** Settlement Class Members shall have until the Claims Deadline to submit an Approved Claim. Each Settlement Class Member with an Approved Claim shall be entitled to a *pro rata* portion of the Net Settlement Fund, distributed by an electronic payment method approved by the Settlement Administrator or by check. Pursuant to the following Plan of Allocation, Settlement Class Members who are members of the Written Explanation Settlement Class will be assigned one (1) Approved Claim for purposes of allocating the Net Settlement Fund, while Settlement Class Members who are also members of the Document Request Settlement Subclass will be assigned two (2) Approved Claims for purposes of allocating the Net Settlement Fund. The value of each *pro rata* portion of the Net Settlement Fund will be calculated by dividing the total number of Approved Claims by the amount of the Net Settlement Fund.

- i. Members of the Written Explanation Settlement Class who timely submit a valid Claim Form, and whose class membership is confirmed by the Settlement Administrator, will be assigned one (1) Approved Claim for purposes of allocating the Net Settlement Fund.
- ii. Individuals who warrant they are members of the Document Request Settlement Subclass may indicate this fact by checking the appropriate box on the Claim Form. The Settlement Administrator will compile a list identifying all individuals who selected this option and will provide that list to Defendant within seven (7) days after the Claims Deadline. Defendant may, at its sole discretion, review its claim files to determine whether any of these

individuals are not, in fact, members of the Document Request Settlement Subclass. If Defendant determines that any individual is not a member of the Document Request Settlement Subclass, it must provide supporting documentation to the Settlement Administrator within twenty-one (21) days, who will review and confirm Defendant's determination. Settlement Class Members who are confirmed to be members of the Document Request Settlement Subclass will be assigned two (2) Approved Claims for purposes of allocating the Net Settlement Fund.

(c) **Settlement Payment Amount Chart.** Within five (5) business days of the Effective Date, the Settlement Administrator will provide Navy Federal with a chart of the payment amount for each Settlement Class Member Account. Within fifteen (15) business days of receipt, Navy Federal will identify the Former Accountholders for the Settlement Administrator and will wire to the Settlement Administrator an amount equal to \$1,700,000 minus the total amount of credits to Current Accountholders.

(d) **Distribution of Settlement Payments.** Within ten (10) business days of receipt of funds from Navy Federal, the Settlement Administrator will mail Settlement Class Member Payments to Former Accountholders via check and Navy Federal will credit accounts of Current Accountholders.

(e) **Credits.** Navy Federal will credit the Settlement Class Member Payments to accounts of Current Accountholders. If the Current Accountholder's Account is no longer open, Navy Federal will credit the Settlement Class Member Payment to any other open savings or checking account maintained by the Current Accountholder at the time of issuing the credit. Navy

Federal will bear any costs associated with implementing the credits and notification to the Settlement Administrator discussed in this paragraph.

(f) If by the deadline for Navy Federal to apply credits of Settlement Class Member Payments to Current Accountholders, Navy Federal is unable to complete certain credits, or it is not feasible or reasonable to make the payment by a credit, Navy Federal shall deliver the total amount of such unsuccessful Settlement Class Member Payment credits to the Settlement Administrator to be paid by check in accordance with paragraphs 2.1(g)-(h) below.

(g) **Checks.** Settlement Fund Payments will be made by check with an appropriate legend, in a form approved by Class Counsel and Navy Federal's counsel, to indicate that it is from the Settlement Fund. Checks will be cut and mailed by the Settlement Administrator and will be sent to the addresses that the Settlement Administrator identifies as valid. Checks shall be valid for ninety (90) days. For jointly held Accounts, checks will be payable to all Accountholders, and will be mailed to the first Accountholder listed on the Account.

(h) The Settlement Administrator will make reasonable efforts to locate the proper address for any intended recipient of Settlement Funds whose check is returned by the Postal Service as undeliverable (such as by running addresses of returned checks through the Lexis/Nexis database that can be used for such purpose), and will re-mail the check once to the updated address, or, in the case of a jointly held Account, and in the Settlement Administrator's discretion, to an Accountholder other than the one listed first. In the event of any complications arising in connection with the issuance or cashing of a check, the Settlement Administrator shall provide written notice to Class Counsel and Navy Federal's counsel. Absent specific instructions from Class Counsel and Navy Federal's counsel, the Settlement Administrator shall proceed to

resolve the dispute using its best practices and procedures to ensure that the funds are fairly and properly distributed to the person or persons who are entitled to receive them.

(i) **Residual Funds.** The amount of the Net Settlement Fund attributable to uncashed or returned checks sent by the Settlement Administrator (the “Residual Funds”) shall be held by the Settlement Administrator for thirty days after the checks become invalid in accordance with sub-paragraph (g) above. During this time, the Settlement Administrator shall make a reasonable effort to locate intended recipients of settlement funds whose checks were returned (such as by running addresses of returned checks through the Lexis/Nexis database that can be utilized for such purpose) to effectuate delivery of such checks. The Settlement Administrator shall make only one such additional attempt to identify updated addresses and re-mail or re-issue a distribution check to those for whom an updated address was obtained.

(j) **Residual Funds Distribution.** Any Residual Funds remaining after the Settlement Administrator completes the process described in the previous subparagraph (the “Remaining Residual Funds”) will be distributed as follows:

i. First, any Remaining Residual Funds will be payable to Navy Federal for the amount that it paid for Settlement Administrative Costs.

ii. Second, if any Residual Funds remain, the Settlement Administrator will distribute these funds to a *cy pres* recipient. The Parties shall identify the proposed *cy pres* recipient in the Motion for Final Approval and seek the Court’s approval. In the Motion for Final Approval, the Parties shall propose as a *cy pres* recipient an entity that works to promote financial literacy, including for members of the military or veterans.

(k) **Taxes.** If required under applicable law, IRS Forms 1099-MISC will be issued in connection with the payments under this Agreement. The payments will also be reported,

if required under applicable law, to any applicable state and local taxing authorities. The Parties acknowledge that no tax advice has been offered or given by any Party, their attorneys, agents, or any other representatives, in the course of these negotiations, and each Party is relying upon the advice of its own tax consultant with regard to any tax consequences that may arise as a result of the execution of this agreement. The Parties and their respective counsel have made no representation with respect to the tax treatment of any payment or transfer made under this Agreement to any Settlement Class Member. Each Class Representative and Settlement Class Member shall be solely responsible for the federal, state, and local tax consequences to him or her of the receipt of funds under this Agreement.

2.2 Injunctive Relief.

(a) **Prospective Relief.** As part of the Settlement, Navy Federal agrees to implement changes to its policies and procedures relating to the handling of claims concerning unauthorized electronic fund transfers. These changes will include revisions to the written explanation sent to members whose claims are denied and enhancements to the procedures for responding to member requests for documents in connection with such denials.

3. RELEASE.

3.1 The obligations incurred pursuant to this Settlement Agreement shall be a full and final disposition of the claims asserted in the Action and any and all Released Claims, as against all Released Parties.

3.2 Upon the Effective Date, the Releasing Parties and each of them, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Parties, and each of them.

3.3 Upon the Effective Date, the Plaintiffs shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever agreed to Plaintiffs' General Release.

3.4 Bar to Future Suits. Upon the Effective Date, and to the fullest extent permitted by law, each Settlement Class Member, shall, either directly, indirectly, representatively, or in any capacity, be permanently barred and enjoined from filing, commencing, prosecuting, intervening in, or participating (as a class member or otherwise) in any lawsuit, action, or other proceeding in any jurisdiction (other than participation in the Settlement as provided herein) against any Released Party based on the Released Claims.

4. NOTICE TO THE CLASS.

4.1 The Notice shall consist of the following:

(a) *Settlement Class List.* No later than thirty (30) days after Preliminary Approval, Defendant shall produce an electronic list from its records that includes the following information: a) Settlement Class Member Name; b) relationship of Settlement Class Member to each Account so the Settlement Administrator can determine which Settlement Class Member(s) are associated with each Account; c) email address(es) associated with each Account, if any; and d) mailing address(es) associated with each Settlement Class Member. This electronic document shall be called the “Settlement Class List,” and shall be provided to the Settlement Administrator. The Settlement Administrator shall not use the Settlement Class List, or any information contained within it, for any other purposes other than administering the settlement, and shall take reasonable measures to protect the information from any third-party disclosure.

(b) *Direct Notice.* The Settlement Administrator shall send Email Notice to all Class Members for whom it has an email address. For Settlement Class Members for whom the Settlement Administrator does not have an email address, the Settlement Administrator shall run the physical addresses through the National Change of Address Database and shall mail Postcard Notice to all such Settlement Class Members. The initial mailed Postcard and Email Notice shall be referred to as “Initial Mailed Notice.”

(c) The Notices shall include, among other information: a description of the material terms of the Settlement; a date by which Settlement Class Members may exclude themselves from, or opt out of, the Settlement Class; a date by which Settlement Class Members may object to the Settlement; the date on which the Final Approval Hearing is scheduled to occur; and the address of the Settlement Website at which Settlement Class Members may access this Agreement and other related documents and information. Class Counsel and Navy Federal shall work with the Settlement Administrator to insert the correct dates and deadlines in the Notice before the Notice Program commences, based upon those dates and deadlines set by the Court in the Preliminary Approval Order. Notices and publications provided under or as part of the Notice Program shall not bear or include the Navy Federal logo or trademarks or the return address of Navy Federal, or otherwise be styled to appear to originate from Navy Federal.

(d) The Long-Form Notice, which will be written in both English and Spanish, will be available on the Settlement Website and/or by mail upon a Settlement Class Member's request.

(e) The Settlement Administrator shall utilize best practices designed to avoid spam filters, blockers, or any tool designed to prevent receipt of e-mails, and to otherwise design and implement the sending of the e-mail to increase the likelihood that Email Notice will be successfully received into the e-mail inboxes of Settlement Class Members.

(f) *Notice Re-Mailing Process.* The Settlement Administrator shall perform reasonable address traces for all Postcard Notices that are returned as undeliverable. A reasonable tracing procedure would be to run addresses of returned postcards through the Lexis/Nexis database that can be used for such purpose. No later than thirty (30) days after the Notice Date, the Settlement Administrator shall complete one re-mailing of Postcard Notice to those Settlement

Class Members whose new addresses were identified as of that time through address traces or forwarding addresses on returned Postcard Notices (“Notice Re-Mailing Process”). The Settlement Administrator shall also send one Postcard Notice to all Settlement Class Members whose emails were returned as undeliverable and complete such Notice under the deadlines described herein as they relate to the Notice Re-Mailing Process.

(g) The Settlement Administrator shall send a second E-Mail Notice with a hyperlink to the Settlement Website, where a Settlement Class Member can access an electronic Claim Form pre-filled with the Settlement Class Member’s claim ID, if possible, to all Settlement Class Members who, according to the Settlement Administrator’s records, have not made a claim, requested to opt out, or made an objection. The second E-Mail Notice shall occur no later than thirty (30) days after the Notice Date.

(h) *Settlement Website.* On or before the Notice Date, Long Form Notice shall be provided on a website which shall be administered and maintained by the Settlement Administrator and shall include the ability to file Claim Forms on-line. The Long Form Notice provided on the Settlement Website shall be substantially in the form of **Exhibit D** hereto.

(i) *Toll-Free IVR Telephone System.* The Settlement Administrator shall maintain a toll-free IVR telephone system containing recorded answers to frequently asked questions. The recorded answers to frequently asked questions are to be agreed to by the Parties. In the event a Settlement Class Member has a question that is not addressed by the Parties in the frequently asked questions, the Settlement Administrator is to contact counsel for both Parties and a response will be agreed to by the Parties.

(j) *Contact from Class Counsel.* Class Counsel, in their capacity as counsel to Settlement Class Members, may from time-to-time contact Settlement Class Members to provide

information about the Settlement Agreement and to answer any questions Settlement Class Members may have about the Settlement Agreement. Defendant retains the right to communicate with and respond to inquiries from Settlement Class Members orally and/or in writing within the normal course of business, and the Defendant will instruct its employees and agents to direct inquiries about the Settlement to the Settlement Administrator and Settlement Website.

5. PROCEDURES FOR OPT-OUTS AND OBJECTIONS.

5.1 The Notice shall advise the Settlement Class of their rights, including the right to be excluded from and/or object to the Settlement Agreement or any of its terms. To be effective, any request for exclusion or objection to the Settlement must be mailed to the Settlement Administrator at the address provided in the Notice postmarked no later than the Objection/Exclusion Deadline approved by the Court and specified in the Notice.

5.2 Objections from Settlement Class Members. A Settlement Class Member who does not request exclusion but instead wishes to object to this Settlement may do so by submitting the objection to the Settlement Administrator in writing postmarked on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice. To object to the Settlement, a Person in the Settlement Class must timely send a written notice of intent to object to the Settlement Administrator as specified in the Notice, and it must include: (1) the name of the case and case number; (2) the objector's full name, address, telephone number, and e-mail address; (3) grounds for the objection, including any legal support; (4) the name and contact information of any and all attorneys representing, advising, or in any way assisting the objector in connection with the preparation or submission of the objection or who may benefit from the pursuit of the objection (the "Objecting Attorneys"); (6) a statement indicating whether the objector intends to appear and/or address the Court at the Final Approval Hearing (either personally or through

counsel; and (6) the signature of the objector. No other person may sign on behalf of the objector, including an objector's attorney.

5.3 To the extent any Settlement Class Member objects to the Settlement, and such objection is overruled in whole or in part, such Settlement Class Member will be forever bound by the Final Order and Judgment of the Court. Settlement Class Members can avoid being bound by any judgment of the Court by complying with the exclusion provisions set forth herein.

5.4 The Settlement Administrator shall timely provide Class Counsel and Navy Federal a copy of any objections received by the Settlement Administrator.

5.5 Requests for Exclusion or Opt-Out. A Settlement Class Member may request to be excluded from the Settlement Class by sending a written request postmarked on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice. To exercise the right to be excluded, a Person in the Settlement Class must timely send a written request for exclusion to the Settlement Administrator as specified in the Notice, and must include: (1) the name of the case; (2) his/her full name; (3) current address; (4) an affirmative statement that he or she wishes to be excluded from the Settlement Class for purposes of this Settlement; and (6) his/her signature. The request for exclusion must be personally signed by the Person requesting exclusion. No other person may sign on behalf of the Person seeking exclusion, including the Person's attorney. So-called "mass" or "class" opt-outs shall not be allowed.

5.6 A request to be excluded that does not include all of this information, or that is sent to an address other than that designated in the Notice, or that is not postmarked within the time specified, shall be invalid, and the Person(s) serving such a request shall be a member(s) of the Settlement Class and shall be bound as a Settlement Class Member by this Agreement, if approved. Any member of the Settlement Class who validly elects to be excluded from this Agreement shall

not: (i) be bound by any orders or the Final Judgment; (ii) be entitled to relief under this Settlement Agreement; (iii) gain any rights by virtue of this Agreement; or (iv) be entitled to object to any aspect of this Agreement.

5.7 Any Settlement Class Member who does not timely and validly request to opt-out shall be bound by the terms of this Agreement. If an Account has more than one Accountholder, and if one Accountholder opts-out himself or herself from the Settlement Class, then all Accountholders on that Account shall be deemed to have opted-out of the Settlement with respect to that Account, and no Accountholder shall be entitled to a payment under the Settlement.

5.8 The Settlement Administrator shall promptly log and prepare a list of all Accountholders who properly requested exclusion from the Settlement Class and all other individuals with an interest in the Accounts who are deemed to have opted out and shall submit a declaration to the Court, which includes and attests to the accuracy of the opt-out list no later than ten (10) days prior to the Final Approval Hearing set by the Court.

5.9 The Final Approval Hearing shall be no earlier than five months after entry of the Preliminary Approval Order.

5.10 Any Settlement Class Member who does not, using the procedures set forth in this Agreement and the Notice, either seek exclusion from the Settlement Class or timely file a valid Claim Form shall not be entitled to receive any payment or benefits pursuant to this Agreement, but will otherwise be bound by all of the terms of this Agreement, including the terms of the Final Judgment to be entered in the Action and the Releases provided for in the Agreement, and will be barred from bringing any action against any of the Released Parties concerning the Released Claims.

6. SETTLEMENT ADMINISTRATION.

6.1 The Settlement Administrator shall, under the supervision of the Court, administer the relief provided by this Settlement Agreement by processing Claim Forms in a rational, responsive, cost effective, and timely manner. The Settlement Administrator shall maintain reasonably detailed records of its activities under this Agreement. The Settlement Administrator shall maintain all such records as are required by applicable law in accordance with its normal business practices and such records will be made available to Class Counsel and Defendant's Counsel upon request. The Settlement Administrator shall also provide reports and other information to the Court as the Court may require. The Settlement Administrator shall provide Class Counsel and Defendant's Counsel with information concerning Notice, administration, and implementation of the Settlement Agreement. Without limiting the foregoing, the duties of the Settlement Administrator, in addition to other responsibilities that are described in this paragraph and elsewhere in this Agreement, are as follows:

(a) Use the name, address, and email information for Settlement Class Members provided by Navy Federal in connection with the Notice process approved by the Court, for the purpose of mailing the Postcard Notice and sending the Email Notice, and later mailing distribution checks to Former Accountholder Settlement Class Members, and to Current Accountholders where it is not feasible or reasonable for Navy Federal to make the payment by a credit to the Settlement Class Members' Accounts or any other account they have with Navy Federal;

(b) Establish and maintain a Post Office box for the receipt of opt out requests and objections;

(c) Establish and maintain the Settlement Website;

(d) Establish and maintain an automated toll-free IVR line for Settlement Class Members to call with Settlement-related inquiries, and answer the frequently asked question of Settlement Class members who call with or otherwise communicate such inquiries, as described in paragraph 4.1(i);

(e) Respond to any mailed Settlement Class Member inquiries;

(f) Process all requests for exclusion from the Settlement Class;

(g) Process Claim Forms, as described herein, and determine whether each Claim Form submitted is valid;

(h) Provide weekly reports to Class Counsel and Defendant's Counsel that summarize the number of Claim Forms submitted, the number of Approved Claims, the total number of exclusion requests and/or objections received to date, and other pertinent information;

(i) Forward to Defendant's Counsel and Class Counsel the number of Claim Forms the Settlement Administrator found to be valid and copies of any Claim Forms found to be invalid as of the Claims Deadline. If the Settlement Administrator receives any Claim Forms after the Claims Deadline, it will forward them to Defendant's Counsel and Class Counsel on a rolling basis prior to the Final Approval Hearing;

(j) Receive requests to be excluded from the Settlement Class and other requests and promptly provide to Class Counsel and Defendant's Counsel copies thereof. If the Settlement Administrator receives any exclusion forms or other requests after the deadline for the submission of such forms and requests, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Defendant's Counsel;

(k) Provide weekly reports to Class Counsel and Defendant's Counsel, including without limitation, that summarize the number of requests for exclusion and/or

objections received that week, the total number of exclusion requests and/or objections received to date, the number of Claim Forms received, the number approved by the Settlement Administrator, and the categorization and description of Claim Forms rejected, in whole or in part, by the Settlement Administrator, and other pertinent information;

(l) In advance of the Final Approval Hearing, prepare a declaration to submit to the Court at least 10 days before the Final Approval Hearing confirming that the Notice Program was completed and that the Class Action Fairness Act notice requirements have been met, describing how the Notice Program, the process of Approved Claims, and the Plan of Allocation were completed, and providing the names of each Settlement Class Member who timely and properly opted out from the Settlement Class, as well as those Settlement Class Members who timely filed objections, and other information as may be necessary to allow the Parties to seek and obtain Final Approval;

(m) In accordance with the Plan of Allocation, provide Navy Federal with a chart of the payment amount for each Settlement Class Member Account;

(n) Perform all tax-related services for the Escrow Account as provided in the Agreement;

(o) Pay invoices, expenses, and costs upon approval by Class Counsel and Navy Federal, as provided in this Agreement;

(p) Make available for inspection by Class Counsel or Defendant's Counsel certain identified Claim Forms received by the Settlement Administrator upon reasonable notice; and

(q) Any other Settlement-administration-related function at the instruction of Class Counsel and Defendant's Counsel, including but not limited to, verifying that the Settlement Fund has been distributed.

6.2 The Settlement Administrator shall be obliged to employ reasonable procedures to screen claims for abuse or fraud and deny Claim Forms where there is evidence of abuse or fraud. The Settlement Administrator will reject any claim that does not comply in any material respect with the instructions on the Claim Form or the terms of Paragraph 2.1(b), above, or is submitted after the Claims Deadline.

6.3 Defendant's Counsel and Class Counsel shall have the right to challenge the acceptance or rejection of a Claim Form submitted by Settlement Class Members and to obtain and review supporting documentation relating to such Claim Form. The Settlement Administrator shall follow any agreed decisions of Class Counsel and Defendant's Counsel as to the validity of any disputed submitted Claim Form. To the extent Class Counsel and Defendant's Counsel are not able to agree on the disposition of a challenge, the disputed claim shall be submitted to the Honorable Diane M. Welsh of JAMS for binding determination.

6.4 In the exercise of its duties outlined in this Agreement, the Settlement Administrator shall have the right to reasonably request additional information from the Parties or any Settlement Class Member.

7. TERMINATION OF SETTLEMENT.

7.1 Subject to Paragraphs 10.1-10.4 below, Defendant or the Class Representatives on behalf of the Settlement Class, shall have the right to terminate this Agreement by providing written notice of the election to do so ("Termination Notice") to all other Parties hereto within twenty-one (21) days of any of the following events: (i) the Court's refusal to grant Preliminary Approval of this Agreement in any material respect; (ii) the Court's refusal to grant final approval

of this Agreement in any material respect; (iii) the Court's refusal to enter the Final Judgment in connection with the class action settlement in any material respect; (iv) the date upon which the Final Judgment is modified or reversed in any material respect by the Court of Appeals or the Supreme Court; (v) the date upon which an Alternative Judgment, as defined in Paragraph 10.1(d) of this Agreement, is modified or reversed in any material respect by the Court of Appeals or the Supreme Court.

7.2 The Parties agree that the Court's failure to approve, in whole or in part, the attorneys' fees payment to Class Counsel and/or the Service Award set forth in Section 9 below shall not prevent the Agreement from becoming effective, nor shall it be grounds for termination. The procedures for any application for approval of attorneys' fees, expenses, or Service Awards are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement.

8. PRELIMINARY APPROVAL ORDER AND FINAL APPROVAL ORDER.

8.1 Promptly after the execution of this Settlement Agreement and by any deadline set by the Court, Class Counsel shall submit this Agreement together with its Exhibits to the Court and shall move the Court for Preliminary Approval of the settlement set forth in this Agreement; certification of the Settlement Class for settlement purposes only; appointment of Class Counsel and the Class Representatives; and entry of a Preliminary Approval Order, which order shall set a Final Approval Hearing date and approve the Notice and Claim Form for dissemination substantially in the form of Exhibits A, B, C, and D hereto. Defendant shall have no obligation to make separate filings in support of the Motion for Preliminary Approval. The Preliminary Approval Order, which shall be substantially similar to Exhibit E, shall also authorize the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of the Settlement Agreement and its implementing documents (including all

exhibits to this Agreement) so long as they are consistent in all material respects with the terms of the Settlement Agreement and do not limit or impair the rights of the Settlement Class.

8.2 For Settlement purposes only, Plaintiffs and Navy Federal agree to ask the Court to certify the Written Explanation Settlement Class and the Document Request Settlement Subclass. Defendant retains all of its objections, arguments, and defenses with respect to class certification and any other issue, and reserves all rights to contest class certification and any other issue if the Settlement set out in this Agreement does not result in entry of the Final Approval Order and Final Judgment, if the Court's approval is reversed or vacated on appeal, if this Settlement is terminated as provided herein, or if the Settlement set forth in this Settlement otherwise fails to become effective. The Parties acknowledge that there has been no stipulation to any classes or certification of any classes for any purpose other than effectuating the Settlement, and that if the Settlement set forth in this Settlement Agreement is not finally approved, if the Court's approval is reversed or vacated on appeal, if this Settlement Agreement is terminated as provided herein, or if the Settlement set forth in this Settlement Agreement otherwise fails to become effective, this agreement as to certification of the Settlement Class becomes null and void ab initio, and this Settlement Agreement or any other settlement-related statement may not be cited regarding certification of the Class, or in support of an argument for certifying any class for any purpose related to the Actions or any other proceeding.

8.3 At the time of the submission of this Agreement to the Court as described above, Class Counsel shall request that, after Notice is given, the Court hold a Final Approval Hearing and approve the settlement of the Actions as set forth herein. At the Final Approval Hearing, the Court will hear argument on Plaintiffs' Motion for Final Approval of the Settlement, and on Class Counsel's application for attorneys' fees, costs, and expenses, and for the Service Award for the

Class Representatives. In the Court's discretion, the Court also will hear argument at the Final Approval Hearing from any Settlement Class Members (or their counsel) who object to the Settlement or to Class Counsel's application for attorneys' fees, costs, expenses, or the Service Awards application.

8.4 Class Counsel shall draft the final approval papers and send Navy Federal's counsel a draft of the papers to review and comment on at least three (3) court days before they are filed. The Final Approval Order and Final Judgment will (among other things):

(a) find that the Court has personal jurisdiction over all Settlement Class Members and that the Court has subject matter jurisdiction to approve the Agreement, including all exhibits thereto;

(b) approve the Settlement Agreement and the proposed settlement as fair, reasonable, and adequate as to, and in the best interests of, the Settlement Class Members; direct the Parties and their counsel to implement and consummate the Agreement according to its terms and provisions; and declare the Agreement to be binding on, and have *res judicata* and preclusive effect in all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and Releasing Parties;

(c) find that the Notice implemented pursuant to the Agreement (1) constitutes the best practicable notice under the circumstances; (2) constitutes notice that is reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of the Action, their right to object to or exclude themselves from the proposed Agreement, and to appear at the Final Approval Hearing; (3) is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice; and (4) meets all applicable requirements of applicable rules

of civil procedure, the Due Process Clause of the United States Constitution, and the rules of the Court;

(d) find that the Class Representatives and Class Counsel adequately represent the Settlement Class for purposes of entering into and implementing the Agreement;

(e) dismiss the remaining action (including all individual claims and Settlement Class claims presented thereby) on the merits and with prejudice, without fees or costs to any party except as provided in the Settlement Agreement;

(f) incorporate the Releases set forth above, make the Releases effective as of the date of the Effective Date, and forever discharge the Released Parties as set forth herein;

(g) permanently bar and enjoin all Settlement Class Members who have not been properly excluded from the Settlement Classes from filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in, any lawsuit or other action in any jurisdiction based on the Released Claims;

(h) without affecting the finality of the Final Judgment for purposes of appeal, retain jurisdiction as to all matters relating to administration, consummation, enforcement, and interpretation of the Settlement Agreement and the Final Judgment, and for any other necessary purpose; and

(i) incorporate any other provisions, as the Court deems necessary and just.

9. CLASS COUNSEL'S ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES; SERVICE AWARD.

9.1 Defendant agrees that Class Counsel shall be entitled to an award of reasonable attorneys' fees and costs out of the Settlement Fund in an amount determined by the Court as the Fee Award. Counsel will limit its petition for attorneys' fees to no more than one-third (33.33%) of the Settlement Value in addition to reasonable costs and expenses. Payment of the Fee Award

shall be made from the Settlement Fund and should the Court award less than the amount sought by Class Counsel, the difference in the amount sought and the amount ultimately awarded pursuant to this Paragraph shall remain in the Settlement Fund for distribution to eligible Settlement Class Members. Class Counsel's entitlement, if any, to a Fee Award will be determined by the Court. The Parties agree that the Court's failure to approve, in whole or in part, any award for attorneys' fees shall not prevent the Settlement Agreement from becoming Effective, nor shall it be grounds for termination. The terms of any such awards, fees, costs, or expenses were not negotiated until after all material elements of the Settlement were resolved, and the terms of this Settlement are not conditioned upon any attorneys' fee award.

9.2 All Court-approved attorneys' fees, costs, and expenses shall be payable from the Escrow Account by the Settlement Administrator to Class Counsel within fifteen (15) days of receipt of funds by Navy Federal.

9.3 Allocation. The payment of attorneys' fees, costs, and expenses of Class Counsel shall be made as designated by Class Counsel. After the fees, costs, and expenses have been paid, Class Counsel shall be solely responsible for distributing each Plaintiff's firm's allocated share of such fees, costs, and expenses to that firm. Navy Federal shall have no responsibility for any allocation, and no liability whatsoever to any person or entity claiming any share of the funds to be distributed for payment of attorneys' fees, costs, or expenses, or any other payments from the Settlement Fund not specifically described herein.

9.4 Class Counsel intends to file a motion for Court approval of an award of \$5,000 to each of the as Service Awards for their role as Class Representatives, to be paid by Defendant and separate from and addition to the Settlement Fund. These payments are in addition to any funds the Class Representative are otherwise eligible to receive from the Settlement if they submit valid

Claim Forms. The Class Representatives will seek no more than \$5,000.00 each as a Service Award. Such awards shall be paid separate from the Settlement Fund through a credit to each Plaintiff's Account within thirty (30) days after the Effective Date. The Parties agree that the Court's failure to approve the Service Award, in whole or in part, shall not prevent the Settlement Agreement from becoming Effective, nor shall it be grounds for termination.

10. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL, CANCELLATION OR TERMINATION.

10.1 Termination. This Settlement may be terminated by either Class Counsel or Navy Federal by serving on counsel for the opposing Party and filing with the Court a written notice of termination within fifteen (15) days (or such longer time as may be agreed in writing between Class Counsel and Navy Federal) after any of the following occurrences:

- (a) Class Counsel and Navy Federal agree to termination;
- (b) the Court rejects, materially modifies, materially amends or changes, or declines to preliminarily or finally approve the Settlement;
- (c) an appellate court vacates or reverses the Final Approval Order, and the Settlement is not reinstated and finally approved without material change by the Court on remand within three hundred and sixty (360) days after such reversal;
- (d) any court incorporates into, or deletes or strikes from, or modifies, amends, or changes, the Preliminary Approval Order, Final Approval Order, or the Settlement in a way that Class Counsel or Navy Federal seeking to terminate the Settlement reasonably considers material (entering an "Alternative Judgment");
- (e) the Effective Date does not occur; or
- (f) any other ground for termination provided for elsewhere in this Agreement.

10.2 Navy Federal also shall have the right to terminate the Settlement by serving on Class Counsel and filing with the Court a notice of termination within ten (10) business days after its receipt from the Settlement Administrator of any report indicating 15% or more of the Settlement Class Members timely requested exclusion.

10.3 Effect of a Termination. The grounds upon which this Agreement may be terminated are set forth herein above. In the event of a termination, this Agreement shall be considered null and void; all of Plaintiffs', Class Counsel's, and Navy Federal's obligations under the Settlement shall cease to be of any force and effect; any amounts in the Escrow Account shall be returned to Navy Federal; and the Parties shall return to the status quo ante in the Action as if the Parties had not entered into this Agreement. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement rights, claims, and defenses will be retained and preserved.

10.4 In the event of termination, Navy Federal shall have no right to seek reimbursement from Plaintiffs, Class Counsel, or the Settlement Administrator for Settlement Administration Costs paid by Navy Federal.

10.5 The Settlement shall become effective on the Effective Date unless earlier terminated in accordance with the provisions hereof.

10.6 Certification of the Settlement Class shall have no bearing in deciding whether the claims asserted in the Action are or were appropriate for class treatment in the absence of settlement. If this Agreement terminates or is nullified, the provisional class certification shall be vacated by its terms, and the Action shall revert to the status that existed before execution of this Settlement Agreement. Thereafter, Plaintiffs shall be free to pursue any claims available to them, and Navy Federal shall be free to assert any defenses available to it, including but not limited to,

denying the suitability of this case for class treatment. Nothing in this Agreement shall be argued or deemed to estop any Party from the assertion of such claims and defenses.

10.7 In the event the Settlement is terminated in accordance with the provisions of this Agreement, any discussions, offers, or negotiations associated with this Settlement shall not be discoverable or offered into evidence or used in the Action or any other action or proceeding for any purpose. In such event, all Parties to the Action shall stand in the same position as if this Agreement had not been negotiated, made, or filed with the Court.

11. NO ADMISSION OF LIABILITY

11.1 Navy Federal continues to dispute its liability for the claims alleged in the Action, and maintains that its practices and procedures related to its investigation and determination of claimed fraudulent electronic transfer(s), including explanations for denials and provision of documents to members upon request, complied, at all times, with applicable laws and regulations and the terms of the account agreements with its members. Navy Federal has agreed to enter into this Agreement to avoid the further expense, inconvenience, and distraction of burdensome and protracted litigation, and to be completely free of any further claims that were asserted or could possibly have been asserted in the Action.

11.2 Class Counsel believe that the claims asserted in the Action have merit, and they have examined and considered the benefits to be obtained under the proposed Settlement set forth in this Agreement, the risks associated with the continued prosecution of this complex, costly and time-consuming litigation, and the likelihood of success on the merits in the Action. Class Counsel fully investigated the facts and law relevant to the merits of the claims, conducted significant discovery, and conducted independent investigation of the challenged practices. Class Counsel concluded that the proposed Settlement set forth in this Agreement is fair, adequate, reasonable, and in the best interests of the Settlement Class members.

11.3 The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgement or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever.

11.4 Neither the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (a) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by the Plaintiffs or Settlement Class Members, or of any wrongdoing or liability of the Released Parties; or (b) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission of any of the Released Parties, in the Action or in any proceeding in any court, administrative agency, or other tribunal.

11.5 In addition to any other defenses Navy Federal may have at law, in equity, or otherwise, to the extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit or other proceeding that may be instituted, prosecuted or attempted in breach of this Agreement or the Releases contained herein.

12. NO PRESS RELEASE OR PUBLICITY

12.1 Each Party agrees not to make any statements, written or oral, or cause or encourage others to make any statements, written or oral, that defame, disparage or in any way criticize the personal or business reputation, or conduct of the other party, including affiliates, parents, direct and indirect subsidiaries, agents, insurers, and any company or companies under common control with any of them. Before entry of Final Judgment by the Court, neither Plaintiffs nor Class Counsel shall directly or indirectly issue or cause to be issued any statements to the media or

engage in any other press, publicity or disclosure regarding this Settlement Agreement or the settlement of the Action. If contacted by the media after the entry of Final Judgment by the Court, the Party may respond generally by stating that they are happy that the Settlement was reached and that it is a fair and reasonable result. No Party shall issue any press release or shall otherwise initiate press coverage of the Settlement.

13. MISCELLANEOUS PROVISIONS

13.1 Gender and Plurals. As used in this Agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

13.2 Binding Effect. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Releasing Parties and the Released Parties.

13.3 Cooperation of Parties. The Parties agree to cooperate in good faith to prepare and execute all documents, to seek Court approval, uphold Court approval, and do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

13.4 Obligation To Meet And Confer. Before filing any motion in the Court raising a dispute arising out of or related to the Agreement, the Parties shall consult with each other and certify to the Court that they have consulted.

13.5 Integration. The Agreement constitutes a single, integrated written contract expressing the entire agreement of the Parties relative to the subject matter hereof. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party hereto, except as provided for herein.

13.6 No Conflict Intended. Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

13.7 Governing Law. Except as otherwise provided herein, the Agreement shall be construed in accordance with, and be governed by, the laws of the State of Virginia, without regard to the principles thereof regarding choice of law.

13.8 Jurisdiction. The Court shall retain exclusive jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall also have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain exclusive jurisdiction with respect to the administration, consummation, and enforcement of the Agreement. The Court shall also retain exclusive jurisdiction over all questions and/or disputes related to the Notice Program and the Settlement Administrator. As part of the agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose. The Court shall retain exclusive jurisdiction over the enforcement of the Court's injunction barring and enjoining all Releasing Parties from asserting any of the Released Claims and from pursuing any Released Claims against Navy Federal or its affiliate at any time, including during any appeal from the Final Approval order.

13.9 Notices. All notices to Class Counsel provided for herein, shall be sent by email with a hard copy sent by overnight mail to:

EDELSBERG LAW, P.A.
Scott Edelsberg
Adam Schwartzbaum
1925 Century Park East, Suite 1700
Los Angeles, CA 90067
Email: scott@edelsberglaw.com
adam@edelsberglaw.com

SHAMIS & GENTILE, P.A.
Andrew J. Shamis
Edwin E. Elliott
14 NE 1st Avenue, Suite 705

Miami, FL 33132
Email: Ashamis@shamisgentile.com
Edwine@shamisgentile.com

KALIEL GOLD PLLC
Jeffrey D. Kaliel
Sophia Goren Gold
490 43rd Street, No. 122
Oakland, CA 94609
Email: jkaliel@kalielpllc.com
sgold@kalielpllc.com

Class Counsel

DAVIS WRIGHT TREMAINE LLP
Fred Burnside
920 Fifth Avenue, Suite 3300
Seattle, Washington
Email: fredburnside@dwt.com

Nancy R. Thomas
350 South Grand Avenue, 27th Floor
Los Angeles, CA 90071-3487
Email: nancythomas@dwt.com

Counsel for Navy Federal Credit Union

The notice recipients and addresses designated above may be changed by written notice. Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filings received as a result of the Notice program.

13.10 Modification and Amendment. This Agreement may not be amended or modified, except by a written instrument signed by Class Counsel and counsel for Navy Federal and, if the Settlement has been approved preliminarily by the Court, approved by the Court.

13.11 No Waiver. The waiver by any Party of any breach of this Agreement by another Party shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Agreement.

13.12 Authority. Class Counsel, and counsel for Navy Federal, represent and warrant that the persons signing this Agreement on their behalf have full power and authority to bind every person, partnership, corporation or entity included within the definitions of Plaintiffs and Navy Federal to all terms of this Agreement. Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.

13.13 Agreement Mutually Prepared. Neither Navy Federal nor Plaintiffs, nor any of them, shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

13.14 Independent Investigation and Decision to Settle. The Parties understand and acknowledge that they: (a) have performed an independent investigation of the allegations of fact and law made in connection with this Action; and (b) that even if they may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Action as reflected in this Agreement, that will not affect or in any respect limit the binding nature of this Agreement. It is the Parties' intention to resolve their disputes in connection with this Action pursuant to the terms of this Agreement now and thus, in furtherance of their intentions, the Agreement shall remain in full force and effect notwithstanding the discovery of any additional facts or law, or changes in law, and this Agreement shall not be subject to rescission or modification by reason of any changes or differences in fact or law, subsequently occurring or otherwise.

13.15 Settlement Purpose of Agreement. This Settlement Agreement is governed by the terms of Federal Rule of Evidence 408 and is for settlement purposes only, and neither the fact

of, nor any provision contained in this Settlement Agreement or any attachments, nor any action taken hereunder shall constitute, be construed as, or be admissible in evidence as, any admission of the validity of any claim, defense, or any fact alleged by any of the Parties in the Action or in any other pending or subsequently filed action or of any wrongdoing, fault, violation of law, or liability of any kind on the part of any Party, or admission by any Party of any claim, defense, or allegation made in the Action or any other action, nor as an admission by any of Navy Federal, Plaintiffs, or Settlement Class Members of the validity of any fact or defense asserted against them in the Action or any other action.

13.16 If the Court should for any reason fail to approve this Agreement in the form agreed to by the Parties, decline to enter the Settlement Order and Final Judgment in the form described in this Settlement Agreement, or impose any condition to approval of the settlement to which the Parties do not consent, or if the Final Approval Order or Final Judgment are reversed or rendered void, then (a) this Settlement Agreement shall be considered null and void, (b) neither this Settlement Agreement nor any of the related negotiations shall be of any force or effect, and (c) all Parties to this Settlement Agreement shall stand in the same position, without prejudice, as if the Settlement Agreement had been neither entered into nor filed with the Court. Invalidity of any portion of this Settlement Agreement shall invalidate this Settlement Agreement in its entirety unless the Parties agree in writing that the remaining provisions shall remain in full force and effect. This includes that the provisional certification of the Settlement Class shall have no bearing in deciding whether the claims asserted in the Action are or were appropriate for class treatment in the absence of settlement. If this Agreement terminates or is nullified, the provisional class certification shall be vacated by its terms, and the Action shall revert to the status that existed before the execution of this Settlement Agreement. Upon nullification of this Settlement

Agreement, Plaintiffs shall be free to pursue any claims available to them, and Navy Federal shall be free to assert any defenses available to it, including but not limited to, denying the suitability of this case for class treatment. Nothing in this Agreement shall be argued or deemed to estop any Party from asserting such claims or defenses. In the event the Court should for any reason fail to approve this Settlement Agreement in the form agreed to by the Parties, decline to enter the Final Approval Order or Final Judgment in the form described in this Settlement Agreement, or impose any condition to approval of the settlement to which the Parties do not consent, or if the Final Approval Order or Final Judgment are reversed or rendered void, the Parties will negotiate in good faith to address the issues raised by said events.

13.17 Assignment: Third Party Beneficiaries. None of the rights, commitments, or obligations recognized under this Settlement Agreement may be assigned by any member of the Settlement Class without the express written consent of the other Parties.

13.18 Receipt of Advice of Counsel. Each Party acknowledges, agrees, and specifically warrants that he, she, or it has fully read this Agreement and the Release contained herein, received independent legal advice with respect to the advisability of entering into this Agreement and the Release and the legal effects of this Agreement and the Release, and fully understands the effects of this Agreement and the Release.

13.19 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all Parties do not sign the same counterparts. Original signatures are not required. Any signature or electronic signature submitted through email of an Adobe PDF or through an electronic signature program such as DocuSign or Adobe Acrobat Sign shall be deemed an original.

IT IS SO AGREED TO BY THE PARTIES:Dated: July 18, 2025**JEFFREY STEPHENSON**

By: 
Jeffrey Stephenson (Jul 18, 2025 18:45 GMT+1)
Jeffrey Stephenson, individually and as
representative of the Class

Dated: July 16, 2025**BILLY SMITH II**

By: 
Billy Smith II (Jul 16, 2025 14:52 PDT)
Billy Smith II, individually and as
representative of the Class

Dated: July , 2025**NAVY FEDERAL CREDIT UNION**

By: _____

Name: _____

Title: _____

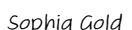
IT IS SO STIPULATED BY COUNSEL:Dated: July 11, 2025**EDELSBERG LAW, P.A.**

By: 
/s/
Scott Edelsberg

Dated: July 11, 2025**SHAMIS & GENTILE, P.A.**

By: 
/s/
Andrew J. Shamis

Dated: July 16, 2025**KALIEL GOLD PLLC**

By: 
/s/
Sophia Gold

Class Counsel

IT IS SO AGREED TO BY THE PARTIES:

Dated: July ____, 2025

JEFFREY STEPHENSON

By: _____
Jeffrey Stephenson, individually and as
representative of the Class

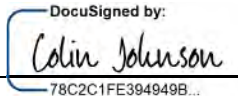
Dated: July ____, 2025

BILLY SMITH II

By: _____
Billy Smith II, individually and as
representative of the Class

Dated: July 16, 2025

NAVY FEDERAL CREDIT UNION

By:  _____
78C2C1FE394949B...

Name: _____ Colin Johnson

Title: _____ Associate General Counsel

IT IS SO STIPULATED BY COUNSEL:

Dated: July ____, 2025

EDELSBERG LAW, P.A.

By: /s/ _____
Scott Edelsberg

Dated: July ____, 2025

SHAMIS & GENTILE, P.A.

By: /s/ _____
Andrew J. Shamis

Dated: July ____, 2025

KALIEL GOLD PLLC

By: /s/ _____
Sophia Gold

Class Counsel

Dated: July 25, 2025

DAVIS WRIGHT TREMAINE LLP

By: /s/ Fred Burnside

Attorney for Defendant

Exhibit G

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JEFFREY STEPHENSON and BILLY SMITH II, individually, on behalf of himself and all others similarly situated,

Plaintiffs,

vs.

NAVY FEDERAL CREDIT UNION,

Defendant.

Case No. **3:23-CV-01851-WQH-KSC**

**[PROPOSED] ORDER GRANTING
ORDER GRANTING FINAL
APPROVAL OF SETTLEMENT
AND ENTERING FINAL
JUDGMENT**

Hon. William Q. Hayes
Hon. Karen S. Crawford

Date: TBD
Time: TBD
Courtroom: 14B

Before the Court is Plaintiffs' unopposed motion to certify a settlement class, grant final approval of the proposed class action settlement, and enter final judgment in this action (Plaintiffs' Unopposed Motion) (ECF No. __), the terms of which are set forth in a Settlement Agreement with accompanying exhibits.

On [REDACTED], 2025, the Court entered a Preliminary Approval Order. Among other things, the Preliminary Approval Order (i) preliminarily approved the Settlement; (ii) determined that, for purposes of the settlement only, the Action should proceed as a class action pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure; (iii) appointed Plaintiffs as Class Representatives; (iv) appointed as Class Counsel for the Settlement Classes: Scott Edelsberg and Adam Schwartzbaum of Edelsberg Law, P.A.; Edwin E. Elliott of Shamis & Gentile, P.A.;

1 and Sophia Gold and Jeffrey D. Kaliei of Kaliei Gold PLLC; (v) preliminarily
2 approved the form and manner of the Notice Program, the Claims process, and the
3 Plan of Allocation; and (vi) set a hearing date to consider Final Approval of the
4 Settlement. The Court has considered the Agreement, papers filed, and proceedings
5 held in connection with the Settlement, and all the other files, records, proceedings
6 in the Action, and arguments of counsel. Having fully considered the matter, the
7 Court GRANTS Plaintiffs' Motion under Federal Rule of Civil Procedure 23(e) as
8 follows:
9

10
11
12 1. This Court has jurisdiction over the subject matter of the Action and over
13 all parties to the Action, including all Settlement Class Members.

14
15 2. This Order incorporates the definitions in the Settlement Agreement,
16 and all capitalized terms used in this Order have the same meanings as set forth in the
17 Settlement Agreement, unless otherwise defined herein.

18
19 3. **Class Certification for Settlement Purposes Only.** The Court
20 reaffirms its earlier findings that class certification is appropriate for settlement
21 purposes and hereby certifies the following Settlement Classes for purposes of
22 judgment on the Settlement only:
23

24 **Written Explanation Settlement Class.** All Accountholders whose
25 claims of unauthorized electronic fund transfers were denied by Navy
26 Federal Credit Union between October 10, 2022, and the date the Court
27 grants preliminary approval of the Settlement

28 **Document Request Settlement Subclass.** All Accountholders in the
Written Explanation Settlement Class who requested documents Navy
Federal relied on in making its determination and who did not receive
them.

1 4. Excluded from the Settlement Classes are (1) any judge presiding over
2 this Action and members of their families; and (2) Defendant, its subsidiaries, parent
3 companies, successors, predecessors, and any entity in which Defendant or its parents
4 have a controlling interest and their current or former officers, directors, agents,
5 attorneys, and employees and any member of the Settlement Class who submitted a
6 timely and valid request for exclusion.
7

9 5. **Final Settlement Approval.** The Settlement is in all respects fair,
10 reasonable, and adequate, including the releases, Claims process, and Plan of
11 Allocation. The Court makes final its preliminary findings that, for purposes of
12 settlement only, the Settlement satisfies the requirements of Rule 23.
13

14 6. In reaching this conclusion, the Court considered the complexity,
15 expense, and duration of the litigation, the Settlement Classes' reaction to the
16 Settlement, and the result achieved. The Agreement was the product of informed,
17 arms-length negotiations among competent, able counsel. The Settlement was made
18 based upon a record that is sufficiently developed to have enabled the Parties to
19 adequately evaluate and consider their positions.
20

21 7. The Settlement provides sufficient benefits to Settlement Class
22 Members in consideration of the maximum statutory damages set out in the
23 Electronic Funds Transfer Act. [In addition, there were no objections to the
24 Settlement, and there were a small number of opt-outs, indicating an overwhelming
25 positive reaction from the Settlement Class].
26
27
28

1 8. The Claims process and Plan of Allocation are fair, reasonable, and
2 adequate.
3

4 9. **Class Notice.** The Settlement Administrator completed the delivery of
5 Notice to the Settlement Class according to the Agreement terms. This Notice was
6 the best notice practicable under the circumstances, and constituted due and sufficient
7 notice of the proceedings and matters set forth therein, to all persons entitled to notice.
8 The Notice and the Notice Program fully satisfied the requirements of due process,
9 Federal Rule of Civil Procedure 23, and all other applicable law and rules.
10
11

12 10. **Class Action Fairness Act Notice.** The Settlement Administrator
13 satisfied all notices and requirements of the Class Action Fairness Act of 2005
14 (CAFA), 28 U.S.C. § 1715. The Court has reviewed such notification and
15 accompanying materials and finds that the notification complies fully with the
16 applicable CAFA requirements. [No written objection or response to the Settlement
17 was filed by any federal or state official, including any recipient of the foregoing
18 notices. No federal or state official, including any recipient of the foregoing notices,
19 appeared or requested to appear at the Fairness Hearing.]
20
21
22

23 11. **Class Representatives and Class Counsel.** The appointment of the
24 Plaintiffs Jeffrey Stephenson and Billy Smith II as Class Representatives is affirmed.
25

26 12. The appointment of Scott Edelsberg and Adam Schwartzbaum of
27 Edelsberg Law, P.A.; Edwin E. Elliott of Shamis & Gentile, P.A.; and Sophia Gold
28 and Jeffrey D. Kaliei of Kaliei Gold PLLC is affirmed.

1 13. The Class Representatives and Class Counsel have fairly and adequately
2 represented and will continue to adequately represent and protect the interests of
3 Settlement Class Members in connection with the Settlement.
4

5 14. **Opt Outs.** A list of the individuals who have opted out of the Settlement
6 is attached hereto as **Exhibit A**. Those individuals will not be bound by the Settlement
7 or the Releases contained therein.
8

9 15. **Implementation of Settlement.** Because the Court approves the
10 Settlement set forth in the Settlement Agreement as fair, reasonable, and adequate,
11 the Court authorizes and directs that the Parties and the Settlement Administrator
12 implement the Settlement according to the Agreement terms.
13

14 16. If, consistent with the Plan of Allocation set forth in the Settlement
15 Agreement, any Residual Funds remain after the first distribution, the Residual Funds
16 will reimburse Defendant for Settlement Administration Expenses. Any remaining
17 Residual Funds after reimbursing Defendant will go to an appropriate *cy pres*
18 recipient, either a consumer protection or financial services charity, to be decided by
19 the Court. All Parties to this Action, and all Settlement Class Members, are bound
20 by the Settlement as set forth in the Settlement Agreement and this Order.
21
22
23

24 17. **Releases.** Upon the Effective Date, the Releasing Parties fully and
25 irrevocably release and forever discharge All Released Claims against the Released
26 Parties. The Released Claims are dismissed with prejudice and released regardless
27
28

1 of whether these claims are known or unknown, actual or contingent, liquidated or
2 unliquidated.
3

4 18. Upon the Effective Date, the Plaintiffs shall be deemed to have, and by
5 operation of the Final Judgment shall have, fully, finally, and forever agreed to
6 Plaintiffs' General Release.
7

8 19. **No Admissions.** Neither the Settlement Agreement, nor this Order, nor
9 the fact of the Settlement, is an admission or concession by Defendant or the Released
10 Parties of any fault, wrongdoing or liability whatsoever, or as an admission of the
11 appropriateness of class certification for trial or dispositive motion practice. This
12 Order is not a finding of the validity or invalidity of any of the claims asserted or
13 defenses raised in the Action. Nothing relating to the Settlement shall be offered or
14 received in evidence as an admission, concession, presumption or inference against
15 Defendant or the Released Parties in any proceeding, other than such proceedings as
16 may be necessary to consummate or enforce the Settlement Agreement or to support
17 a defense based on principles of res judicata, collateral estoppel, release, good faith
18 settlement, judgment bar or reduction, or any other theory of claim preclusion or issue
19 preclusion or similar defense.
20
21
22
23

24 20. **Continuing Jurisdiction.** The Court hereby retains and reserves
25 exclusive jurisdiction over: (a) implementation of this Settlement and any
26 distributions from the Settlement Fund; (b) the Action, until the Effective Date, and
27 until each and every act agreed to be performed by the Parties shall have been
28

1 performed pursuant to the terms and conditions of the Settlement Agreement,
2 including the exhibits appended thereto; and (c) all Parties, for the purpose of
3 enforcing and administering the Settlement.
4

5 21. In the event that the Effective Date of the Settlement Agreement, does
6 not occur, the Settlement shall be rendered null and void to the extent provided by
7 and in accordance with the Settlement Agreement, and this Order shall be vacated. In
8 such event, all orders entered and releases delivered in connection with the Settlement
9 shall be null and void and the Action shall return to its status immediately prior to
10 execution of the Settlement Agreement.
11

12 22. **Final Judgment.** Judgment shall be, and hereby is, entered dismissing
13 the Action with prejudice, on the merits, and without taxation of costs in favor of or
14 against any Party.
15

16 23. With the exception of those listed on Exhibit A, the Court adjudges that
17 the Class Representatives and all Settlement Class Members shall be bound by this
18 Final Approval Order.
19

20 24. There being no just reason for delay, the Clerk of Court is hereby
21 directed to enter final judgment forthwith pursuant to Rule 54(b) of the Federal Rules
22 of Civil Procedure.
23
24
25
26
27
28

1 IT IS SO ORDERED.

2
3 DATED:

4 Hon. William Q. Hayes
United States District Court Judge

Exhibit H

Jeffrey Stephenson, et al. v. Navy Federal Credit Union

Case No. 3:23-cv-01851-WQH-KSC

United States District Court for the Southern District of CA

CAFA Notice Exhibit H

State/Mail Code	Number of Settlement Class members	Proportionate Share of Claims of Settlement Class members
AK	336	0.10%
AL	6,661	2.01%
AR	1,359	0.41%
AS	107	0.03%
AZ	5,867	1.77%
CA	31,660	9.55%
CO	3,156	0.95%
CT	1,257	0.38%
DC	3,823	1.15%
DE	962	0.29%
FL	34,368	10.36%
GA	42,594	12.84%
GU	246	0.07%
HI	1,654	0.50%
IA	380	0.11%
ID	268	0.08%
IL	9,354	2.82%
IN	2,282	0.69%
KS	1,000	0.30%
KY	1,600	0.48%
LA	7,350	2.22%
MA	938	0.28%
MD	18,785	5.66%
ME	153	0.05%
MI	5,705	1.72%
MN	841	0.25%
MO	3,375	1.02%
MP	7	0.00%
MS	4,080	1.23%
MT	168	0.05%
NC	15,840	4.78%
ND	138	0.04%
NE	404	0.12%
NH	171	0.05%
NJ	4,572	1.38%
NM	859	0.26%

State/Mail Code	Number of Settlement Class members	Proportionate Share of Claims of Settlement Class members
NV	5,780	1.74%
NY	6,226	1.88%
OH	4,859	1.47%
OK	1,779	0.54%
OR	588	0.18%
PA	7,341	2.21%
PR	126	0.04%
RI	255	0.08%
SC	12,821	3.87%
SD	110	0.03%
TN	7,287	2.20%
TX	40,834	12.31%
UT	443	0.13%
VA	23,315	7.03%
VI	56	0.02%
VT	44	0.01%
WA	4,095	1.23%
WI	1,447	0.44%
WV	475	0.14%
WY	113	0.03%
AA	25	0.01%
AE	459	0.14%
AP	644	0.19%
(blank)	226	0.07%
Total	331,668	

Exhibit I

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JEFFREY STEPHENSON and BILLY
SMITH II, individually, on behalf of
themselves and all others similarly
situated,

Plaintiffs,

v.

NAVY FEDERAL CREDIT UNION,

Defendant.

Case No. 3:23-CV-01851-WQH-KSC

ORDER

HAYES, Judge:

On July 22, 2025, Plaintiffs Jeffrey Stephenson and Billy Smith II, individually and on behalf of themselves and all others similarly situated (“Plaintiffs”), filed the unopposed Motion for Preliminary Approval of Class Action Settlement and Provisional Class Certification. (ECF No. 59.) The Motion requests that the Court grant preliminary approval of a proposed class action settlement and direct class notice in this action, the terms of which are set forth in a Class Action Settlement

1 Agreement with accompanying exhibits (the “Agreement”).¹ The docket reflects that
2 no opposition to the Motion has been filed.
3

4 The Court has considered the Agreement, Plaintiffs’ Motion and exhibits
5 thereto, and all papers filed in support of the motion and the entire docket in this
6 matter. Having fully considered the matter, pursuant to Federal Rule of Civil
7 Procedure 23(e),
8

9 IT IS HEREBY ORDERED that the Motion (ECF No. 59) is granted.

10 IT IS FURTHER ORDERED that:
11

12 1. The Court has jurisdiction over this action’s subject matter and has
13 personal jurisdiction over the Parties and the Settlement Class members defined and
14 described below.
15

16 **Preliminary Approval of Proposed Settlement**

17 2. Subject to the Final Approval Hearing and any objections lodged by
18 Settlement Class Members, the Court will likely be able to approve the Settlement as
19 set forth in the Agreement as fair, reasonable, and adequate under Rule 23(e),
20 including the releases contained therein, the Claims process, and the proposed Plan
21 of Allocation described therein.
22
23

24 3. The Court further finds that the Settlement substantially fulfills the
25 purposes and objectives of the class action and provides beneficial relief to the
26
27

28 ¹ All defined terms have the same meaning as set forth in the Agreement, which is attached to the Declaration of Class Counsel as Exhibit 1 (ECF No. 59-2).

1 Settlement Classes, considering the risks and delay of continued litigation and all
2 other relevant factors. The Court finds the Settlement (a) is the result of arm's-length
3 negotiations involving experienced counsel, with the assistance of a neutral mediator;
4 (b) is sufficient to warrant notice of the Settlement and the Final Approval Hearing
5 to the Settlement Classes; and (c) preliminarily meets all applicable requirements of
6 law, including Federal Rule of Civil Procedure 23 and the Class Action Fairness Act
7 ("CAFA"), 28 U.S.C. § 1715, for settlement purposes only.
8

9
10 **Preliminary Certification of Settlement Classes**
11

12 4. Under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure,
13 and in accord with the Settlement Agreement and solely for purposes of Settlement,
14 the Court preliminarily approves the following Settlement Classes:
15

16 **Written Explanation Settlement Class.** All Accountholders whose
17 claims of unauthorized electronic fund transfers were denied by Navy
18 Federal Credit Union between October 10, 2022, and the date the Court
19 grants preliminary approval of the Settlement
20

21 **Document Request Settlement Subclass.** All Accountholders in the
22 Written Explanation Settlement Class who requested documents Navy
23 Federal relied on in making its determination and who did not receive
24 them.
25

26 5. Excluded from the Settlement Classes are (1) any judge presiding over
27 this Action and members of their families; and (2) Defendant, its subsidiaries, parent
28 companies, successors, predecessors, and any entity in which Defendant or its parents
have a controlling interest and their current or former officers, directors, agents,
attorneys, and employees.

1 6. All persons who are members of the Settlement Classes and who do not
2 submit a valid request for exclusion are referred to collectively as “Settlement Class
3 Members” or individually as a “Settlement Class Member.”
4

5 7. For purposes of the settlement only, the Court preliminarily finds that
6 the Settlement Classes satisfy the requirements of Rule 23(a) and (b)(3) in that: (1)
7 the number of Settlement Class Members is so numerous that joinder is
8 impracticable; (2) there are questions of law and fact common to the Settlement Class
9 members; (3) the claims of the Class Representatives are typical of the claims of the
10 Settlement Class members; (4) the Class Representatives are adequate representatives
11 for the Settlement Class, and have retained experienced counsel to represent them;
12 (5) the questions of law and fact common to the Settlement Class members
13 predominate over any questions affecting any individual Settlement Class member;
14 and (6) a class action is superior to the other available methods for the fair and
15 efficient adjudication of the controversy.
16
17
18
19

20 8. The Court appoints Plaintiffs Jeffrey Stephenson and Billy Smith II as
21 Class Representatives for the Settlement Classes and the following counsel are hereby
22 appointed as Class Counsel for the Settlement Classes: Scott Edelsberg and Adam
23 Schwartzbaum of Edelsberg Law, P.A.; Edwin E. Elliott of Shamis & Gentile, P.A.;
24 and Sophia Gold and Jeffrey D. Kalien of Kalien Gold PLLC.
25
26

27 9. The Court preliminarily finds for purposes of settlement only that the
28 above attorneys are competent and capable of exercising the responsibilities of Class

1 Counsel, and that Plaintiffs and Class Counsel will adequately protect the interests of
2 the Settlement Classes within the meaning of Fed. R. Civ. P. 23(a)(4) and (g).
3

4 **Notice and Administration**

5 10. The Court approves Kroll Settlement Administration LLC (Kroll) as the
6 Settlement Administrator and directs Kroll to perform the functions and duties of the
7 Settlement Administrator set forth in the Settlement—including providing notice to
8 the Settlement Classes and effectuating the Notice Program—and to provide such
9 other administration services as are reasonably necessary to facilitate the completion
10 of the Settlement.
11
12

13 11. The Court has carefully considered the forms and methods of notice to
14 the Settlement Classes as set forth in the Settlement. The Court finds the Notice
15 Program satisfies the requirements of due process and complies with Rule 23 of the
16 Federal Rules of Civil Procedure. Namely, the Notice Program described in Section
17 Four of the Settlement Agreement is reasonably calculated to apprise Settlement
18 Class members of the nature of this Action, the scope of the Settlement Classes, the
19 terms of the Settlement Agreement, the rights of Settlement Class members to submit
20 a claim, object to or opt out of the Settlement and the process for doing so, and the
21 date, time, and location of the Final Approval Hearing. The Court therefore approves
22 the Notice Program and directs the Parties and the Settlement Administrator to
23 proceed with providing notice to Settlement Class members pursuant to the terms of
24 the Settlement Agreement and this Order.
25
26
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28

1 12. The Court hereby approves the Notice Program and the form, content,
2 and requirements of the Notices annexed as exhibits to the Agreement.² The Court
3 finds the Notice Program fully satisfies the requirements of Federal Rule of Civil
4 Procedure 23 and due process, constitutes the best notice practicable under the
5 circumstances, and shall constitute due and sufficient notice to all persons entitled
6 thereto.
7

8
9 13. The Settlement Administrator shall send the agreed-upon Notices to the
10 Settlement Class within sixty (60) calendar days following the entry of this Order (the
11 “Notice Date”) and will carry out all requirements of the Notice Program set out in
12 Section Four of the Agreement. The Settlement Administrator shall maintain the
13 Settlement Website to provide full information about the Settlement.
14
15

16 14. No later than ten (10) days before the Final Approval Hearing, Class
17 Counsel shall file with the Court a declaration executed by the Settlement
18 Administrator attesting to the timely completion of the Notice Program, describing
19 how the Notice Program and the Claim Form process were completed, and providing
20 the names of members of the Settlement Class who timely and properly opted out
21 from the Settlement Class, as well as those Settlement Class Members who timely
22
23
24
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26

27 ² The Parties, by agreement, may revise the Notices in ways that are not material, or in ways that
28 are appropriate to update those documents for purposes of accuracy or formatting, consistent with
this Order.

1 filed objections, and other information as may be necessary to allow the Parties to
2 seek and obtain Final Approval.
3

4 **Requests for Exclusion, Objections, and Appearances**

5 15. Any Settlement Class member who wishes to request to be excluded
6 from the Settlement must send a written request for exclusion to the Settlement
7 Administrator. To be valid, the Request for Exclusion must be postmarked on or
8 before forty-five (45) days after the Notice Date; must include: the case name; a
9 statement indicating the Settlement Class member's desire to be excluded from the
10 Settlement Class, the Settlement Class member's name, current address, and
11 signature. If an Account has more than one Accountholder, and if one Accountholder
12 opts-out himself or herself from the Settlement Class, then all Accountholders on that
13 Account shall be deemed to have opted-out of the Settlement with respect to that
14 Account, and no Accountholder shall be entitled to a payment under the Settlement.
15
16
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18

19 16. Settlement Class members who timely request exclusion from the
20 Settlement will relinquish their rights to benefits under the Settlement and will not
21 release any claims against Defendant.
22

23 17. If a request for exclusion is not postmarked on or before forty-five (45)
24 days after the Notice Date, it will be invalid and the Settlement Class Member will
25 be bound by the terms of the Settlement and the Final Approval Order and Final
26 Judgment even if the Settlement Class Member has previously initiated or
27 subsequently initiates individual litigation or any other proceedings against
28

1 Defendant. A Settlement Class member who does not file a timely request for
2 exclusion shall be bound by all subsequent proceedings, orders, and judgments in this
3
4 Action.

5 18. The Settlement Administrator shall promptly provide counsel for all
6 Parties with copies of any request for exclusion.
7

8 19. Settlement Class Members have a right to object to approval of the
9 proposed Settlement, to the award of attorneys' fees and litigation expenses, or to the
10 Service Awards to the Class Representatives. Any Settlement Class Member who
11 wishes to do so must file with the Court a written statement (along with any
12 supporting papers), postmarked or filed on or before forty-five (45) days after the
13 Notice Date. To be valid, objections must contain materially the following
14 information: (i) the name of the Action; (ii) the objector's name, address, telephone
15 number, and e-mail address; (iii) grounds for the objection including any legal
16 support; (iv) the name and contact information of any attorneys representing,
17 advising, or assisting the objector in connection with the preparation or submission
18 of the objection or who may profit from the pursuit of the objection (the "Objecting
19 Attorneys"); (v) a statement advising whether the Settlement Class Member or his/her
20 attorney intends to appear and/or testify at the Final Approval Hearing; and (vi) the
21 objector's signature.
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27 20. Any Settlement Class Member who does not make an objection to the
28 Settlement in the manner provided herein or appear and state an objection at the Final

1 Approval Hearing shall be deemed to have waived and forfeited any and all rights he
2 or she may have to object, appear, present witness testimony, and/or submit evidence;
3 shall be precluded from seeking review of the Settlement by appeal or other means;
4 and shall be bound by all terms of the Settlement and by all proceedings, orders, and
5 judgments in the Action.
6
7

8 **Final Approval Hearing**

9 21. The Court will hold a Final Approval Hearing on February 4, 2026, at
10 10:30 a.m. at the United States District Court for the Southern District of California,
11 James M. Carter and Judith N. Keep United States Courthouse, 333 West Broadway,
12 San Diego, CA 92101, for the following purposes:
13

14 (a) to finally determine whether the applicable prerequisites for
15 settlement class action treatment under Federal Rules of Civil Procedure
16 23(a) and (b)(3) are met;
17

18 (b) to determine whether the Settlement is fair, reasonable, and adequate,
19 and should be granted final approval by the Court;
20

21 (c) to determine whether the Judgment as provided under the Settlement
22 Agreement should be entered dismissing the claims of the Settlement
23 Class Members with prejudice;
24

25 (d) to consider the application for an award of attorneys' fees and
26 litigation expenses of Class Counsel;
27
28

1 (e) to consider the application for service awards to the Settlement Class
2 Representatives; and
3

4 (f) to rule upon such other matters as the Court deems appropriate.

5 22. At least fifteen (15) days prior to the Exception/Exclusion Deadline,
6 Class Counsel shall file their motion for final approval and any application for
7 attorneys' fees, litigation expenses and Service Awards to the Class Representatives.
8 The Settlement Administrator is directed to post such fee petition to the Settlement
9 Website. At least fourteen (14) days before the Final Approval Hearing, Class
10 Counsel shall file any supplemental papers in support of Final Approval of the
11 Settlement, including a response to any objections filed by Settlement Class
12 Members, if any.
13
14
15

16 23. The Final Approval Hearing may be postponed, adjourned, transferred,
17 or continued by order of the Court without further notice to the Settlement Classes,
18 except that any postponement, rescheduling, continuation, or transfer shall be posted
19 to the Settlement Website. At, or following the Final Approval Hearing, the Court
20 may enter a Final Approval Order and Final Judgment in accordance with the
21 Settlement Agreement that will adjudicate the rights of all Settlement Class Members.
22
23

24 24. For clarity, the deadlines the Parties and members of the Settlement
25 Classes shall adhere to are as follows:
26
27
28

DEADLINES SUMMARY

Event	Date
Deadline for Navy Federal to provide Settlement Class List to Class Counsel and the Settlement Administrator	No later than 30 calendar days after entry of the Preliminary Approval Order
Deadline for commencing emailing and mailing of the Notice to Settlement Class Members and posting the Notice and Claim Form on the Settlement website (the "Notice Date")	No later than 60 calendar days after entry of the Preliminary Approval Order
Deadline for Plaintiffs to file application for attorneys' fees and expenses and Service Awards	30 calendar days after the Notice Date (up to 90 calendar days after entry of the Preliminary Approval Order)
Deadline for submitting of exclusion requests or objections	Postmarked no later than 45 calendar days after the Notice Date (up to 105 calendar days after entry of the Preliminary Approval Order)
Deadline for submitting Claim Forms	Postmarked or electronically filed no later than 60 calendar days after the Notice Date (up to 120 calendar days after entry of the Preliminary Approval Order)
Deadline for any response to any timely and valid objections and any supplemental brief re: final approval	70 days after the Notice Date (up to 130 calendar days after entry of the Preliminary Approval Order)
Deadline for Settlement Administrator to Submit Declaration Identifying Opt Outs and Confirming Compliance with Notice Plan	At least 10 days before Final Approval Hearing.
Final Approval Hearing	February 4, 2026 at 10:30 a.m.

25. Settlement Class Members do not need to appear at the Final Approval Hearing or take any other action to indicate their approval.

Further Matters

26. In order to protect its jurisdiction to consider the fairness of the Settlement and to enter a Final Approval order and Final Judgment having binding effect on all Settlement Class Members, the Court hereby enjoins all members of the Settlement Classes, and anyone who acts or purports to act on their behalf, from pursuing or continuing to pursue all other proceedings in any state or federal court or

1 any other proceeding that seeks to address Releasing Parties' or any Settlement Class
2 Member's rights or claims relating to, or arising out of, any of the Released Claims.
3

4 27. The Settlement does not constitute an admission, concession, or
5 indication by the Parties of the validity of any claims or defenses in the Action or of
6 any liability, fault, or wrongdoing of any kind by Defendant, which vigorously denies
7 all the claims and allegations raised in the Action.
8

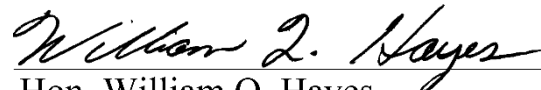
9 28. In the event that the Settlement is terminated under the terms of the
10 Settlement Agreement, or if for any reason whatsoever the Settlement is not finally
11 approved, is not upheld on appeal, or is otherwise terminated for any other reason,
12 then: (i) the Settlement shall be null and void, including any provisions related to the
13 award of attorneys' fees and costs, shall have no further force and effect with respect
14 to any Party in this Action, and may not be referred to or used as evidence or for any
15 other purpose whatsoever in the Action or any other action or proceeding; (ii) all
16 negotiations, proceedings, documents prepared, and statements made in connection
17 therewith shall be without prejudice to any person or Party hereto, shall not be
18 deemed or construed to be an admission by any Party of any act, matter, or
19 proposition, and shall not be used in any manner of or for any purpose in any
20 subsequent proceeding in this Action or in any other action in any court or other
21 proceeding, provided, however, that the termination of the Settlement shall not shield
22 from subsequent discovery any factual information provided in connection with the
23 negotiation of this Settlement that would ordinarily be discoverable but for the
24
25
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1 attempted settlement; (iii) this Order shall be vacated and of no further force or effect
2 whatsoever, as if it had never been entered; and (iv) any Party may elect to move the
3 Court to implement the provisions of this paragraph, and none of the non-moving
4 Parties (or their counsel) shall oppose any such motion.
5

6 29. The Court retains jurisdiction to consider all further matters arising out
7 of or connected with the Settlement. The Court may approve the Settlement, with
8 such modifications as may be agreed to by the Parties, if appropriate, without further
9 notice to the Settlement Classes.
10

11
12 IT IS SO ORDERED.

13
14 Dated: August 20, 2025

15 
16 Hon. William Q. Hayes
17 United States District Court
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