

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

THIS IS A COURT-AUTHORIZED NOTICE. IT IS NOT A NOTICE OF A LAWSUIT AGAINST YOU OR A SOLICITATION FROM A LAWYER.

PLEASE READ THIS NOTICE CAREFULLY

To: All persons in the United States to whom HawaiiUSA Federal Credit Union (“HawaiiUSA”) mailed a notification that their information may have been impacted in a cyberattack that was perpetrated against HawaiiUSA in December of 2022 (the “Data Incident” or “Data Security Incident”), referred to herein as the “Settlement Class.”

A proposed settlement has been reached in a class action lawsuit against HawaiiUSA, captioned *Smith, et al. v. HawaiiUSA Federal Credit Union*, Case No. 1CCV-24-0000154, in the Circuit Court for the First Circuit, State of Hawai‘i.

If you are a member of the Settlement Class, you have the following options:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM BY AUGUST 27, 2024	You must submit a Valid Claim form to receive credit-monitoring services from the settlement and reimbursement for unreimbursed expenses.
DO NOTHING	You will receive no benefits from the settlement and will no longer be able to sue the Released Persons, ¹ including HawaiiUSA, over the claims resolved in the settlement.
EXCLUDE YOURSELF FROM THE SETTLEMENT BY JULY 28, 2024	You will receive no benefits from the settlement, but you will retain your legal claims against the Released Persons.
OBJECT BY JULY 28, 2024	Write to the Court about why you do not like the settlement. You must remain in the Settlement Class to object to the settlement.
GO TO A HEARING ON SEPTEMBER 17, 2024	Ask to speak in Court about the fairness of the settlement.

No payments or other settlement benefits will be issued until after the Court gives final approval to the settlement and any appeals are resolved.

¹ The Released Persons are HawaiiUSA and its Related Entities and each of their past or present parents, subsidiaries, divisions, and related or affiliated entities, and each of their respective predecessors, successors, directors, officers, employees, principals, agents, attorneys, insurers, and reinsurers.

Please review this notice carefully. You can learn more about the settlement by visiting www.hiusasettlement.com or by calling 1-844-940-2311.

Further Information about this Notice and the Litigation

1. Why was this notice issued?

You received this notice because you may be a member of the Settlement Class eligible to receive benefits from a proposed settlement of the class action lawsuit *Smith, et al. v. HawaiiUSA Federal Credit Union*, Case No. 1CCV-24-0000154, in the Circuit Court for the First Circuit, State of Hawai‘i (the “Litigation”). The Court overseeing the Litigation authorized this notice to advise Settlement Class Members about the proposed settlement that will affect their legal rights. The notice explains certain legal rights and options you have in connection with that settlement.

2. What is the Litigation about?

The Litigation is a proposed class action lawsuit brought on behalf of all persons whose personally identifiable information was potentially compromised as a result of the cyberattack against HawaiiUSA in December of 2022.

3. Why is the Litigation a class action?

In a class action, one or more representative plaintiffs bring a lawsuit for others who are alleged to have similar claims. Together, these people are the “class” and each individually is a “class member.” There are two Plaintiffs (or Representative Plaintiffs) in this case: Joseph Smith and Tony Lee.

4. Why is there a settlement?

The Plaintiffs in the Litigation, through their attorneys, investigated the facts and law relating to the issues in the Litigation. The Plaintiffs and Class Counsel believe that the settlement is fair, reasonable, and adequate and will provide substantial benefits to the Settlement Class. The Court has not decided whether the Plaintiffs’ claims or HawaiiUSA’s defenses have any merit, and it will not do so if the proposed settlement is approved. By agreeing to settle, both sides avoid the cost and risk of a trial, and people who submit Valid Claims will receive benefits from the settlement. The settlement does not mean that HawaiiUSA did anything wrong, or that the Plaintiffs and/or the Settlement Class would, or would not, win the case if it were to go to trial.

By order of: Hon. Karin L. Holma, of the Circuit Court for the First Circuit, State of Hawai‘i.

Terms of the Proposed Settlement

5. Who is in the Settlement Class?

The Settlement Class is defined as all persons in the United States to whom HawaiiUSA mailed a notification that their information may have been impacted in the Data Incident.

Excluded from the Settlement Class are: (a) HawaiiUSA's officers and directors; (b) any entity in which HawaiiUSA has a controlling interest; and (c) the affiliates, legal representatives, attorneys, successors, heirs, and assigns of HawaiiUSA. Also excluded are members of the judiciary to whom this case is assigned, their families, and members of their staff.

6. What are the settlement benefits?

Identity Protection and Credit Monitoring Services

The proposed Settlement provides 24 months of credit monitoring service free of charge to Settlement Class Members.

Compensation for Unreimbursed Ordinary Expenses and Extraordinary Losses

The settlement also provides compensation for the following unreimbursed out-of-pocket expenses, up to a total of \$400 per member of the Settlement Class:

1. Out-of-pocket expenses incurred as a result of the Data Incident, including bank fees, long distance phone charges, cell phone charges (only if charged by the minute), data charges (only if charged based on the amount of data used), postage, or gasoline for local travel;
2. Fees for credit reports, credit monitoring, or other identity theft insurance product purchased between December 12, 2022 and August 27, 2024; and
3. Up to 4 hours of lost time at a rate of \$20.00 per hour for time spent dealing with the Data Incident.

The settlement further provides compensation for the following unreimbursed extraordinary losses, not covered by one of the Ordinary Expense Reimbursement categories, up to a total of \$4,000 per member of the Settlement Class:

1. Monetary losses relating to fraud or identity theft, professional fees, including attorneys' fees, accountants' fees, and fees for credit repair services incurred as a result of the Data Incident.

By order of: Hon. Karin L. Holma, of the Circuit Court for the First Circuit, State of Hawai'i.

Compensation for such expenses and losses (except for lost time), shall be paid only if:²

1. The loss is an actual, documented, and unreimbursed monetary loss;
2. The loss was more likely than not caused by the Data Incident;
3. The loss occurred between December 12, 2022 and August 27, 2024;
4. The Settlement Class Member made reasonable efforts to avoid, or seek reimbursement for, the loss, including, but not limited to, exhaustion of all available credit monitoring insurance and identity theft insurance; and
5. Documentation of the claimed losses is not “self-prepared.” Self-prepared documents, such as handwritten receipts, are, by themselves, insufficient to receive reimbursement.

Alternative Cash Payment

In lieu of Ordinary Expense Reimbursement, including compensation for lost time, all members of the Settlement Class who submit a Valid Claim using this Claim Form are eligible to receive a \$50 cash payment which may be subject to a *pro rata* reduction.

New Practices

HawaiiUSA has implemented or will implement reasonable steps to ensure that its systems and environments are adequately secured.

7. What claims are Settlement Class Members giving up under the settlement?

Settlement Class Members who do not validly exclude themselves from the settlement will be bound by the Settlement Agreement and Release (“Settlement Agreement”), and any final judgment entered by the Court, and will give up their right to sue the Released Persons for the claims being resolved by the settlement.

The claims that are being released and the persons and entities being released from those claims are described in the Settlement Agreement. To view the Settlement Agreement, please visit www.hiusasettlement.com.

Your Options as a Settlement Class Member

8. If I am a Settlement Class Member, what options do I have?

If you are a Settlement Class Member, you do not have to do anything to remain in the settlement. However, if you want to receive 24 months of free credit monitoring services or request compensation for unreimbursed expenses and losses, you **must** complete and submit a Claim Form

² Compensation for lost time requires an attestation that any claimed lost time was spent related to the Data Incident between December 12, 2022 and August 27, 2024.

By order of: Hon. Karin L. Holma, of the Circuit Court for the First Circuit, State of Hawai‘i.

postmarked or submitted online by **August 27, 2024**. You may download or submit a Claim Form online at www.hiusasettlement.com.

If you do not want to give up your right to sue the Released Persons about the Data Incident or the issues raised in this case, you must exclude yourself (or “opt out”) from the Settlement Class. See Question 12 below for instructions on how to exclude yourself.

If you object to the settlement, you must remain a Settlement Class Member (*i.e.*, you may not also exclude yourself from the Settlement Class by opting out) and file a written objection in this case with the Court. (*See* Question 20 below.) If you object, you must still submit a claim if you want compensation for unreimbursed expenses and losses.

9. What happens if I do nothing?

If you do nothing, you will receive no benefits from this settlement. Unless you exclude yourself, after the settlement is granted final approval and the judgment becomes final, you will be bound by the judgment and you will never be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Released Persons related to the claims released by the settlement.

10. How do I submit a claim?

You may complete the Claim Form online at www.hiusasettlement.com. You may also obtain a paper Claim Form by downloading it at www.hiusasettlement.com or by calling the Claims Administrator at **1-844-940-2311**. If you choose to complete a paper Claim Form, you may either submit the completed and signed Claim Form and any supporting materials electronically at www.hiusasettlement.com or mail them to:

HawaiiUSA Claims Administrator
P.O. Box 4905
Baton Rouge, LA 70821

11. Who decides my settlement claim and how do they do it?

The Claims Administrator will initially decide whether a Claim Form is complete and valid and includes all required documentation. The Claims Administrator may require additional information from any claimant. Failure to timely provide all required information will invalidate a claim and it will not be paid.

12. How do I exclude myself from the settlement?

You must make a signed written request that (i) clearly states that you wish to exclude yourself from the Settlement Class in this Litigation, and (ii) include your name, address, and phone number. You must send your request by **July 28, 2024** to this address:

By order of: Hon. Karin L. Holma, of the Circuit Court for the First Circuit, State of Hawai‘i.

HawaiiUSA Claims Administrator
Attn: Exclusions
P.O. Box 4905
Baton Rouge, LA 70821

13. If I exclude myself, can I receive a benefit from this settlement?

No. If you exclude yourself, you will not be entitled to any settlement benefits. However, you will also not be bound by any judgment in this Litigation.

14. If I do not exclude myself, can I sue the Released Persons for the Data Incident later?

No. Unless you exclude yourself, you give up any right to sue the Released Persons for the claims that this settlement resolves. You must exclude yourself from the Settlement Class to start your own lawsuit or to be part of any different lawsuit relating to the claims in this case. If you exclude yourself, do not submit a Claim Form requesting a benefit from this settlement.

15. How do I object to the settlement?

All Settlement Class Members who do not request exclusion from the Settlement Class have the right to object to the settlement or any part of it. You can ask the Court to deny approval by filing an objection. You can't ask the Court to order a different settlement; the Court can only approve or reject the settlement. If the Court denies approval, no settlement benefits will be sent out and the lawsuit will continue.

Any objection to the proposed settlement must be in writing and it and any supporting papers must be filed with the Court and mailed to Class Counsel and HawaiiUSA's Counsel.

Court	Class Counsel	HawaiiUSA's Counsel
First Circuit Court Ka'ahumanu Hale 777 Punchbowl St. Honolulu, HI 96813	Nickolas J. Hagman Cafferty Clobes Meriwether & Sprengel LLP 135 S. LaSalle, Ste. 3210, Chicago, IL 60603	Matthew D. Pearson Baker & Hostetler LLP 600 Anton Boulevard, Suite 900 Costa Mesa, CA 92626

Objections must be filed or postmarked no later than **July 28, 2024**.

To be considered by the Court, your objection must include: (a) the title of the case; (b) your name, address, and telephone number; (c) all legal and factual bases for your objection; and (d) copies of any documents that you want the Court to consider.

Should you wish to appear at the Final Fairness Hearing, you must so state, and must identify any documents or witnesses you intend to call on your behalf.

By order of: Hon. Karin L. Holma, of the Circuit Court for the First Circuit, State of Hawai'i.

If you fail to object in this manner, you will be deemed to have waived and forfeited any and all rights you may have to appear separately and/or to object to the Settlement Agreement, and you shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders, and judgments in the Litigation. The exclusive means for any challenge to the Settlement Agreement shall be through the provisions set forth in this paragraph. Without limiting the foregoing, any challenge to the Settlement Agreement, the final judgment and order approving this Settlement Agreement, or the judgment to be entered upon final approval shall be pursuant to appeal under the Hawai'i Rules of Appellate Procedure and not through a collateral attack.

Court Approval of the Settlement

16. How, when and where will the Court decide whether to approve the settlement?

The Court will hold a Final Fairness Hearing to decide whether to approve the settlement. That hearing is scheduled for **September 17, 2024, at 2:00 P.M.**, at Ka'ahumanu Hale 777 Punchbowl St., Honolulu, HI 96813. At the Final Fairness Hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are timely objections, the Court will consider them and will listen to people who have properly requested to speak at the hearing. The Court may also consider Plaintiffs' request for attorneys' fees and costs, and Plaintiffs' request for service awards for the Representative Plaintiffs. After the hearing, the Court will decide whether to approve the settlement.

It is possible the Court could reschedule the hearing to a different date or time without notice, so it is a good idea before the hearing to check www.hiusasettlement.com to confirm the schedule if you wish to attend.

17. Do I have to attend the hearing?

No. You do not need to attend the hearing unless you object to the settlement and wish to appear in person. It is not necessary to appear in person to make an objection; the Court will consider any written objections properly submitted according to the instructions in Question 15. You or your own lawyer are welcome to attend the hearing at your expense, but are not required to do so.

18. What happens if the Court approves the settlement?

If the Court approves the settlement, there may still be appeals. If an appeal is taken, it is possible the settlement could be disapproved on appeal. We do not know how long this process may take.

19. What happens if the Court does not approve the settlement?

If the Court does not approve the settlement, there will be no settlement benefits available to Settlement Class Members, Class Counsel, or the Plaintiffs, and the case will proceed as if no settlement had been attempted.

By order of: Hon. Karin L. Holma, of the Circuit Court for the First Circuit, State of Hawai'i.

Lawyers for the Settlement Class and HawaiiUSA

20. Who represents the Settlement Class?

The Court has appointed the following Class Counsel to represent the Settlement Class in this Lawsuit:

Cafferty Clobes Meriwether & Sprengel LLP

135 S. LaSalle, Suite 3210, Chicago, IL 60603

Milberg Coleman Bryson Phillips Grossman PLLC

227 W. Monroe Street, Suite 2100, Chicago, IL 60606

Bronster Fujichaku Robbins

1003 Bishop Street, Suite 2300, Honolulu, Hawai'i 96813

Settlement Class Members will not be charged for the services of Class Counsel; Class Counsel will be paid by HawaiiUSA, subject to Court approval. However, you may hire your own attorney at your own expense to advise you in this matter or represent you in making an objection or appearing at the Final Fairness Hearing.

21. How will the lawyers for the Settlement Class be paid?

Plaintiffs will seek an order from the Court requesting that attorneys' fees be awarded to Class Counsel in the amount of \$250,000 inclusive of any costs and expenses of the Litigation (the "Class Counsel Payment").

Plaintiffs will also seek an order from the Court requesting that a service award in the amount of \$1,500 be awarded to each of the Representative Plaintiffs for their time and effort expended on behalf of the Settlement Class in the Litigation.

If the Court awards the Class Counsel Payment or the service award described above, the Court's award(s) will not affect any benefits provided to Settlement Class Members, or Plaintiffs.

22. Who represents HawaiiUSA in the Litigation?

HawaiiUSA is represented by the following lawyer:

Matthew D. Pearson

Baker & Hostetler LLP

600 Anton Boulevard, Suite 900

Costa Mesa, CA 92626

By order of: Hon. Karin L. Holma, of the Circuit Court for the First Circuit, State of Hawai'i.

For Further Information

23. What if I want further information or have questions?

For additional information, please visit www.hiusasettlement.com. You may also contact the Claims Administrator by mail, email or phone:

Mail:

HawaiiUSA Claims Administrator

P.O. Box 4905

Baton Rouge, LA 70821

Email:

info@hiusasettlement.com

Phone:

1-844-940-2311

**PLEASE DO NOT CONTACT THE COURT OR HAWAIIUSA'S COUNSEL FOR
INFORMATION REGARDING THIS SETTLEMENT.**

By order of: Hon. Karin L. Holma, of the Circuit Court for the First Circuit, State of Hawai'i.

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QUESTIONS? VISIT WWW.HIUSASETTLEMENT.COM OR CALL TOLL FREE 1-844-940-2311.