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FIRST CIRCUIT

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IN THE CIRCUIT COURT FOR THE FIRST CIRCUIT

STATE OF HAWAI'I

JOSEPH SMITH and TONY LEE,
individually, and on behalf of all others
similarly situated,

Plaintiffs,

v.

HAWAIIUSA FEDERAL CREDIT UNION,

Defendant.

Case No.: 1CCV-24-0000154

**PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT; MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF UNOPPOSED MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT; DECLARATION
OF ELENA MACFARLAND; EXHIBITS
"A" – "D"; NOTICE OF HEARING;
CERTIFICATE OF SERVICE**

HEARING:

Date: September 17, 2024

Time: 2:00 p.m.

Judge: The Honorable Karin L. Holma

PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

Plaintiffs Joseph Smith and Tony Lee (“Plaintiffs”), individually and on behalf of all others similarly situated, by and through their undersigned counsel, Bronster Fujichaku Robbins, and Milberg Coleman Bryson (collectively, “Class Counsel”), respectfully move this Court for final approval of settlement.

This motion is brought pursuant to Rule 7 and Rule 23 of the Hawai‘i Rules of Civil Procedure, and is based upon the attached Declaration of Elena MacFarland, and the records and files herein.

DATED: September 3, 2024.

Respectfully submitted,

/s/ Robert M. Hatch

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**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
UNOPPOSED MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF UNOPPOSED
MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

Plaintiffs Joseph Smith and Tony Lee (“Plaintiffs” or “Class Representatives”) submit this Motion and Memorandum in Support of Plaintiffs’ Motion for Final Approval of Class Action Settlement.

I. INTRODUCTION

On May 3, 2024, the Court granted preliminary approval of the Settlement between Plaintiffs and Defendant HawaiiUSA Federal Credit Union (“HawaiiUSA” or “Defendant”), and ordered that notice be given to the Class. The Settlement provides substantial and immediate benefits to the Settlement Class. All Settlement Class Members are eligible to claim 1) compensation for Ordinary Losses, including Lost Time; 2) compensation for Extraordinary Losses; and 3) Identity Theft Protection.¹ In lieu of the compensation for Ordinary Losses and Extraordinary Losses, Settlement Class members may also claim an Alternative Cash Payment. Additionally, Plaintiffs and Class Members have and will continue to receive a benefit from

¹ Capitalized terms herein have the same meaning as those set forth in the Parties’ Settlement Agreement and Release (referred to herein as the “Settlement Agreement,” “Settlement,” or “S.A.”).

substantial business practice changes and remedial measures aimed at preventing further unauthorized access to their sensitive Private Information entrusted to HawaiiUSA.

The Parties reached this Settlement—providing meaningful benefits for the Settlement Class—only after an extensive investigation, hard-fought litigation, and arm’s-length negotiations. Although Plaintiffs believe in the merits of their claims, Defendant denies each and all of the claims and contentions alleged against it in the Litigation, including all charges of wrongdoing or liability. The claims involve the intricacies of data security litigation (a fast developing area in the law), and the Plaintiffs would face risks at each stage of litigation. Against these risks, Class Counsel and the Class Representatives believe that the Settlement achieved is for the benefit of the Settlement Class.

After this Court granted preliminary approval, the Settlement Administrator—with the help of the Parties—disseminated Notice to the Settlement Class as set forth in the Settlement Agreement. Individual Notice was provided directly to Settlement Class Members via email for all Settlement Class Members for whom HawaiiUSA is in possession of an email address, or via U.S. Mail to all Class Members for whom HawaiiUSA did not have a valid email address, including those for whom emails were returned as undeliverable. The Notice was written in plain language, providing each Settlement Class Member with information regarding how to reach the Settlement Website, make a claim, and how to opt-out or object to the Settlement. Out of 21,441 Settlement Class Members, only four have sought to be excluded from the Settlement and none objected. *See* Declaration of Claims Administrator Elena MacFarland (“Admin. Decl.”) ¶¶ 15-16.

Plaintiffs now move the Court for final approval. The Settlement meets all the criteria for final approval. Plaintiffs respectfully submit that the Court should grant final approval and also grant the Plaintiffs’ request for attorneys’ fees, expenses and service awards.

II. INCORPORATION BY REFERENCE

In the interest of judicial efficiency, for factual and procedural background on this case, Plaintiffs refer this Court to and hereby incorporate Plaintiffs’ Motion and Memorandum of Law in Support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement filed on April 2, 2024.

III. SUMMARY OF THE SETTLEMENT

A. Proposed Settlement Class

The Settlement provides relief for the following Settlement Class: “All persons in the United States to whom HawaiiUSA mailed a notification that their information may have been impacted in the Data Incident.” S.A. ¶ 1.25.

The Settlement Class contains approximately 21,441 individuals.

B. Settlement Benefits

Settlement Class Members shall have the opportunity to submit a Claim for Settlement benefits on or before the Claims Deadline. All Settlement Class Members are eligible to claim Extraordinary Losses and Identity Theft Protection. In addition to Extraordinary Losses and Identity Theft Protection, Settlement Class Members may also make a claim for *either* Ordinary Losses and Lost Time *or* an Alternative Cash Payment.

Ordinary Expense Reimbursement: Settlement Class Members may submit a Claim for reimbursement of documented out-of-pocket losses incurred as a result of the Data Incident, up to a maximum of \$400 per person. Ordinary Expense Reimbursement Claims will include reimbursement for:

- i) (i) unreimbursed bank fees; (ii) unreimbursed card reissuance fees; (iii) unreimbursed overdraft fees; (iv) unreimbursed charges related to unavailability of funds; (v) unreimbursed late fees; (vi) unreimbursed over-limit fees; (vii) long distance telephone charges; (viii) cell minutes (if charged by minute), Internet usage charges (if charged by the minute or by the amount of data usage and incurred solely as a result of the Data Incident), and text messages (if charged by the message and incurred solely as a result of the Data Incident); (ix) unreimbursed charges from banks or credit card companies; (x) interest on payday loans due to card cancellation or due to over-limit situation incurred solely as a result of the Data Incident; (xi) costs of credit report(s), credit monitoring, and/or other identity theft insurance products purchased by members of the Settlement Class between December 12, 2022 and the date of the Claims Deadline; and (xii) other losses incurred by Settlement Class Members determined by the Settlement Administrator to be fairly traceable to the Data Incident, including, but not limited to, the cost of postage and gas for local travel.
- ii) Compensation for lost time of up to four (4) hours at \$20 per hour for a maximum of up to \$80 per person. Class members may submit claims for up to four (4) hours

of lost time with an attestation that they spent the claimed time responding to issues raised by the Data Security Incident. This payment shall be included in the per person cap for Compensation for Ordinary Losses.

S.A. ¶ 2.2(a).

Alternative Cash Payment: In lieu of making a claim for Ordinary Expense Reimbursement, members of the Settlement Class may submit a Valid Claim using the Claim Form to receive a \$50 cash payment. Total Valid Claims for Alternative Cash Payments shall not exceed \$150,000. To the extent that the total Valid Claims for Alternative Cash Payments do exceed \$150,000, each Valid Claim for Alternative Cash Payment shall be reduced, on a pro rata basis, until the total Valid Claims for Alternative Cash Payments equals or is less than \$150,000.

S.A. ¶ 2.2(b).

Extraordinary Expense Reimbursement: Settlement Class Members who were the actual victim of identity theft may also make a claim for up to \$4,000 in proven monetary loss if:

- (i) The loss is an actual, documented, and unreimbursed monetary loss;
- (ii) The loss was more likely than not caused by the Data Incident;
- (iii) The loss occurred between December 12, 2022, and the Claims Deadline;
- (iv) The loss is not already covered by one or more of the normal reimbursement categories in SA ¶ 2.2; and
- (v) 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.

S.A. ¶ 2.1(b).

Identity Theft Protection: All members of the Settlement Class who submit a Valid Claim using the Claim Form are eligible for 24 months of free identity-theft protection, called “Identity Defense Total 3-Bureau Service” (“ID Total”). For members of the Settlement Class who opted to receive the credit monitoring initially offered by HawaiiUSA, “ID Total” shall be in addition to that year. S.A. ¶ 2.1(a).

IV. LEGAL STANDARD

Plaintiffs bring this Motion pursuant to Hawaii Rules of Civil Procedure Rule 23(e)², under which a class action may not be settled without approval of the Court. In determining whether to finally approve a class action settlement, courts must first determine that the settlement class, as defined by the parties, is certifiable under the standards of Rule 23(a) and (b). This Court considered these factors and granted preliminary approval of class certification on May 3, 2024. For the same reasons described in Plaintiffs' Unopposed Motion for Preliminary Approval of Settlement, this Court should certify the class for purposes of final approval of the settlement.

Next, the Court looks to the factors outlined for a settlement to be approved under the federal Rule 23(e)(2), which requires the Court to determine, after holding a hearing, that the settlement fair, adequate, and reasonable. In making this determination, the Court must consider whether:

- (A) the class representatives and class counsel have adequately represented the class;
- (B) the proposal was negotiated at arm's length;
- (C) the relief provided for the class is adequate, taking into account:
 - (i) the costs, risks, and delay of trial and appeal;
 - (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
 - (iii) the terms of any proposed award of attorney's fees, including timing of payment; and
 - (iv) any agreement required to be identified under federal Rule 23(e)(3); and
- (D) the proposal treats class members equitably relative to each other.

See Fed. R. Civ. P. Rule 23(e)(2).

Federal courts in the Ninth Circuit have identified nine factors to review when making this determination: (1) the strength of the plaintiff's case; (2) the risk, expense, complexity, and likely duration of further litigation; (3) the risk of maintaining class action status throughout the trial; (4) the amount offered in settlement; (5) the extent of discovery completed and the stage of the proceedings; (6) the experience and views of counsel; (7) the presence of a governmental

² The language of HRCF 23(e) mirrors the 2003 federal rule. *Public Access Trails Hawai'i v. Haleakala Ranch Company*, 153 Hawai'i 1, 32, 526 P.3d 526 (2023). Courts in Hawaii may consider federal law when interpreting the Hawai'i Rules of Civil Procedure, including Rule 23. See e.g. *Kalima v. State*, 148 Hawai'i 129, 144, 468 P.3d 143, 158 (2020), accordingly, Plaintiffs cite to federal case law in support of their Motion.

participant; (8) the reaction of the class members to the proposed settlement; and (9) whether the settlement is a product of collusion among the parties. *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 946 (9th Cir. 2011).

V. ARGUMENT

Courts strongly favor and encourage settlements, particularly in class actions and other complex matters where the inherent costs, delays, and risks of continued litigation might otherwise overwhelm any potential benefit the class could hope to obtain. *See Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992) (noting the “strong judicial policy that favors settlements, particularly where complex class action litigation is concerned”); 4 NEWBERG ON CLASS ACTIONS § 11.41 (4th ed. 2002) (citing cases). Here, with a strong settlement that enjoys robust support from the Settlement Class, and to which there is no opposition, the Court should grant final approval to this settlement.

A. The Settlement Satisfies All the Rule 23(e)(2) Factors

1. The Class Was Adequately Represented

“[T]he adequacy requirement is met when: (1) the named plaintiff does not have interests antagonistic to those of the class; and (2) plaintiff’s attorneys are qualified, experienced, and generally able to conduct the litigation.” *Brown v. Transurban USA, Inc.*, 318 F.R.D. 560, 567 (E.D. Va. 2016) (citation omitted). Here, the Class Representatives have the same interests as all other Settlement Class Members as they are asserting the same claims and share the same injuries.

Further, the Court has already recognized Class Counsel’s experience and qualifications in appointing them to lead this litigation and the record shows Class Counsel worked diligently to litigate and ultimately bring this case to resolution. *See Order Granting Preliminary Approval*, Doc. 33; *see also In re: Lumber Liquidators Chinese-Manufactured Flooring Prod. Mktg., Sales Practices & Prod. Liab. Litig.*, 952 F.3d 471, 485 (4th Cir. 2020) (finding counsel’s experience in complex civil litigation supported fairness of settlement).

2. The Settlement was Negotiated at Arm’s Length

The negotiations in this matter occurred at arm’s length. *See Declaration of Gary M. Klinger in Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement*, (“Klinger MPA Dec.”) at ¶ 35. Settlements negotiated by experienced counsel that result from arm’s-length negotiations are presumed to be fair, adequate and reasonable. *See Leonardo’s Pizza by the Slice, Inc. v. Wal-Mart Stores, Inc.*, 544 U.S. 1044 (2005) (a “presumption of fairness,

adequacy, and reasonableness may attach to a class settlement reached in arm's-length negotiations between experienced, capable counsel after meaningful discovery.”) (quoting MANUAL FOR COMPLEX LITIGATION (3 ed.) § 30.42 (1995))). This deference reflects the understanding that vigorous negotiations between seasoned counsel protect against collusion and advance the fairness consideration of Rule 23(e).

3. The Relief is Adequate

The relief offered to Class Members in the proposed Settlement addresses the types of repercussions and injuries arising from the Data Incident and is more than adequate under the factors outlined in federal Rule 23(e)(2)(C). Class Counsel, who have meaningful experience in leading major data breach class actions, strongly believe that the relief is fair, reasonable, and adequate. The Court may rely upon such experienced counsel's judgment. *See, e.g., Nat'l Rural Telecommunications Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 528 (C.D. Cal. 2004) (“[T]he trial judge, absent fraud, collusion, or the like, should be hesitant to substitute its own judgment for that of counsel.”) (citations omitted).

i. The Costs, Risk, And Delay of Trial and Appeal

As outlined in the preliminary approval motion and motion for attorneys' fees, Plaintiffs faced significant risks and costs should they have continued to litigate the case. First, there was a risk that Plaintiffs' claims would not have survived, or survived in full, on a class-wide basis after a motion for class certification, motions for summary judgment, and Daubert motions on damages methodologies, among other motions. Second, if Plaintiffs prevailed on a motion for class certification, successfully defeated all the other objections and motions Defendant filed, and proceeded to trial, Plaintiffs still would have faced significant risk, cost, and delay including likely interlocutory and post-judgment appeals. In contrast to the risk, cost, and delay posed by proceeding to trial, the proposed Settlement provides certain, substantial, and immediate relief to the proposed Settlement Class. It ensures that Settlement Class Members with valid claims for out-of-pocket losses or lost time will receive guaranteed compensation now and further provides Settlement Class Members with access to credit monitoring and identity theft protection services (benefits that may not have been available at trial). The substantial costs, risk, and delay of a trial and appeal support a finding that the proposed Settlement is adequate.

ii. The Method of Distributing Relief Is Effective

The proposed distribution process will be efficient and effective. The available relief is detailed clearly in the Notice, which was provided to Settlement Class Members via mail and detailed the benefits to which Settlement Class Members are entitled, including benefits provided regardless of whether a Settlement Class Member files a claim. The Notice provided to the Settlement Class concerning the available relief was efficient and effective. Notice included dissemination of individual notice by direct mail and email. Because Settlement Class Members were able to make claims through a simple online form or by mail, the method of distributing the relief was both efficient and effective, and the proposed Settlement is adequate under this factor.

iii. *The Terms Relating to Attorneys' Fees Are Reasonable*

Class Counsel has requested, and HawaiiUSA has agreed not to object to, Class Counsel's request for \$250,000 in a combined award of attorneys' fees and reimbursement for litigation expenses. This request is on par with awards routinely granted by courts in the Ninth Circuit and is supported by a lodestar crosscheck, as laid out in the previously filed amended attorneys' fee motion. This factor supports approval of the proposed Settlement.

iv. *Any Agreement Required To Be Identified Under Rule 23(e)(3)*

Apart from the Settlement Agreement, there are no additional agreements between the Parties or with others made in connection with the Settlement. Accordingly, this factor weighs in favor of final approval of the Settlement.

4. *The Proposed Settlement Treats Class Members Equitably*

The Settlement Class Members are treated equitably because they all have similar claims arising from the same data breach, and they all are treated the same under the Settlement. Fed. R. Civ. P. 23(e)(2)(D). All Settlement Class Members are eligible to claim the various benefits provided by the Settlement, including compensation for Ordinary and Extraordinary Losses, including compensation for time spent responding to the Data Incident (or, in the alternative, a cash payment), and two and a half years of identity protection services.

Accordingly, the factors under federal Rule 23(e) support final approval. As discussed below, the *Bluetooth* factors utilized in the Ninth Circuit are similarly satisfied.

B. *The Settlement Satisfies the Bluetooth Factors*

1. *The Strength of Plaintiffs' Case*

While Plaintiffs believe they have strong claims and would be able to prevail at both the class certification phase and at trial, their success is not guaranteed. It is "plainly reasonable for

the parties at this stage to agree that the actual recovery realized and risks avoided here outweigh the opportunity to pursue potentially more favorable results through full adjudication.” *Dennis v. Kellogg Co.*, No. 09-cv-1786-L(WMc), 2013 WL 6055326, at *3 (S.D. Cal. Nov. 14, 2013). “Here, as with most class actions, there was risk to both sides in continuing towards trial. The settlement avoids uncertainty for all parties involved.” *Chester v. TJX Cos.*, No. 5:15-cv-01437-ODW(DTB), 2017 WL 6205788, at *6 (C.D. Cal. Dec. 5, 2017). However, given the heavy obstacles and inherent risks Plaintiffs face with respect to the novel claims in data breach class actions, including class certification, summary judgment, and trial, the substantial benefits the Settlement provides favors final approval of the settlement. *Id.*

2. The Risk, Expense, Complexity, and Duration of Further Litigation

Although Plaintiffs believe their case has merit, they recognize that all cases are subject to substantial risk. This case involves: a proposed class of more than 20,000 individuals (each of whom, Defendant has argued, would need to establish cognizable harm and causation); a complicated and technical factual background; and an aggressive and motivated Defendant that already has provided some relief to the potentially affected individuals. Although nearly all class actions involve a high level of risk, expense, and complexity—undergirding the strong judicial policy favoring amicable resolutions, *Linney v. Cellular Alaska P’ship*, 151 F.3d 1234, 1238 (9th Cir. 1998)—this is an especially complex class in an especially risky arena. As one federal district court recently observed in finally approving a settlement with similar class relief: Data breach litigation is evolving; there is no guarantee of the ultimate result. *See Gordon v. Chipotle Mexican Grill, Inc.*, No. 17-cv-01415-CMASKC, 2019 WL 6972701, at *1 (D. Colo. Dec. 16, 2019) (“Data breach cases ... are particularly risky, expensive, and complex.”). *Fox v. Iowa Health Sys.*, No. 3:18-CV-00327-JDP, 2021 WL 826741, at *5 (W.D. Wis. Mar. 4, 2021). Data breach cases face substantial hurdles in surviving even the pleading stage. *See, e.g., Hammond v. The Bank of N.Y. Mellon Corp.*, No. 08 Civ. 6060 (RMB) (RLE), 2010 WL 2643307, at *1 (S.D.N.Y. June 25, 2010) (collecting cases). Even cases of similar notoriety and implicating data far more sensitive than at issue here have been found wanting at the district court level. *In re U.S. Office of Pers. Mgmt. Data Sec. Breach Litig.*, 266 F. Supp. 3d 1, 19 (D.D.C. 2017) (“The Court is not persuaded that the factual allegations in the complaints are sufficient to establish . . . standing.”), *rev’d in part*, 928 F.3d 42 (D.C. Cir. 2019) (holding that plaintiff had standing to bring a data breach lawsuit).

To the extent the law has gradually accepted this relatively new type of litigation, the path to a class-wide monetary judgment remains unforged, particularly in the area of damages. For now, data breach cases are among the riskiest and most uncertain of all class action litigation, making settlement the more prudent course when a reasonable one can be reached. The damages methodologies, while theoretically sound in Plaintiffs' view, remain untested in a disputed class certification setting and unproven in front of a jury. And as in any data breach case, establishing causation on a class-wide basis is rife with uncertainty.

Each risk, by itself, could impede the successful prosecution of these claims at trial and in an eventual appeal—which would result in zero recovery to the class. “Regardless of the risk, litigation is always expensive, and both sides would bear those costs if the litigation continued.” *Paz v. AG Adriano Goldschmeid, Inc.*, No. 14CV1372DMS(DHB), 2016 WL 4427439, at *5 (S.D. Cal. Feb. 29, 2016). Thus, this factor favors final approval.

3. The Risk of Maintaining Class Action Status Through Trial

While Plaintiffs' case is still in the pleadings stage, the Court has not certified any class treatment of this case. Absent settlement, class certification in consumer data breach cases has only occurred in a few cases. *See, e.g., Smith v. Triad of Ala., LLC*, No. 1:14-CV-324-WKW, 2017 WL 1044692, at *15 (M.D. Ala. Mar. 17, 2017), *on reconsideration in part*, 2017 WL 3816722 (M.D. Ala. Aug. 31, 2017). While certification of additional consumer data breach classes may follow, the dearth of precedent adds to the risks posed by continued litigation.

4. The Amount Offered in Settlement

In light of the substantial risks and uncertainties presented by data security litigation generally and this litigation specifically, the value of the Settlement strongly favors approval. The Settlement makes significant relief available to Settlement Class Members, in the form of out-of-pocket expense reimbursements, compensation for lost time, and credit monitoring and identity theft protection services. The Settlement Agreement's benefits set out above are tailored to address the fundamental concerns raised in this litigation, providing meaningful relief potentially worth

millions of dollars.³ This settlement is a strong result for the Class and exceed or is in line with other settlements in cases involving data breaches of similar scope.⁴

This settlement is a strong result for the Class, and as discussed herein is in line with other approved settlements in cases involving data incidents of similar scope. *See Calderon v. Wolf Firm*, No. SACV 16-1622-JLS(KESx), 2018 WL 6843723, at *7-8 (C.D. Cal. Mar. 13, 2018) (comparing class settlement with other settlements in similar cases). In light of the difficulties and expenses Class Members would face pursuing individual claims, and the likelihood that they might be unaware of their claims, this Settlement Amount is appropriate. *See id.* Accordingly, this factor favors approval.

5. The Extent of Discovery Completed and the Stage of Proceedings

Plaintiffs vigorously and aggressively gathered all of the information that was available regarding HawaiiUSA and the Data Incident—including publicly available documents concerning announcements of the Data Incident and notice of the Data Incident to potentially affected individuals. The parties also informally exchanged non-public information concerning the Data

³ Each Class member is entitled to claim up to \$50 from the Alternative Cash Payment. The. For the Class of 21,441 members, the value of the Alternative Cash Payment benefit alone (excluding the value of the ordinary and extraordinary expense reimbursements, credit monitoring and enhanced data security practices implemented by HawaiiUSA), is \$1,070,550 (\$50 x 21,441 Members). The Settlement also permits Class members to claim up to \$400 in documented losses that were caused by the Data Incident, which has a value of \$8,576,400. The value of the credit monitoring services benefit (market value of \$13.99 per month) is \$7,199,030.16 (\$13.99 x 24 months x 21,441 Members).

⁴ *See, e.g. Fehlen v. Accellion, Inc.*, Case No. 21-cv-01353 (N.D. Cal.) (settlement of \$8.1 million for 9.2 million class members who had their Social Security Numbers compromised; \$0.90 per class member); *Dickey's Barbeque Restaurants, Inc.*, Case No. 20-cv-3424 (N.D. Tex.), Dkt. 62 (data breach class action involving more than 3 million people that settled for \$2.3 million, or \$0.76 per person); *In re: Capital One Consumer Data Breach Litigation*, MDL No. 1:19md2915 (AJT/JFA) Doc. 2251 (Memo in Support of Final Approval), page 1 (\$190 million common fund settlement for a class of approximately 98 million, or \$1.93 per person); *Cochran v. Accellion, Inc., et al.*, No. 5:21-cv-01887-EJD (N.D. Cal.), ECF No. 32 (June 30, 2021) (\$5 million settlement fund for 3.82 million class members or approximately \$1.31 per Class member); *Adlouni v. UCLA Health Systems Auxiliary, et al.*, No. BC 589243 (Cal. Super. Ct. June 28, 2019) (\$2 million settlement in medical information data breach for approximately 4,500,000 Class Members; 44 cents per Class Member); *In re Anthem, Inc. Data Breach Litig.*, No. 5:15-md-02617 (N.D. Cal. Aug. 15, 2018) (\$115 million settlement in medical information data breach for 79,200,000 Class Members; \$1.45 per Class Member); *In re The Home Depot, Inc. Customer Data Sec. Breach Litig.*, No. 1:14-MD02583, 2016 WL 6902351, at *7 (N.D. Ga. Aug. 23, 2016) and ECF No. 181-2 ¶¶ 22, 38 (\$13 million settlement for approximately 40 million class members; 32.5 cents per Class Member); *In re Target Corp. Customer Data Sec. Breach Litig.*, MDL No. 14-2522, 2017 WL 2178306, at **1- 2 (D. Minn. May 17, 2017) (\$10 million settlement for nearly 100 million Class Members; 10 cents per Class Member); *In re LinkedIn User Priv. Litig.*, 309 F.R.D. 573, 582 (N.D. Cal. 2015) (\$1.25 million settlement for approximately 6.4 million Class Members; 20 cents per Class Member).

Incident attack and the size of the Class in preparation for mediation. Further, the parties exchanged detailed mediation statements and engaged in candid mediation discussions facilitated by mediator Jill Sperber of Judicate West. Accordingly, the litigation has proceeded to the point where “the parties have sufficient information to make an informed decision about settlement,” including an informed and realistic assessment of the strengths and weakness of their respective cases. *See Linney*, 151 F.3d at 1239.

6. The Experience and Views of Counsel

Class Counsel have substantial experience litigating complex class cases of various types, including data-related cases such as this one. *See* Declaration of Gary M. Klinger in Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement, (“Klinger MPA Dec.”) at Exhibits A, B, and C, resumes of Class Counsel. Having worked on behalf of the putative class since the Data Incident was first announced, evaluated the legal and factual disputes, and dedicated significant time and monetary resources to this litigation, proposed Class Counsel fully endorse the Settlement. A great deal of weight is accorded to the recommendation of counsel, who are most closely acquainted with the facts of the underlying litigation. *See, e.g., Norton*, 2017 WL 1424636, at *6; *Nat’l Rural Telecomm. Coop. v. DirecTV, Inc.*, 221 F.R.D. 523, 528 (C.D. Cal. 2004). Thus, this factor supports approval.

7. Governmental Participants

There is no governmental participant in this matter, accordingly this factor is neutral.

8. The Positive Reaction of the Class Favors Final Approval

The reaction of the Settlement Class to this Settlement is overwhelmingly positive. The deadline to object or opt out of the settlement was July 28, 2024. Out of a total of 21,441 Settlement Class Members, only four have sought to be excluded from the Class, and none have objected. *See* Admin. Decl. ¶¶ 15-16. “It is established that the absence of a large number of objections to a proposed class action settlement raises a strong presumption that the terms of a proposed class settlement action are favorable to the class members.” *Nat’l Rural Telecomm. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 529 (C.D. Cal. 2004); 4 NEWBERG ON CLASS ACTIONS § 11:48 (“Courts have taken the position that one indication of the fairness of a settlement is the lack of or small number of objections [citations omitted]”). The fact that no Settlement Class Members have objected reflects a highly positive response by the Settlement Class. *See, e.g., Garner v. State Farm Mut. Auto. Ins. Co.*, No. CV 08 1365 CW EMC, 2010 WL 1687832, at *14 (N.D. Cal. Apr. 22, 2010)

(finding that only one objector to settlement and fee request represented an “overwhelmingly positive” response from the class of 24,358 members); *In re Toys R Us-Delaware, Inc.--Fair & Accurate Credit Transactions Act (FACTA) Litig.*, 295 F.R.D. 438, 456 (C.D. Cal. 2014) (“The negligible number of opt-outs and objections indicates that the class generally approves of the settlement.”).

9. Lack of Collusion Among the Parties

The parties negotiated a substantial, multifaceted Settlement, as described above. Class Counsel and Defendant’s counsel are well-versed in handling data-related class actions such as this one and fully understand the values recovered in similar cases. The assistance of a respected third-party mediator also is evidence of no collusion. Therefore, the Court can be assured that the negotiations were not collusive. *See G. F. v. Contra Costa Cnty.*, No. 13-CV-03667-MEJ, 2015 WL 7571789, at *11 (N.D. Cal. Nov. 25, 2015) (working with neutral mediators is “a factor weighing in favor of a finding of non-collusiveness”) (internal quotation marks and citation omitted).

VI. NOTICE SATISFIED DUE PROCESS AND RULE 23

To satisfy due process, notice to class members must be the best practicable, and reasonably calculated under all the circumstances to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. Fed. R. Civ. P. 23(e); *Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 812 (1985). Notice provided to the class must be sufficient to allow class members “a full and fair opportunity to consider the proposed decree and develop a response.” *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 315 (1950). While individual notice should be provided where class members can be located and identified through reasonable effort, notice may also be provided by U.S. Mail, electronic mail or other appropriate means. Fed. R. Civ. P. 23(c)(2)(B).

The direct mail Notice, utilized to the extent that Defendant was able to provide valid addresses for Settlement Class Members here, is the gold standard, and is consistent with notice programs approved by other courts. *See Stott v. Capital Financial Services*, 277 F.R.D. 316, 342, (N.D. Tex. 2011) (approving notice sent to all class members by first class mail); *Billitri v. Securities America, Inc.*, Nos. 3:09-cv-01568-F, 3:10-cv-01833-F, 2011 WL 3586217, *9 (N.D. Tex. Aug. 4, 2011) (same). The Notice adequately informed Settlement Class Members of the nature of the action, the definition of the class, the claims at issue, the ability of a class member to

object or exclude themselves and/or enter an appearance through and attorney, and the binding effect of final approval and class judgment. The Notice utilized clear and concise language that is easy to understand and organized the Notice in a way that allowed Class Members to easily find any section that they may be looking for. Thus, it was substantively adequate. *See Espinosa v. United Student Aid Funds, Inc.*, 553 F.3d 1193, 1202 (9th Cir. 2008), *aff'd*, 559 U.S. 260, 130 S. Ct. 1367, 176 L. Ed. 2d 158 (2010) (“The standard for what amounts to constitutionally adequate notice, however, is fairly low; it’s ‘notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objection.’”).

As outlined in detail in the Settlement Administrator’s supporting declaration, the Notice Plan here, and its execution, satisfied all the requirements of Haw. R. Civ. P. 23 and due process. On May 29, 2024, the Settlement Administrator sent the Short Notice via email to 8,975 email addresses from the Class Notice List, 95% of which were successfully delivered. Admin. Decl. ¶ 6. Thereafter, the Settlement Administrator mailed 12,895 Postcard Notices via first-class mail to Settlement Class Members for whom addresses were available. Admin. Decl. ¶ 8. As of August X, 2024, the USPS returned 1,401 Postcard Notices as undeliverable. *Id.* ¶ 13. Of the 1,401 Postcard Notices returned, 861 Postcard Notices were able to be successfully deliver after the Settlement Administrator performed extensive skip-trace procedures and was able to locate updated addresses for Settlement Class Members. *Id.*

A dedicated Settlement Website, <https://www.hiusasettlement.com>, was created to provide Settlement Class Members with information and documents concerning this action and the Settlement. Admin. Decl. ¶ 9. The Settlement administrator also made available the toll-free number 1-844-940-2311 and email address info@hiusasettlement.com, for Class members to ask questions about the Settlement, request 24 months of credit monitoring service, and request that a Short Form Notice, Long Form Notice or Claim Form be mailed to them. *Id.* ¶¶ 11-12.

Notice here was robust, effective, and met all due process requirements, as well as the requirements of the Hawaii and Federal Rules of Civil Procedure. Ultimately, the Settlement Administrator estimates that 96.6% of the Settlement Class received notice of the Settlement. Admin. Decl. ¶ 13. This outstanding Notice Program easily satisfies Due Process, and weighs in favor of final approval.

VII. CERTIFICATION OF THE SETTLEMENT CLASS

In the Preliminary Approval Order, the Court preliminarily certified the Settlement Class, finding that the Class satisfies all Rule 23 requirements. Nothing has changed since then that could conceivably undermine class certification. Accordingly, Plaintiffs respectfully request that the Court finally certify the Settlement Class for Settlement purposes.

VIII. CONCLUSION

Plaintiffs have negotiated a fair, adequate and reasonable Settlement that guarantees Settlement Class Members the opportunity to claim significant benefits. For the reasons discussed above, and for those described in Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement and Plaintiffs' Motion for Attorneys' Fees, Expenses, and Service Awards, Plaintiffs respectfully request this Court enter the proposed Final Approval Order, finally certify the Settlement Class, appoint Settlement Class Counsel and Plaintiffs as representatives for the Class, award Plaintiffs service awards in of \$1,500 each, award Class Counsel combined attorneys' fees and litigation expense request of \$250,000, and grant final approval of this Settlement.

DATED: September 3, 2024.

Respectfully submitted,

/s/ Robert M. Hatch

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Attorneys for Plaintiffs and the Putative Class

**IN THE CIRCUIT COURT FOR THE FIRST CIRCUIT
STATE OF HAWAI'I**

JOSEPH SMITH AND TONY LEE,
individually, and on behalf of all others
similarly situated,

Plaintiffs,

v.

HAWAIIUSA FEDERAL CREDIT UNION,

Defendant.

Case No. 1CCV-24-0000154

Judge: The Honorable Karin L. Holma

**DECLARATION OF ELENA MACFARLAND REGARDING THE STATUS OF
SETTLEMENT NOTICE PROGRAM**

I, Elena MacFarland, hereby declare and state as follows:

1. I am a Project Manager for the Court-appointed Claims Administrator, Postlethwaite & Netterville, APAC (“P&N”)¹, a full-service administration firm providing legal administration services, including the design, development, and implementation of unbiased complex legal notification programs. As the Project Manager, I am personally familiar with the facts set forth in this Declaration.

2. I am over the age of 21. Except as otherwise noted, the matters set forth in this Declaration are based upon my personal knowledge as well as the information provided by other experienced employees working under my supervision.

BACKGROUND

3. ***Preliminary Approval.*** On May 3, 2024, this Court entered its order preliminarily approving the Settlement Agreement and appointing P&N as the Claims Administrator. After the

¹ As of May 21, 2023, the directors & employees of Postlethwaite & Netterville, APAC (“P&N”) joined EisnerAmper as EAG Gulf Coast, LLC. Where P&N is named as an entity, EAG Gulf Coast, LLC employees will service work contracted with P&N.

Court's preliminary approval of the Settlement, P&N began to implement and coordinate the Notice Program ("Notice Program").

4. ***Purpose of this Declaration.*** I submit this Declaration to evidence and establish P&N's compliance with the terms of the Preliminary Approval Order and detail P&N's execution of its role as the Claims Administrator.

NOTICE PROGRAM EXECUTION

5. ***Notice Database.*** P&N maintains a database of 21,405 Settlement Class Members which was used to effectuate the notice campaign outlined in the Settlement Agreement ("Class Notice List"). P&N received the class data on May 13, 2024 and May 15, 2024, in two Excel files containing the names, mailing addresses and email addresses, where available, for a total of 21,441 records. After consolidating and deduplicating the data, P&N determined that a total of 21,405 unique records exist in the class data

6. ***Email Notice.*** Beginning on May 29, 2024, P&N caused the Short Notice to be sent via email ("Email Notice") to the 8,975 email addresses on the Class Notice List. Ultimately, the Email Notice was successfully delivered to 8,509 email addresses. A sample of the Email Notice sent to those identified on the Class Notice List is attached hereto as **Exhibit A**.

7. ***Mail Notice.*** P&N coordinated and caused the Short Notice ("Postcard Notice") to be mailed via First Class Mail to Settlement Class Members for whom (a) an email address was not available or an Email Notice was not successfully delivered and (b) a mailing address was available from the class data. The Postcard Notice included (a) the web address to the case website for access to additional information, (b) rights and options as a Settlement Class Member and the dates by which to act on those options, and (c) the date of the Final Fairness Hearing. A true and correct copy of the Postcard Notice is attached hereto as **Exhibit B**.

8. ***Mailing Address Validation.*** Prior to mailing, all mailing addresses were checked against the National Change of Address (NCOA) database maintained by the United States Postal Service ("USPS"). In addition, the addresses were certified via the Coding Accuracy Support

System (CASS) to ensure the quality of the zip codes and verified through Delivery Point Validation (DPV) to verify the accuracy of the addresses. P&N caused the mailing of the Postcard Notice by U.S. First Class Mail to a total of 12,895 Settlement Class Members. P&N also executed supplemental mailing for 861 Settlement Class Members for which an initial Postcard Notice was not deliverable but for which P&N was able to obtain an alternative mailing address through (1) forwarded address provided by the USPS, or (2) skip trace searches using LexisNexis third-party vendor database. Mail notice delivery statistics are detailed in paragraph 13 below.

9. **Settlement Website.** Prior to the dissemination of the Class Notice, P&N published the Settlement Website, www.HIUSASettlement.com. Visitors to the Settlement Website can download the Short Notice, the Long Form Notice, the Claim Form, as well as Court Documents, such as the Class Action Complaint, the Settlement Agreement, Orders of the Court, and other relevant documents. A true and correct copy of the Long Form Notice is attached hereto as **Exhibit C**, with a copy of the Claim Form. Visitors are also able to submit claims electronically, submit address updates electronically, and find answers to frequently asked questions (FAQs), important dates and deadlines, and contact information for the Claims Administrator. As of August 30, 2024, the Settlement Website has received 9,150 unique visitors and 21,425 page views.

10. **Settlement Post Office Box.** P&N maintains the following Post Office Box (“P.O. Box”) for the Settlement Program:

HawaiiUSA Claims Administrator

P.O. Box 4905

Baton Rouge, LA 70821

This P.O. Box serves as a location for USPS to return undeliverable program mail to P&N and for Settlement Class Members to submit claims, exclusion requests, and other settlement-related correspondence. The P.O. Box address appears prominently in all Notices and in multiple locations on the Settlement website. P&N monitors the P.O. Box daily and uses a dedicated mail intake team to process each item received.

11. **Dedicated Toll-Free Number.** P&N established a toll-free telephone number, 1-

844-940-2311 (“Toll-Free Number”), which is available twenty-four hours per day. Settlement Class Members can call and interact with an interactive voice response system (“IVR”) that provides important settlement information and offers the ability to leave a voice message to address specific questions or requests. The Toll-Free Number appears in all Notices, as well as in multiple locations on the Settlement Website. The Toll-Free Number will remain active through the close of this Settlement Program.

12. **Email Support.** P&N established an Email address, info@HIUSASettlement.com, to provide an additional option for Settlement Class Members to address specific questions or requests to the Claims Administrator for support.

NOTICE PROGRAM REACH

13. **Notice Reach Results.** Through the Notice procedures outlined above, P&N attempted to send direct notice to 21,405 Settlement Class Members. As of August 30, 2024, the Notice Program reached a total of 20,678 (96.60%) of Settlement Class Members². Table 1 below provides an overview of dissemination results and reach statistics for the Notice Program.

Table 1: Direct Notice Program Dissemination & Reach		
Description	Volume of Class Members	Percentage of Class Members
Class Members	21,405	100.00%
Email Notice		
(+) Total Email Notices Sent	8,975	41.93%
(+) Total Email Notices Delivered	8,509	39.75%
(-) Total Email Notices Bounced/Undeliverable	466	2.18%
Initial Notice Mailing		
(+) Total Notices Mailed	12,895	60.24%
(-) Total Notices Returned as Undeliverable	1,401	6.55%
Supplemental Notice Mailing		
(+) Total Notices Re-Mailed	861	4.02%
(-) Total Undeliverable (Re-Mailed) Notices	186	0.87%

² A Settlement Class Member is considered “reached” by direct Notice if a Postcard Notice mailed to the Settlement Class Member has not been returned by the USPS as undeliverable.

Direct Notice Program Reach		
(+) Received Email Notice	8,509	39.75%
(+) Received Postcard Notice	12,169	56.85%
(=) Received Direct Notice	20,678	96.60%

CLAIM ACTIVITY

14. **Claim Intake and Processing.** The online claim submission feature was available on the Settlement Website beginning May 29, 2024. As of August 30, 2024, P&N had received a total of 347 claim submissions, of which 340 claims have been determined to be from Settlement Class Members. Table 2 below provides summary statistics of claim submissions received. P&N will continue to intake and analyze claims submitted by the claims filing deadline of August 27, 2024.

Table 2: Claims Statistics	
Description	Volume (#)
Total Claims Received	347
(-) Invalid Claims – Not a Class Member	7
(=) Net Claims Received	340

EXCLUSIONS AND OBJECTIONS

15. **Exclusions (Opt-Outs) Received.** The deadline for Settlement Class Members to request to be excluded from the Settlement was July 28, 2024. P&N has received four (4) exclusion requests from Settlement Class Members as of August 30, 2024. A list of individuals who have timely requested exclusion from the Settlement is attached hereto as **Exhibit D**.

16. **Settlement Objections.** The Settlement Agreement directs that objections be filed with the Court and mailed to Class Counsel and HawaiiUSA’s Counsel by July 28, 2024. As of August 30, 2024, P&N has not received any objections from Settlement Class Members.

CERTIFICATION

I, Elena MacFarland, declare under the penalty of perjury that the foregoing is true and correct. Executed on this 30th day of August, 2024, in Baton Rouge, Louisiana.



Elena MacFarland

Exhibit A
Email Notice

Notice of Settlement - Smith, et al. v. HawaiiUSA Federal Credit Union

HawaiiUSA Data Breach Settlement <notice@pnclassaction.com>

Reply-To: <info@hiusasettlement.com>

Settlement Claim ID:

Court-Approved Legal Notice

A Court has authorized this notice. It is not a solicitation from a lawyer.

Why am I receiving this notice? A class action settlement in the case entitled *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, has been reached between the plaintiffs and the defendant HawaiiUSA Federal Credit Union ("HawaiiUSA"). The case concerns a Data Security Incident against HawaiiUSA in December of 2022 (the "Data Incident" or "Data Security Incident"). You are receiving this notice because HawaiiUSA's records show that your personally identifying information ("PII") and/or financial information (with PII, "Private Information") was potentially compromised as a result of the Data Incident.

Who's Included in the Settlement Class? The Settlement Class includes all persons whose Private Information may have been compromised as a result of the Data Incident.

What are the settlement terms? The settlement provides for 24 months of free credit monitoring services for all members of the Settlement Class who submit a Claim Form for credit monitoring services. Settlement Class Members who incurred documented out-of-pocket expenses as a result of, or spent time dealing with, the Data Incident are eligible to receive up to \$400 in reimbursement ("Ordinary Expense Reimbursement"). In lieu of Ordinary Expense Reimbursement, Settlement Class Members may make a claim for a *pro rata* cash payment, estimated to be \$50 per Settlement Class Member. Additionally, Settlement Class Members who incurred unreimbursed monetary losses not covered by one of the Ordinary Expense Reimbursement categories as a result of the Data Incident are also eligible to receive up to \$4,000 in compensation for those losses ("Extraordinary Expense Reimbursement"). Please visit www.HIUSASettlement.com for a full description of settlement

benefits and more information on how to submit a Claim Form and redeem your free credit monitoring services. The deadline to submit a Claim Form is **August 27, 2024**.

What are my other options? If you **stay in** the Settlement Class, you will be legally bound by the settlement's terms and you will release your claims against HawaiiUSA, regardless of whether you file a claim. If you do not want to be legally bound by the settlement, you must **opt out** of the settlement by **July 28, 2024**. If you opt out, you will not be entitled to any relief, but you will retain the ability to file your own claim against HawaiiUSA. If you do not opt out, you may **object** to the settlement by **July 28, 2024**. The Long Notice available on the Settlement Website explains how to opt out or object.

The Court's Final Fairness Hearing. The Court will hold a Final Fairness Hearing on **September 17, 2024**, to consider whether to approve the settlement and a request for attorneys' fees and expenses for plaintiffs' counsel. You may appear at the hearing, either yourself or through an attorney hired by you, but you don't have to. For more information, visit the Settlement Website.

Do I have a lawyer in the case? The Court appointed the following Settlement Class Counsel to represent the Settlement Class in this Litigation: **Cafferty Clobes Meriwether & Sprengel LLP**, 135 S. LaSalle, Suite 3210, Chicago, IL 60603, (312) 782-4880; **Milberg Coleman Bryson Phillips Grossman PLLC**, 227 W. Monroe Street, Suite 2100, Chicago, IL 60606, (866) 252-0878; and **Bronster Fujichaku Robbins**, 1003 Bishop Street, Suite 2300, Honolulu, HI 96813, (808) 524-5644.

For more information, please visit www.HIUSASettlement.com or call toll-free 1-844-940-2311.

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

[Unsubscribe - Unsubscribe Preferences](#)

Exhibit B
Postcard Notice

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What are my other options? If you **stay in** the Settlement Class, you will be legally bound by the settlement's terms and you will release your claims against HawaiiUSA, regardless of whether you file a claim. If you do not want to be legally bound by the settlement, you must **opt out** of the settlement by **July 28, 2024**. If you opt out, you will not be entitled to any relief, but you will retain the ability to file your own claim against HawaiiUSA. If you do not opt out, you may **object** to the settlement by **July 28, 2024**. The Long Notice available on the Settlement Website explains how to opt out or object.

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Court-Approved Legal Notice

To all persons whose personal information may have been impacted by a cyberattack that was perpetrated against HawaiiUSA Federal Credit Union in December of 2022, you may be eligible for benefits from a class action settlement.

A Court has authorized this notice. It is not a solicitation from a lawyer.

Why am I receiving this notice? A settlement in a class action lawsuit entitled *Smith, et al. v. HawaiiUSA Federal Credit Union*, Case No. 1CCV-24-0000154 (Circuit Court for the First Circuit, State of Hawai'i), has been reached between the plaintiffs and the defendant HawaiiUSA Federal Credit Union ("HawaiiUSA"). The case concerns a Data Security Incident against HawaiiUSA in December of 2022 (the "Data Incident" or "Data Security Incident"). You are receiving this notice because HawaiiUSA's records show that your personally identifying information ("PII") and/or financial information (with PII, "Private Information") was potentially compromised as a result of the Data Incident.

For more information, visit www.hiusasettlement.com or call toll-free 1-844-940-2311.

HawaiiUSA Data Breach Settlement Administrator

P.O. Box 4905

Baton Rouge, LA 70821

ELECTRONIC SERVICE REQUESTED

SETTLEMENT CLAIM [ID]

[FIRST NAME] [LAST NAME]

[ADDRESS]

[ADDRESS]

[CITY] [STATE] [ZIP]



Postal Service: Do Not Mark or Cover Barcode

Exhibit C
Long Form Notice

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. Dean E. Ochiai, 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. Dean E. Ochiai, 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. Dean E. Ochiai, 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:

HawaiiUSA Claims Administrator
Attn: Exclusions

By order of: Hon. Dean E. Ochiai, of the Circuit Court for the First Circuit, State of Hawai‘i.

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.

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

By order of: Hon. Dean E. Ochiai, of the Circuit Court for the First Circuit, State of Hawai'i.

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. Dean E. Ochiai, 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. Dean E. Ochiai, 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. Dean E. Ochiai, 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.

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

**Your Claim Form Must Be Submitted
Online or Postmarked By August 27, 2024**

Smith, et al. v. HawaiiUSA Federal Credit Union

Case No. 1CCV-24-0000154

CLAIM FORM

USE THIS FORM IF YOUR PRIVATE INFORMATION WAS IMPACTED IN A DECEMBER 2022 DATA SECURITY INCIDENT AFFECTING HAWAIIUSA FEDERAL CREDIT UNION TO MAKE A CLAIM FOR IDENTITY THEFT PROTECTION AND CREDIT MONITORING SERVICES AND/OR COMPENSATION FOR UNREIMBURSED LOSSES

SAVE TIME BY SUBMITTING YOUR CLAIM ONLINE AT WWW.HIUSASETTLEMENT.COM

If you were notified that your information may have been impacted in a cyberattack perpetrated against HawaiiUSA Federal Credit Union (“HawaiiUSA”) in December of 2022 (the “Data Incident” or “Data Security Incident”), you are eligible to request compensation for lost time and unreimbursed, documented, out-of-pocket expenses up to \$400.00 (“Ordinary Expense Reimbursement”), or a *pro rata* Alternative Cash Payment, estimated to be \$50 per Settlement Class Member, and compensation for unreimbursed monetary losses up to \$4,000 (“Extraordinarily Expense Reimbursement”). You are also eligible for 24 months of identity protection and credit monitoring service free of charge.

Please read the claim form carefully and answer all questions. Failure to provide the required information could result in a denial of your claim.

This Claim Form may be submitted electronically *via* the Settlement Website at www.HIUSASettlement.com or completed and mailed to the address below. Please type or legibly print all requested information, in blue or black ink. Mail your completed Claim Form, including any supporting documentation, by U.S. mail to:

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

I. CLASS MEMBER NAME AND CONTACT INFORMATION

Provide your name and contact information below. You must notify the Claims Administrator if your contact information changes after you submit this form.

First Name*

Last Name*

Mailing Address: Street Address/P.O. Box (include Apartment/Suite/Floor Number)*

City*

State*

Zip Code*

Current Email Address*

Current Phone Number*

II. PROOF OF CLASS MEMBERSHIP

Check this box to certify that you are or were an employee or customer of HawaiiUSA on or before December 12, 2022.

Enter the Claim ID Number provided on your notice:

Claim ID Number*

III. IDENTITY THEFT PROTECTION

All Settlement Class Members are eligible to receive two (2) years of free identity-theft protection services, called "Identity Defense Total 3-Bureau Service" provided by CyEx by Pango Group, regardless of whether they also submit a claim for Ordinary Expense Reimbursement, Compensation for Lost Time, Extraordinary Expense Reimbursement or the Alternative Cash Payment.

Check this box if you wish to sign up for Identity Theft Protection Services.

IV. ORDINARY EXPENSE REIMBURSEMENT

All members of the Settlement Class who submit a Valid Claim using this Claim Form are eligible for reimbursement of the following documented out-of-pocket expenses, not to exceed \$400 per member of the Settlement Class, that were incurred as a result of the Data Incident. To receive an Ordinary Expense Reimbursement, the loss must be an actual, documented, and unreimbursed monetary loss that is fairly traceable to the Data Incident; and have occurred between December 12, 2022 and August 27, 2024.

Self-prepared documents, such as handwritten receipts, are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity or support other submitted documentation.

Cost Type (Fill all that apply)	Approximate Date of Loss	Amount of Loss
<input type="checkbox"/> Out-of-pocket losses include 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.	<div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <input type="text"/> / <input type="text"/> / <input type="text"/> <small>m m d d y y</small> </div> </div>	\$ <input type="text"/> . <input type="text"/>
Examples of Supporting Documentation: <i>Phone bills, gas receipts, postage receipts; detailed list of locations to which you traveled (i.e., police station, IRS office), indication of why you traveled there (i.e., police report or letter from IRS re: falsified tax return) and number of miles you traveled.</i>		
<input type="checkbox"/> Fees for credit reports, credit monitoring, or other identity theft insurance product purchased on or after December 12, 2022 through April 29, 2024.	<div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <input type="text"/> / <input type="text"/> / <input type="text"/> <small>m m d d y y</small> </div> </div>	\$ <input type="text"/> . <input type="text"/>
Examples of Supporting Documentation: <i>Receipts or account statements reflecting purchases made for Credit Monitoring or Identity Theft Insurance Services.</i>		

V. COMPENSATION FOR LOST TIME

All members of the Settlement Class who have spent time dealing with the Data Incident may claim up to four (4) hours for lost time at a rate of \$20.00 per hour. Any payment for lost time is included in the \$400 cap per Settlement Class member (no documentation is required).

Hours claimed (up to 4) 1 Hour (\$20) 2 Hours (\$40) 3 Hours (\$60) 4 Hours (\$80)

I attest and affirm to the best of my knowledge and belief that any claimed lost time was spent related to the Cyberattack between December 12, 2022 and the August 27, 2024.

VI. ALTERNATIVE CASH PAYMENT

In lieu of Ordinary Expense Reimbursement (Section IV, above) or Compensation for Lost Time (Section V, above), 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.

Check this box if you wish to receive a \$50 cash payment (in lieu of compensation under Sections IV and V).

VII. EXTRAORDINARY EXPENSE REIMBURSEMENT

All members of the Settlement Class who submit a Valid Claim using this Claim Form are eligible for reimbursement of the following extraordinary expenses, not to exceed \$4,000 per member of the Settlement Class, that were incurred as a result of the Data Incident: To receive Extraordinary Expense Reimbursement, the loss must be an actual, documented, and unreimbursed monetary loss that is more likely than not caused by the Data Incident; and have occurred between December 12, 2022 and August 27, 2024; for which the Settlement Class Member made reasonable efforts to avoid, or seek reimbursement.

Cost Type (Fill all that apply)	Approximate Date of Loss	Amount of Loss
<input type="checkbox"/> Other monetary losses incurred as a result of the Data Incident.	<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div> / <div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div> / <div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div> </div> <div style="display: flex; justify-content: space-around; align-items: center; margin-top: 2px;"> <div style="text-align: center;"><small>m</small></div> <div style="text-align: center;"><small>m</small></div> <div style="text-align: center;"><small>d</small></div> <div style="text-align: center;"><small>d</small></div> <div style="text-align: center;"><small>y</small></div> <div style="text-align: center;"><small>y</small></div> </div>	\$.
Examples of Supporting Documentation: <i>Invoices or statements reflecting payments made for professional fees/services.</i>		

VIII. PAYMENT SELECTION

Please select from **one** of the following payment options:

PayPal

PayPal Account Email Address or Phone Number

Venmo

Venmo Account Email Address or Phone Number

Zelle

Zelle Account Email Address or Phone Number

Virtual Prepaid Card

Email Address

Physical Check: Payment will be mailed to the address provided above.

IV. ATTESTATION & SIGNATURE

I swear and affirm under the laws of my state that the information I have supplied in this Claim Form is true and correct to the best of my recollection, and that this form was executed on the date set forth below.

Signature

Printed Name

Date

Exhibit D

Exclusion Requests

Exclusion Requests

Smith, et al. v. HawaiiUSA Federal Credit Union, Case No. 1CCV-24-0000154

Count	First Name	Last Name	State	Postmark Date
1	Jay	Omaye	HI	6/11/2024
2	Jeanne	Omaye	HI	6/11/2024
3	Rex	Shilo	HI	7/17/2024
4	Janice	Selga (Choy)	HI	7/25/2024

**IN THE CIRCUIT COURT FOR THE FIRST CIRCUIT
STATE OF HAWAI'I**

JOSEPH SMITH and TONY LEE,
individually, and on behalf of all others
similarly situated,

Plaintiffs,

v.

HAWAIIUSA FEDERAL CREDIT UNION,

Defendant.

Case No.: 1CCV-24-0000154

NOTICE OF HEARING

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the **PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT** shall come on for hearing before the Honorable Karin L. Holma, Judge of the Above-Entitled court, on **September 17, 2024, at 2:00 p.m.**, or as soon thereafter as the matter can be heard.

If you fail to appear at the hearing, the relief requested may be granted without further notice to you.

DATED: September 3, 2024.

Respectfully submitted,

/s/ Robert M. Hatch

MARGERY S. BRONSTER
ROBERT M. HATCH
BRONSTER FUJICHAKU ROBBINS
A Law Corporation
1003 Bishop Street, Suite 2300
Honolulu, HI 96813
Tel.: (808) 524-5644
Fax: (808) 599-1881
mbronster@bfrhawaii.com
rhatch@bfrhawaii.com

**MILBERG COLEMAN BRYSON
PHILLIPS GROSSMAN, PLLC**
GARY M. KLINGER (*Admitted Pro Hac Vice*)
227 West Monroe Street, Suite 2100
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T: 866.252.0878
gklinger@milberg.com

Attorneys for Plaintiffs and the Putative Class

**IN THE CIRCUIT COURT FOR THE FIRST CIRCUIT
STATE OF HAWAI'I**

JOSEPH SMITH and TONY LEE,
individually, and on behalf of all others
similarly situated,

Plaintiffs,

v.

HAWAIIUSA FEDERAL CREDIT UNION,

Defendant.

Case No.: 1CCV-24-0000154

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

The undersigned hereby certified that a filed marked copy of the foregoing document was duly served upon the parties listed below at the email below VIA JEFS:

JOACHIM P. COX
jcox@cfhawaii.com
ABIGAIL M. HOLDEN
aholden@cfhawaii.com
800 Bethel Street, Suite 600
Honolulu, Hawai'i 96813

Attorneys for Defendant

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Costa Mesa, CA 92626

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Attorneys for Defendant
HAWAIIUSA FEDERAL CREDIT UNION

DATED: September 3, 2024.

Respectfully submitted,

/s/ Robert M. Hatch

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