

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

SIOBHAN MORROW and TRACEE LE FLORE, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

NAVY FEDERAL CREDIT UNION,

Defendant.

Case No. 1:21-cv-722-MSN-LRV

MARIA HART and TRACEE LE FLORE, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

NAVY FEDERAL CREDIT UNION,

Defendant.

Case No. 1:22-cv-844-MSN- LRV

**SUPPLEMENTAL DECLARATION OF CAMERON R. AZARI, ESQ.
REGARDING IMPLEMENTATION OF NOTICE PROGRAM**

I, Cameron R. Azari, Esq., hereby declare and state as follows:

1. My name is Cameron R. Azari, Esq. I have personal knowledge of the matters set forth herein, and I believe them to be true and correct.
2. I am a nationally recognized expert in the field of legal notice and have served as an expert in hundreds of federal and state cases involving class action notice plans.
3. I am a Senior Vice President of Epiq Class Action and Claims Solutions, Inc. (“Epiq”) and the Director of Legal Notice for Hilsoft Notifications, a firm that specializes in

designing, developing, analyzing, and implementing large-scale, un-biased, legal notification plans. Hilsoft Notifications is a business unit of Epiq.

4. The facts in this declaration are based on my personal knowledge, as well as information provided to me by my colleagues in the ordinary course of my business at Epiq.

OVERVIEW

5. This declaration provides updated settlement administration statistics following the successful implementation of the Notice Program (“Notice Program”) and notices (the “Notice” or “Notices”) for *Morrow et al. v. Navy Federal Credit Union*, Case No. 1:21-cv-722-MSN-LRV and *Hart et al. v. Navy Federal Credit Union*, Case No. 11:22-cv-844-MSN- LRV, both pending and consolidated in the United States District Court for the Eastern District of Virginia, Alexandria Division. I previously executed my *Declaration of Cameron R. Azari, Esq. Regarding Notice Program* on November 20, 2023, which described the Notice Program, detailed Hilsoft’s class action notice experience, and attached Hilsoft’s *curriculum vitae*. Subsequently, I executed my *Declaration of Cameron R. Azari, Esq. Regarding Implementation of Notice Program* (“Implementation Declaration”) on June 7, 2024, which described the successful implementation of the Notice Program and provided settlement administration statistics.

NOTICE PROGRAM SUMMARY

6. As detailed in my Implementation Declaration, the Notice Program’s individual notice efforts reached approximately 99% of the identified Settlement Class. The reach was further enhanced by a Settlement Website. In my experience, the reach of the Notice Program was consistent with other court-approved notice plans, was the best notice practicable under the circumstances, and satisfied the requirements of due process, including its “desire to actually inform” requirement.¹

¹ *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 315 (1950) (“But when notice is a person’s due, process which is a mere gesture is not due process. The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it.

CAFA NOTICE

7. As detailed in my Implementation Declaration, CAFA Notice—as required by the federal Class Action Fairness Act of 2005 (CAFA), 28 U.S.C. § 1715, was provided to 61 banking and/or financial institution officials on December 1, 2023.

NOTICE PROGRAM

Individual Notice

8. As detailed in my Implementation Declaration, Epiq received data with 7,326,535 Settlement Class member records, which included names, email addresses, and mailing addresses (“Settlement Class List”). Subsequently, a supplemental data file was received with damages/fees data, which contained 7,312,255 Settlement Class member records. Epiq deduplicated and rolled-up the account records and loaded the unique, identified Settlement Class member records into its database for this Settlement. These efforts resulted in 4,057,762 unique, identified Settlement Class member records. An Email Notice was sent to all identified Settlement Class members for whom a valid email address was available, and a Postcard Notice was sent via United States Postal Service (“USPS”) first class mail to all identified Settlement Class members with an associated physical address for whom a valid email address was not available or for whom the Email Notice was undeliverable after multiple attempts. As a result, Epiq sent 3,961,608 Email Notices and 90,190 Postcard Notices to identified Settlement Class members (5,964 records did not have a valid email or mailing address available).

Individual Notice – Email

9. As detailed in my Implementation Declaration, from January 10, 2024, through January 21, 2024, Epiq sent 3,961,608 Email Notices to all identified Settlement Class members for whom a valid email address was available.

10. If the receiving email server could not deliver the message, a “bounce code” was returned along with the unique message identifier. For any Email Notice for which a bounce

The reasonableness and hence the constitutional validity of any chosen method may be defended on the ground that it is in itself reasonably certain to inform those affected . . .”).

code was received indicating that the message was undeliverable for reasons such as an inactive or disabled account, the recipient's mailbox was full, technical autoreplies, etc., at least two additional attempts were made to deliver the Notice by email. After completion of the Email Notice efforts, 245,239 emails were not deliverable.

Individual Notice – Direct Mail

11. As detailed in my Implementation Declaration, on January 12, 2024, Epiq sent 90,190 Postcard Notices to all identified Settlement Class members with an associated physical address for whom a valid email address was not available. Subsequently, commencing on February 14, 2024, Epiq sent 233,328 Postcard Notices to all identified Settlement Class members with an associated physical address for whom an Email Notice was undeliverable after multiple attempts. The Postcard Notice was sent via USPS first-class mail.

12. The return address on the Postcard Notices is a post office box that Epiq maintains for this case. The USPS automatically forwarded Postcard Notices with an available forwarding address order that had not expired (“Postal Forwards”). Postcard Notices returned as undeliverable were re-mailed to any new address available through USPS information, (for example, to the address provided by the USPS on returned mail pieces for which the automatic forwarding order had expired but was still within the time period in which the USPS returned the piece with the address indicated), or to better addresses that were found using a third-party address lookup service. Upon successfully locating better addresses, Postcard Notices were promptly remailed.

13. Additionally, a Claim Form, Long Form Notice in English, or a Long Form Notice in Spanish (“Claim Package”) was mailed to all persons who requested one via the toll-free telephone number or other means. As of July 9, 2024, Epiq mailed 954 Claim Packages as a result of such requests.

Notice Results

14. As of July 9, 2024, an Email Notice and/or Postcard Notice was delivered to 4,025,907 of the 4,057,762 unique, identified Settlement Class members. This means the individual notice efforts reached approximately 99% of the identified Settlement Class members.

Settlement Website

15. The Settlement Website (www.NFCUFeeLitigation.com) continues to be available 24 hours per day, 7 days per week. Relevant documents, including Long Form Notice (in English and Spanish), Postcard Notice, Settlement Agreement, Preliminary Approval Order, Claim Form, and Order Modifying Class Action Settlement Approval Schedule are posted on the Settlement Website. The Settlement Website also provides the ability for Settlement Class members to submit an online Claim Form. In addition, the Settlement Website includes relevant dates, answers to frequently asked questions (“FAQs”), contact information for the Settlement Administrator, and how to obtain other case-related information. As of July 9, 2024, there have been 77,105 unique visitor sessions to the Settlement Website, and 202,762 web pages have been presented.

Toll-Free Telephone Number and Other Contact Information

16. The toll-free telephone number (1-877-581-8129) continues to be available for the Settlement. Callers are able to hear an introductory message, have the option to learn more about the Settlement in the form of recorded answers to FAQs, and request that a Long Form Notice (in English or Spanish) and Claim Form be mailed to them. This automated phone system is available 24 hours per day, 7 days per week. As of July 9, 2024, there have been 3,398 calls to the toll-free telephone number representing 7,909 minutes of use.

17. A postal mailing address was established and continues to be available to allow Settlement Class members the opportunity to request additional information or ask questions.

Claim Stimulation Reminder Notice

18. As detailed in my Implementation Declaration, Epiq sent Reminder Email Notices to the Settlement Class members who have not yet submitted a Claim Form. From April 19,

2024, through May 13, 2024, Epiq sent 3,707,902 Reminder Email Notices to Settlement Class members with a valid email address who had not already submitted a Claim Form at the time the Reminder Email Notice was sent.

Requests for Exclusion and Objections

19. The deadline to request exclusion (opt-out) from the Settlement or to object to the Settlement was extended by the Court to June 24, 2024. As of July 9, 2024, Epiq has received 13 requests for exclusion. As of July 9, 2024, I am aware of no objections to the Settlement. The Exclusion Report is included as **Attachment 1**.

Claim Submission & Distribution

20. The deadline for Settlement Class Members to submit a Claim Form is August 8, 2024. As of July 9, 2024, Epiq has received 39,213 Claim Forms (38,325 online and 888 paper)². Since the August 8, 2024, claim deadline has not yet passed, these numbers are preliminary. By that deadline, I expect additional Claim Forms will be submitted by Settlement Class Members. As standard practice, Epiq is in the process of conducting a complete review and audit of all Claim Forms received. There is a likelihood that after detailed review, the total number of Claim Forms received will change due to duplicate and denied Claim Forms.

Cost of Notice Implementation and Administration

21. As of July 9, 2024, Epiq has invoiced \$428,913.42 to implement the Notice Program and handle the settlement administration to date. Additional costs will be incurred leading up to and following the Final Approval Hearing to complete the settlement administration, including distributing payments. Epiq currently estimates the remaining costs under the current project scope will total approximately \$77,205. All costs are subject to the Service Contract under which Epiq is retained as the Settlement Administrator, and the terms and conditions of that agreement.

² The estimated settlement award amount is currently \$11.50 per Settlement Class Member. Since Claim Forms are still being received, and incomplete Claim Forms have not gone through the defect process, it is anticipated that the estimated award amount provided will likely change before disbursement.

CONCLUSION

22. In class action notice planning, execution, and analysis, we are guided by due process considerations under the United States Constitution, by federal rules and statutes, and further by case law pertaining to notice. This framework directs that the notice plan be designed to reach the greatest practicable number of potential class members and, in a settlement class action notice situation such as this, that the notice or notice plan itself not limit knowledge of the availability of benefits—nor the ability to exercise other options—to class members in any way. All of these requirements were met in this case.

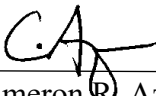
23. The Notice Program included an extensive individual notice effort via email and/or mail to identified Settlement Class members. With the address updating protocols that were used, the Notice Program individual notice efforts reached approximately 99% of the identified Settlement Class members. The reach was further enhanced by a Settlement Website. In 2010, the FJC issued a *Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide*, which is relied upon for federal cases, and is illustrative for state court courts. This Guide states that, “the lynchpin in an objective determination of the adequacy of a proposed notice effort is whether all the notice efforts together will reach a high percentage of the class. It is reasonable to reach between 70–95%.”³ Here, the Notice Program we have developed and implemented achieved a reach beyond that standard.

24. The Notice Program provided the best notice practicable under the circumstances of this case, conformed to all aspects of the Federal Rule of Civil Procedure 23 regarding notice, comported with the guidance for effective notice articulated in the Manual for Complex Litigation, Fourth, and satisfied the requirements of due process, including its “desire to actually inform” requirement.

³ FED. JUDICIAL CTR, JUDGES' CLASS ACTION NOTICE AND CLAIMS PROCESS CHECKLIST AND PLAIN LANGUAGE GUIDE 3 (2010), available at <https://www.fjc.gov/content/judges-class-action-notice-and-claims-process-checklist-and-plain-language-guide-0>.

25. The Notice Program schedule afforded sufficient time to provide full and proper notice to Settlement Class members before the opt-out, objection, and claim filing deadlines.

26. I declare under penalty of perjury that the foregoing is true and correct. Executed July 9, 2024.



Cameron R. Azari, Esq.

Attachment 1

Navy Federal Credit Union

Case No. 1:21-cv-722-MSN-LRV, Case No. 1:22-cv-844-MSN- LRV

Requests for Opt-Out/Exclusions

#	Name
1.	KEVIN A PIECKIEL
2.	LOREN R ROBERTS
3.	KHALIFEH HIGHWIND
4.	JOSEPH A CLARK
5.	ANTONIO PIERRE BLUE
6.	WENDY J STACE
7.	NANNETTE M JOSHUA
8.	ALEXANDER J NIEMIEROWKO
9.	SEIKO OGURA
10.	ELLA H RUDD
11.	WILLIE A JOHNSON
12.	ANNETTE J LARRY
13.	JOHN B LARRY