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Superior Court of California,
County of San Diego

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

DANIEL YBANEZ, individually, and on behalf of other members of the general public similarly situated;

Plaintiff,

v.

NAVY FEDERAL CREDIT UNION, an unknown business entity; and DOES 1 through 100, inclusive;

Defendants.

Case No.: 37-2019-00016815-CU-OE-CTL
[Consolidated with Case No.: 37-2019-00043142- CU-OE-CTL]

Honorable Gregory W. Pollack
Department C-71

CLASS ACTION

2-1-22
[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT, CONDITIONAL CERTIFICATION, APPROVAL OF CLASS NOTICE, SETTING OF FINAL APPROVAL HEARING DATE AND GRANTING PLAINTIFF'S EX PARTE APPLICATION TO CONTINUE THE FINAL APPROVAL HEARING

Hearing Date: January 31, 2022
Hearing Time: 8:30 a.m.
Hearing Place: Department C-71

Complaint Filed: March 29, 2019
FAC Filed: September 30, 2019
Trial Date: None Set

[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT, CONDITIONAL CERTIFICATION, APPROVAL OF CLASS NOTICE, SETTING OF FINAL APPROVAL HEARING DATE AND GRANTING PLAINTIFF'S EX PARTE APPLICATION TO CONTINUE THE FINAL APPROVAL HEARING

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 The Motion for Preliminary Approval of Class Action Settlement came before this Court,
3 the Honorable Gregory W. Pollack presiding, on October 29, 2021. The Ex Parte Application for
4 an Order to Continue the Final Approval Hearing came before this Court, the Honorable Gregory
5 W. Pollack presiding, on January 31, 2022. The Court having considered the papers submitted in
6 support of the Motion and Ex Parte Application, HEREBY ORDERS THE FOLLOWING:

7 1. The following Class is conditionally certified for purposes of settlement only: all non-
8 exempt employees employed by Defendant Navy Federal Credit Union (“Defendant”) within the
9 State of California at any time during the Class Period (“Class”). The Class Period is the time
10 period from March 29, 2015, to August 31, 2021 (“Class Period”).

11 2. The Court grants preliminary approval of the settlement based upon the terms set forth in
12 the Joint Stipulation and Settlement Agreement (“Settlement Agreement,” “Settlement,” or
13 “Agreement”) attached hereto as Exhibit 1. Capitalized terms shall have the definitions set forth
14 in the Settlement Agreement.

15 3. The Settlement appears to be fair, adequate, and reasonable to the Class. The Settlement
16 falls within the range of reasonableness and appears to be presumptively valid, subject only to
17 any objections that may be raised at the Final Approval Hearing and final approval by this Court.

18 4. Plaintiff Daniel Ybanez (“Plaintiff”) is conditionally approved as the Class
19 Representative for the Class.

20 5. Douglas Han, Shunt Tatavos-Gharajeh, Phillip Song, and Arsiné Grigoryan of Justice
21 Law Corporation are conditionally approved as Class Counsel for the Class.

22 6. A Final Approval Hearing on the question of whether the Settlement Agreement, the
23 Attorney Fee Award, the Cost Award, and the Class Representative Enhancement Payment
24 should be finally approved as fair, reasonable, and adequate as to all Class Members who did not
25 submit a valid and timely request to exclude themselves from the class action Settlement
26 (“Participating Class Members”) is scheduled on the date and time set forth in Paragraph 13
27 below.

1 7. The Court confirms Phoenix Class Action Settlement Administrators ("Phoenix") as the
2 Settlement Administrator.

3 8. The proposed payment of Administration Costs in the amount currently estimated at
4 \$11,500, but not to exceed \$15,000, to Phoenix for its services is conditionally approved.

5 9. The Court also hereby conditionally approves and orders payment from the Gross
6 Settlement Amount of the Private Attorneys General Act of 2004 ("PAGA") Payment of
7 \$275,000, seventy-five percent (75%) of which (\$206,250) will be paid to the California Labor
8 and Workforce Development Agency ("LWDA") and twenty-five percent (25%) of which
9 (\$68,750) shall be distributed to the aggrieved employees eligible to recover a pro-rata share of
10 the PAGA Payment that consist of all non-exempt employees who worked for Defendant within
11 the State of California at any time during the period from March 14, 2018 to August 31, 2021
12 ("Eligible Aggrieved Employees," "PAGA Period," "Individual PAGA Payments," and "PAGA
13 Payment"), on a pro rata basis.

14 10. The Court approves, as to form and content, the Notice of Class Action Settlement
15 ("Class Notice") as attached as Exhibit A to the Settlement Agreement. The Court also approves
16 the procedure for Class Members to participate in, to opt out of, and to object to the Settlement
17 as set forth in the Class Notice. The Court approves, as to the form and content, of the Election
18 Not To Participate or Opt-out Form ("Exclusion Form") the Class Members may use to opt out
19 of the Settlement attached as Exhibit B to the Settlement Agreement. The Class Notice and
20 Exclusion Form are collectively known as the Notice Packet.

21 11. The Court directs the mailing of the Notice Packet to all identified Class Members via
22 first-class regular U.S. Mail in accordance with the implementation schedule set forth in
23 paragraph 13 below. The Court finds the dates selected for the mailing and distribution of the
24 Notice Packet, as set forth in the Implementation Schedule, meet the requirements of due process
25 and provide the best notice practicable under the circumstances and shall constitute due and
26 sufficient notice to all persons entitled.

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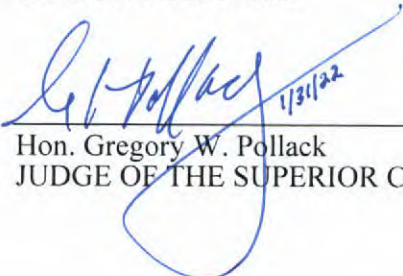
1 12. To facilitate administration of the Settlement Agreement pending final approval, the
 2 Court hereby enjoins Plaintiff and all Participating Class Members from filing or prosecuting any
 3 claims, suits or administrative proceedings (including, but not limited to, filing claims with the
 4 Division of Labor Standards Enforcement of the California Department of Industrial Relations)
 5 released by the Settlement Agreement (the Released Claims and the PAGA Released Claims)
 6 unless and until such Participating Class Members have filed valid requests for exclusion with
 7 the Settlement Administrator and the time for filing valid requests for exclusion with the
 8 Settlement Administrator has not elapsed.

9 13. The Court orders the following Implementation Schedule for further proceedings:

10 a.	Deadline for Defendant to submit Class Data to Settlement Administrator	Within twenty (20) calendar days after entry of the Preliminary Approval Order
11 b.	Deadline for Settlement Administrator to mail the Notice Packet to Class Members	Within fourteen (14) calendar days after Defendant's deadline to provide the Class Data to the Settlement Administrator
12 c.	Deadline for Class Members to request for exclusion from Settlement or postmark objections to Settlement to the Settlement Administrator	Forty-five (45) calendar days after initial mailing of the Notice Packet
13 e.	Deadline for Class Counsel to file Motion for Final Approval of Settlement	Sixteen (16) Court days before Final Approval Hearing in conformity with Code of Civil Procedure § 1005
14 f.	Deadline for Class Counsel to file Motion for Attorney Fee Award, Cost Award, and Class Representative Enhancement Payment	Sixteen (16) Court days before Final Approval Hearing in conformity with Code of Civil Procedure § 1005
15 g.	Final Approval Hearing and Final Approval	June ³ X , 2022 at <u>9:30</u> a.m./p.m. in Department C-71

22
23 **IT IS SO ORDERED.**

24 DATED: _____

25  1/31/22
 26 Hon. Gregory W. Pollack
 27 JUDGE OF THE SUPERIOR COURT
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