

**NOTICE OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT**

*A court authorized this notice. This is not a solicitation.*

*This is not a lawsuit against you, and you are not being sued.*

*However, your legal rights are affected by whether you act or don't act.*

**TO: All non-exempt employees employed by Navy Federal Credit Union (“Defendant”) within the State of California from March 29, 2015, through August 31, 2021.**

The California Superior Court, County of San Diego, has granted preliminary approval of a proposed settlement (“Settlement”) of the above-captioned class and representative actions (referred to in this Notice as the “Class Action”). Because your rights may be affected by this Settlement, it is important that you read this Notice of Class and Representative Action Settlement (“Notice”) carefully.

The Court has certified the following class for settlement purposes (“Class” or “Class Members”):

**All non-exempt employees employed by Defendant within the State of California from March 29, 2015, through August 31, 2021.**

The purpose of this Notice is to provide a brief description of the claims alleged in the Class Action, the key terms of the Settlement, and your rights and options with respect to the Settlement.

**YOU MAY BE ENTITLED TO MONEY UNDER THE PROPOSED CLASS AND REPRESENTATIVE ACTION SETTLEMENT. PLEASE READ THIS NOTICE CAREFULLY; IT INFORMS YOU ABOUT YOUR LEGAL RIGHTS.**

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### **1. *Why Have I Received This Notice?***

The personnel records of Navy Federal Credit Union (“Defendant”) indicate that you may be a Class Member. The Settlement will resolve all Class Members’ Released Claims, as described below, from March 29, 2015, through August 31, 2021 (the “Class Period”).

A Preliminary Approval Hearing was held on January 31, 2022, in the California Superior Court, County of San Diego. The Court conditionally certified the Class for settlement purposes only and directed that you receive this Notice.

The Court has determined that there is sufficient evidence to suggest that the proposed settlement may be fair, adequate, and reasonable and that any final determination of those issues will be made at the Final Approval Hearing.

The Court will hold a Final Approval Hearing concerning the proposed settlement on June 3, 2022 at 9:30 a.m. before the Honorable Gregory W. Pollack, at the Superior Court for the County of San Diego, located at 330 W. Broadway, San Diego, California 92101, Department C-71.

### **2. *What Is This Case About?***

Plaintiff Daniel Ybanez commenced a class action and a representative Labor Code Private Attorneys General Act of 2004 (“PAGA”) action in the San Diego County Superior Court. The two cases have been consolidated with the lead case Number 37-2019-00016815-CU-OE-CTL).

Plaintiff Daniel Ybanez is referred to in this Notice as “Plaintiff.” Plaintiff’s actions against Defendant sought damages, restitution, statutory penalties, civil penalties interest, costs, attorney’s fees and other relief based on the following alleged causes of action: 1) failure to pay overtime; 2) failure to provide meal period premiums; 3) failure to provide rest break premiums; 4) failure to pay minimum wages; 5) failure to timely pay final wages to terminated employees; 6) failure to comply with employee wage statement provisions of the California Labor Code; 7) failure to reimburse business expenses; 8) violations of PAGA; and 9) a violation of California’s Unfair Competition Law.

The Court has not made any determination as to whether the claims advanced by Plaintiff have any merit. Nor has it decided whether this case could proceed as a class or representative action. Instead, both sides agreed to resolve the Action with no decision or admission of who is right or wrong.

In other words, the Court has not determined that Defendant violated any laws, nor has it decided in favor of Plaintiff or Defendant; instead, both sides have agreed to resolve the Class Action with no decision or admission of who is right or wrong. By agreeing to resolve the Class Action, the parties avoid the risks and costs of a trial.

Defendant denies all allegations made by Plaintiff, individually and on behalf of Class Members, in the Class Action and denies liability for any wrongdoing with respect to the alleged facts or causes of action asserted in the Class Action. The settlement is not an admission by Defendant of any wrongdoing or an indication that any law was violated.

### **3. *Am I A Class Member?***

You are a Class Member if you are currently or were formerly employed by Defendant as a non-exempt employee in California at any time from March 29, 2015, through August 31, 2021 (the “Class Period”). If you qualify as a Class Member, you could receive money from the Class Action Settlement.

If you qualify as an Eligible Aggrieved Employee, meaning you were employed as an employee at any time from March 14, 2018, through August 31, 2021, you will receive money from the Settlement of the PAGA claim.

### **4. *How Does The Class Action Settlement Work?***

In his lawsuits, Plaintiff sued on behalf of herself and all other similarly situated employees who were employed by Defendant as non-exempt employees in California at any time during the Class Period. Plaintiff and other current and former employees comprise a “Class” and are “Class Members.” The settlement of this Action resolves the Released Claims of all Class Members, except for those who exclude themselves from the Class by requesting to be excluded in the manner set forth below.

Plaintiff and Class Counsel believe the Settlement is fair and reasonable. The Court must also review the terms of the Settlement and determine if it is fair and reasonable to the Class. The Court file has the Settlement documents, which explain the Settlement in greater detail. If you would like copies of the Settlement documents, you can contact Class Counsel, whose contact information is below, and they will provide you with a copy free of charge.

**5. Who Are the Attorneys Representing the Parties?**

<b>Attorneys for Plaintiff and the Class</b>	<b>Attorneys for Defendant</b>
<b>JUSTICE LAW CORPORATION</b> Douglas Han Shunt Tatavos-Gharajeh Arsine Grigoryan Phillip Song 751 N. Fair Oaks Avenue, Suite 101 Pasadena, California 91103 Telephone: (818) 230-7502 Facsimile: (818) 230-7259	<b>PROCOPIO, CORY, HARGREAVES &amp; SAVITCH LLP</b> Marie Burke Kenny Clint Engleson 525 B Street, Suite 2200 San Diego, CA 92101 Telephone: (619) 238-1900

The Court has decided that Justice Law Corporation is qualified to represent the Class Members simultaneously for the purposes of this Settlement.

Class Counsel is working on your behalf. If you want your own attorney, you may hire one at your own cost.

**6. What Are My Options?**

The purpose of this Notice is to inform you of the proposed Settlement and your options. Each option has its consequences, which you should understand before making your decision. Your rights regarding each option, and the steps you must take to select each option, are summarized below and explained in more detail in this Notice.

**Important Note: Defendant will not retaliate against you in any way for either participating or not participating in this Settlement.**

- **DO NOTHING:**      **You do not have to do anything in order to receive payment under this Settlement.**  
  
If you do nothing and the Court grants final approval of the Settlement, you will become part of the Class Action Settlement and will receive an Individual Settlement Payment (explained below) based on the total number of workweeks you were employed by Defendant as a non-exempt employee in California during the Class Period. You will release all of the Released Claims, as defined in Section No. 9 below, and you will give up your right to pursue the Released Claims, as defined in Section No. 9 below.
- **OPT-OUT:**      If you do not want to participate as a Class Member **and do not want to receive a class action settlement payment**, you may “opt-out,” and you will not be part of this Class Action Settlement. If the Court grants final approval of the Settlement, you will not receive an Individual Settlement Payment, and you will not give up the right to sue the Released Parties, including Defendant, for any of the Released Claims as defined in Section No. 9 below. Please note, if you are eligible to receive an Individual PAGA Payment (explained below) and you do “opt-out” of the Class Action Settlement you will still receive an Individual PAGA Payment. Your right to pursue a claim pursuant to PAGA will be extinguished, regardless of whether or not you opt-out.
- **OBJECT:**      You can ask the Court to deny approval of this Settlement by filing an objection. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the settlement. You cannot both object to the Settlement and opt out of the case.

The procedures for opting out and objecting are set forth below in the sections entitled “How Do I Opt-Out or Exclude Myself From This Settlement” and “How Do I Object To The Settlement?”

## **7. How Do I Opt Out Or Exclude Myself From This Class Action Settlement?**

If you do not wish to participate in the Class Action Settlement, **and do not want to receive an Individual Settlement Payment**, you can exclude yourself from the Settlement (i.e., “opt-out”) by sending an opt-out form by the date and to the address stated below. A form (“ELECTION NOT TO PARTICIPATE IN (‘OPT-OUT’ FROM) CLASS ACTION SETTLEMENT”) (the “Exclusion Form”) has been provided to you along with this Notice, which can be used for this purpose; alternatively, you can submit your own written document that includes all of the same information. If you opt-out of the Settlement, you will not be bound by the Class Action Settlement and therefore you will not release the claims set forth in Section No. 9. The Exclusion Form must be complete, signed, dated, and mailed by First-Class U.S. Mail, postmarked no later than April 18, 2022 to: Daniel Ybanez v. Navy Federal Credit Union C/O Phoenix Class Action Settlement Administrators, P.O. Box 7208, Orange, CA 92863.

If you received a re-mailed Class Notice, whether, by skip-trace or forwarded mail, you will have an additional ten (10) days to postmark an Exclusion Form. The envelope should indicate whether the Class Notice has been forwarded or re-mailed. We encourage you to keep copies of all documents, including the envelope, in the event your compliance with the deadline is challenged.

The Court will exclude from the Class Action Settlement any Class Member who submits a complete and timely Exclusion Form as described in the paragraph above. Exclusion Forms that do not include all required information and/or that are not timely submitted will be deemed null, void, and ineffective. Any Class Member who fails to submit a valid and timely Exclusion Form on or before the above-specified deadline shall be bound by all terms of the Settlement, release, and any Judgment entered in the Action if the Settlement receives final approval from the Court.

## **8. How Do I Object To The Settlement?**

If you are a Class Member who does not opt-out of the Settlement, you may object to the Settlement, personally or through an attorney.

You may mail a written objection to the Settlement Administrator at Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863 by **April 18, 2022**. If you received a re-mailed Class Notice, whether, by skip-trace or forwarded mail, you will have an additional ten (10) days to postmark a written objection. If you choose to object in writing your objection must state: (a) the objecting person’s full name, address, and telephone number; (b) the words “Notice of Objection” or “Formal Objection;” (c) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (d) list identifying witness(es) the objector may call to testify at the Final Approval hearing; and (e) provide true and correct copies of any exhibit(s) the objector intends to offer at the Final Approval hearing.

Class Members may appear at the Final Approval Hearing, either in person or through the objector’s own counsel even if they did not submit a written objection. Class Members’ timely and valid objections to the Settlement will be considered even if the objector does not appear at the Final Approval Hearing.

If the Court approves the settlement over objections, objecting Class Members will receive an Individual Settlement Payment and will be bound by the terms of the Settlement.

## **9. How Does This Class Action Settlement Affect My Rights? What are the Released Claims?**

If the proposed Settlement is approved by the Court, a Final Judgment will be entered by the Court. All Class Members who do not opt-out of the Settlement will be bound by the Court’s Final Judgment and will fully release and discharge Defendant, and any of its former and present parents, subsidiaries, affiliates, and other officers, directors, employees, partners, and agents, and any other successors, assigns, or legal representatives (“Released Parties”). The Released Claims are as follows:

### **A. Released Claims.**

The released claims means any and all wage-and-hour claims, rights, demands, liabilities and causes of action of every nature and description whether pled or could have been pled arising from or related to the claims litigated in the Complaints against Defendant, during the Class Period, based upon the following categories of allegations: failure to pay minimum wages, failure to properly calculate and pay overtime wages, failure to provide meal periods or meal period premiums, failure to provide rest periods or rest period premiums, failure to provide accurate itemized wage statements, failure to reimburse business expenses, failure to pay all wages due upon termination of employment, failure to properly calculate and pay sick leave, violation of California’s unfair business practices laws, violation of California’s unfair competition laws, failure to provide personnel, time, or payroll records under the California Labor Code, and violation of the Private

Attorneys General Act (“PAGA”) as well as any potential penalties, interest or attorneys’ fees associated with these causes of action under California law. Subject to Court approval, Plaintiff and the PAGA Settlement Employees hereby release the Released Parties from any and all claims, causes of action, damages, expenses, benefits, interest, penalties, attorneys’ fees, costs, and any other form of relief or remedy in law, equity, or whatever kind or nature that were asserted or could have been asserted with respect to the claims asserted in Plaintiff’s LWDA Notice and the Lawsuit for the entire PAGA Period.

Furthermore, this Settlement forever bars Plaintiff, the LWDA, and any other representative, proxy, or agent thereof, including, but not limited to, any and all Eligible Aggrieved Employees, during the PAGA Timeframe, from pursuing any action under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code § 2698, et seq., asserted in the Case against the Released Parties.

#### **10. How Much Can I Expect to Receive From This Settlement?**

Defendant will pay, subject to Court approval, a Maximum Settlement Amount of \$2,750,000 to cover: (1) the Individual Settlement Payments to all Settlement Class Members; (2) the Class Representative Service Award to Plaintiff in an amount up to \$15,000; (3) the Administration Costs to the Settlement Administrator in an amount up to \$15,000; (4) the Class Counsel Award for attorneys’ fees of \$962,500 and costs of up to \$30,000 supported by declaration; (5) a PAGA Payment for settlement of claims under PAGA for \$275,000, with 75% of that portion (\$206,250) to be paid to the Labor Workforce and Development Agency (“LWDA”), and the remaining 25% (\$68,750) to be distributed to Eligible Aggrieved Employees as Individual PAGA Payments.

After deducting the Service Award to Plaintiff, Settlement Administration Costs, Class Counsel Award and PAGA Payment the remaining sum, estimated at \$1,521,250 is the “Net Settlement Fund”, which shall be distributed to all Participating Class Members. The Settlement Administrator will calculate the Individual Settlement Payments for Participating Class Members. Each Participating Class Member will receive a proportionate share of the Net Settlement Amount that is equal to (i) the number of weeks he or she worked in a non-exempt capacity based on the Class data provided by Defendant, divided by (ii) the total number of weeks worked by all Class Members based on the same Class data, which is then multiplied by the Net Settlement Amount. One day worked in a given week will be credited as a week for purposes of this calculation. Therefore, the value of each Class Member’s Individual Settlement Share ties directly to the number of weeks that he or she worked.

Although your exact share of the Net Settlement Amount cannot be precisely calculated until after the time during which individuals may object or seek exclusion from the Settlement concludes, based upon the calculation above, your approximate share of the Net Settlement Amount, is as follows: \$ \_\_\_\_\_, less taxes. This is based on Defendant’s records, which show you worked \_\_\_ workweeks during the Class Period.

If you believe the number of eligible workweeks records are incorrect, you may provide documentation and/or an explanation to show contrary information to the Settlement Administrator at Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863 on or before **April 18, 2022**. Any evidence submitted will be carefully weighed, and the Class Counsel and Defendant’s Counsel will make a final determination. If this was re-mailed to you, you have an additional ten (10) days to submit a dispute.

Twenty percent (20%) of your Individual Settlement Payment will be treated as unpaid wages. Applicable taxes will be withheld from the wages portion of your Individual Settlement Payment only and reported on an IRS Form W-2. The remaining eighty percent (80%) of your Individual Settlement Payment will be treated as penalties, interest, and reimbursement and will be paid pursuant to an IRS Form 1099.

Defendant is expected to fund the Gross Settlement Amount within twenty-one (21) days after the Settlement becomes final. Your Individual Settlement Share will be distributed within approximately 14 days of the funding of the entire Gross Settlement Amount.

It is strongly recommended that upon receipt of your Individual Settlement Payment check, you immediately cash it or cash it before the 180-day void date shown on each check. If any checks remain uncashed or not deposited by the expiration of the 180-day period after mailing, the Settlement Administrator will, within two hundred (200) calendar days after the checks are mailed, pay the amount of the Individual Settlement Share to a *cy pres* recipient consistent with section 384 of the California Code of Civil Procedure.

**11. What is the PAGA Payment, and Am I Eligible for it?**

Under the terms of the Settlement, \$275,000 has been set aside as a PAGA payment. This portion is the total amount of civil penalties collected on behalf of the State of California. \$206,250 will be sent to the State of California. Aggrieved employees will share \$68,750 based on the number of pay periods they worked.

You are an “aggrieved employee” eligible (“Eligible Aggrieved Employee”) to share the PAGA payment under the settlement if you are a current or former non-exempt employee who worked for Defendant within the State of California between March 14, 2018, and August 31, 2021 (“PAGA Period”).

The individual share will be calculated by determining the total number of pay periods the Eligible Aggrieved Employees were employed during the PAGA Period (i.e., the sum of all pay periods of employment for each eligible aggrieved employee) and dividing that number into the \$68,750 amount allocated to Eligible Aggrieved Employees to determine the monetary value assigned to each pay period. That number will then be multiplied by the individual Eligible Aggrieved Employee’s total number of pay periods employed during the PAGA Period to determine that individual’s Individual PAGA Payment. Individual PAGA Payments shall be designated as 100% penalties, for which an IRS Form 1099 will issue.

Based on your total number of pay periods, your Individual PAGA Payment is \$ \_\_\_\_\_. You are responsible for paying any federal, state, or local taxes owed as a result of this Individual PAGA Payment.

Because these penalties can only be sought by the State of California, you cannot exclude yourself from the PAGA portion of the settlement if the Court gives final approval. Even if you exclude yourself from the class action portion of the settlement, you will still be paid your portion of the civil penalties described above.

If you are not an Eligible Aggrieved Employee, this Section does not apply to you.

**12. How Will the Attorneys for the Class and the Class Representative Be Paid?**

Class Counsel will be paid from the Gross Settlement Amount. Subject to Court approval, Class Counsel shall be paid an amount not to exceed 35% of the Gross Settlement Amount (or \$962,500) for attorneys’ fees, and up to \$30,000 for litigation costs.

Defendant have paid all of their own attorneys’ fees and costs.

As set forth in Section No. 10 above, the Plaintiff will also be paid a Class Representative Enhancement Payment, subject to Court approval.

**13. Final Approval Hearing**

The Court will hold a Final Fairness Hearing concerning the proposed settlement on June 3, 2022 at 9:30 a.m., before Honorable Gregory W. Pollack, at the Superior Court for the County of San Diego, located at 330 W. Broadway, San Diego, California 92101, Department C-71. You are not required to appear at this hearing. Any changes to the hearing date will be available on the website <http://www.phoenixclassaction.com/>.

**14. How Do I Get More Information?**

**IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS OR WOULD LIKE ELECTRONIC COPIES OF DOCUMENTS RELATING TO THE CLASS ACTION OR THE SETTLEMENT**, you may contact Class Counsel listed above, or the Settlement Administrator at the telephone number listed below, toll-free. Please refer to the “Navy Federal Credit Union class action settlement.”

This Notice does not contain all of the terms of the proposed Settlement or all of the details of these proceedings. For more detailed information, you may refer to the underlying documents and papers on file with the Records Management Office at located at 330 W. Broadway, San Diego, California 92101 between 8:30 a.m. and 4:00 p.m.

You may also contact the Settlement Administrator, whose contact information is above, and they will provide you with an electronic copy of the Settlement documents or case documents free of charge.

**PLEASE DO NOT TELEPHONE THE COURT OR COURT’S CLERK FOR INFORMATION ABOUT THIS SETTLEMENT.**