

DAPEER LAW, P.A.
Rachel Edelsberg, Esq.
Jersey Bar No. 039272011
331 Sunset Avenue
Ocean, New Jersey 07712
305-610-5223

Counsel for Plaintiff and the Proposed Class

JACQUELINE WILKINS , <i>individually,</i> <i>and on behalf of all others similarly</i> <i>situated,</i>	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION
	:	UNION COUNTY
	:	
Plaintiff,	:	DOCKET NO.
	:	
v.	:	CLASS ACTION
	:	
NAVY FEDERAL CREDIT UNION ,	:	COMPLAINT
	:	
Defendant.	:	JURY TRIAL DEMANDED

Plaintiff Jacqueline Wilkins, individually and on behalf of all others similarly situated, hereby brings this Class Action Complaint against Defendant Navy Federal Credit Union (“NFCU,” “Bank,” or “Defendant”) and alleges as follows:

INTRODUCTION

1. This lawsuit is brought as a class action on behalf of Plaintiff and thousands of similarly situated customers of NFCU who have signed up for the Zelle money transfer service and who: have been the victim of fraud on the Zelle service; who have incurred losses due to that fraud that have not been reimbursed by NFCU; and who were entitled by the marketing representations of NFCU regarding the Zelle service and by the NFCU’s contract promises to a full reimbursement of losses caused by fraud on the Zelle service.

2. Zelle is a payment transfer service wholly owned and operated by seven of the largest banks in the U.S.

3. There are approximately 1,500 member banks and credit unions who participate in the Zelle service. Those members engage in their own significant marketing efforts to encourage their accountholders to sign up for the Zelle service by marketing Zelle as a fast, safe and secure way for consumers to send money. This is false. In fact, there are huge, undisclosed security risks of using the service that NFCU omitted from its marketing push to get its accountholders to sign up for Zelle.

4. NFCU prominently touts Zelle to its accountholders as a secure, free and convenient way to make money transfers. However, it misrepresents and omits a key fact about the service that is unknown to accountholders: that there is virtually no recourse for consumers to recoup losses due to fraud. Indeed, unlike virtually every other payment method commonly used by American consumers—debit cards, credit cards, and checks—there is no protection for accountholders who are victims of fraud, and virtually no recourse for accountholders attempting to recoup losses due to fraud.

5. The unique, misrepresented, and undisclosed architecture of the Zelle payment system means—again, unlike other payment options commonly used by American consumers—that virtually any money transferred for any reason via Zelle is gone forever, without recourse, reimbursement or protection.

6. Worse, NFCU misrepresents and omits the truth about a secret policy it has adopted: it does not and will not reimburse its accountholders for losses via Zelle due to fraud, even where those losses are timely reported by accountholders.

7. NFCU was required not to misrepresent the unique and dangerous features of the Zelle service in its marketing about it and in contractual representations. But it failed to do so.

8. As a result, users like Plaintiff sign up for and use the Zelle service without the benefit of accurate information regarding that service, and later end up with huge, unreimbursed losses due to fraud. Such users never would have signed up for Zelle in the first place if they had known the extreme risks of signing up for and using the service.

9. As a member of the Zelle network, the risks are well known to NFCU but are omitted from all of its marketing regarding Zelle.

10. As a recent New York Times investigation showed, fraud on the Zelle network is a widespread scourge of which bank is well aware. Quoting an industry expert, the *Times* reported:

“Organized crime is rampant,” said John Buzzard, Javelin’s lead fraud analyst. “A couple years ago, we were just starting to talk about it” on apps like Zelle and Venmo, Mr. Buzzard said. “Now, it’s common and everywhere.”

The banks are aware of the widespread fraud on Zelle. When Mr. Faunce called [his bank] to report the crime, the customer service representative told him, “A lot of people are getting scammed on Zelle this way.” Getting ripped off for \$500 was “actually really good,” Mr. Faunce said the rep told him, because “many people were getting hit for thousands of dollars.”

<https://www.nytimes.com/2022/03/06/business/payments-fraud-zelle-banks.html> (last accessed March 28, 2022).

11. Had Plaintiff and the Class members known of the true operation and risks of the Zelle service—risks NFCU alone was aware of and actively misrepresented—they would not have signed up for and used the Zelle service.

12. Plaintiff and the Class members have been injured by signing up for and using the Zelle service. Plaintiff brings this action on behalf of herself, the putative Class, and the general public. Plaintiff seeks actual damages, punitive damages, restitution, and an injunction on behalf

of the general public to prevent Navy Federal Credit Union and Zelle from continuing to engage in its illegal practices as described herein.

PARTIES

13. Plaintiff Jacqueline Wilkins is and was domiciled at 1800 Carnegie Street, Linden, New Jersey 07036 and was a New Jersey citizen at all times relevant to this lawsuit.

14. Defendant Navy Federal Credit Union is and was, at all relevant times to this lawsuit, a national credit union with its principal place of business being 820 Follin Lane SE, Vienna, Virginia 22180. NFCU operates banking centers and conducts business, throughout, the State of New Jersey.

JURISDICTION AND VENUE

15. This Court has jurisdiction over Defendant because Defendant conducts business in the State of New Jersey, and because the acts and omissions giving rise to this Complaint occurred within the State of New Jersey.

16. Venue is proper in this Court because a substantial portion of the conduct at issue in this lawsuit took place and had an effect in this County.

FACTUAL ALLEGATIONS

A. Overview

17. It is free to sign up with Zelle, and in fact Zelle is integrated into the websites and mobile apps of NFCU. In marketing and within the website and app itself, NFCU encourages its accountholders to sign up for the Zelle service—a sign up that occurs quickly within the NFCU website or mobile app. During that sign-up process, a user provides basic information to Zelle to link into the Zelle network.

18. While Zelle provides a link to what it calls a “User Agreement” on its website, at no time during the sign-up process on the bank’s website or app did Plaintiff agree to be bound by that document.

19. Sign up for the Zelle service allows the fast transfer of account funds to other Zelle users.

20. Created in 2017 by the largest banks in the U.S. to enable instant digital money transfers, Zelle is by far the country’s most widely used money transfer service. Last year, people sent \$490 billion in immediate payment transfers through Zelle.

21. The Zelle network is operated by Early Warning Services, a company created and owned by seven banks: Bank of America, Capital One, JPMorgan Chase, PNC, Truist, U.S. Bank and Wells Fargo.

22. The Zelle service is very popular, but it also has a massive fraud problem—in no small part because of the immediacy with which money transfers are made on the service. If a fraudster removes money from a Zelle user’s bank account, either directly or by fooling the Zelle user to transfer money, those funds are unrecoverable to the consumer.

23. Nearly 18 million Americans were defrauded through scams involving person-to-person payment apps like Zelle in 2020 alone, according to Javelin Strategy & Research, an industry consultant.

24. Organized crime is rampant on Zelle and other similar person-to-person transfer services.

25. The 1500 banks and credit unions who are members of the Zelle network, including NFCU, know full well that they have a widespread fraud problem on their hands, but have

misrepresented and failed to take steps to warn their accountholders of these risks—or protect their accountholders who fall prey to fraud.

26. For example, a common scam involves a scammer impersonating a bank employee and requesting that the accountholder transfer money to a different bank account for testing purposes. Unsuspecting Zelle users, tricked into making a fraudulent transfer, in many cases send hundreds or thousands of dollars to fraudsters.

27. In another very common scheme, a Zelle user's phone is stolen and Zelle transfers are made from the stolen phone to the fraudster.

28. In short, and unbeknownst to average Zelle users, the Zelle network has become a preferred tool for fraudsters like romance scammers, cryptocurrency con artists and those who use social media sites to advertise fake concert tickets and purebred puppies.

29. Scams like these are rampant on the Zelle network precisely because of the design and architecture of the network, specifically that money transfer is instantaneous and unrecoverable. Indeed, there is virtually no recourse for consumers to recoup losses due to fraud, unlike other payment methods commonly used by American consumers—debit cards, credit cards, and checks. Zelle provides no protection for accountholders who are victims of fraud, and NFCU provides virtually no recourse for accountholders attempting to recoup losses due to fraud.

30. The unique, misrepresented, and undisclosed architecture of the Zelle payment system and NFCU's own fraud policies means—again, unlike other payment options commonly used by American consumers—that virtually any money transferred for any reason via Zelle is gone forever, without recourse, reimbursement or protection for victimized accountholders.

B. NFCU Falsely Markets Zelle as a Safe and Secure Way to Transfer Money, Omits Information Regarding the Extreme Risks of Signing Up for and Using the Service, and Misrepresents Fraud Protections Regarding Zelle in its Account Contract

31. In its marketing about Zelle and during the Zelle signup process within the Bank’s mobile app or website, the Bank makes repeated promises that Zelle is a “fast, **safe** and easy way to send and receive money” (emphasis added).

32. It also promises: “Move money in the moment. It’s simple and **secure** – with lots of people you know” (emphasis added).

33. At no time in its marketing or during the sign-up process does NFCU warn potential users of the true security risks of using the Zelle service—including the risk of fraud and the risk that fraudulent losses will never be reimbursed by NFCU.

34. Zelle’s services can cause unsuspecting consumers like Plaintiff to incur massive losses on their linked bank accounts.

35. NFCU misrepresents (and omits facts about) the true nature, benefits, and risks of the Zelle service, functioning of which means that users are at extreme and undisclosed risk of fraud when using Zelle. Had Plaintiff been adequately informed of these risks, she would not have signed up for or used Zelle.

36. The Bank’s marketing representations about Zelle—including within its app and website—misrepresent and never disclose these risks and material facts, instead luring accountholders to sign up for and use the service with promises of ease, safety and security.

37. These representations—which all users view during the sign-up process—are false and contain material omissions.

38. NFCU misrepresents the true nature, benefits and risks of the service, which burden users with an extreme and undisclosed risk of Zelle causing losses due to fraud. Plaintiff would not have used Zelle if she had been adequately informed of the risks.

39. The Bank's misrepresentations and omissions are especially pernicious because NFCU alone knows a crucial fact regarding Zelle transfers that occur on its accountholders' accounts: as a matter of secret bank policy, fraud-induced Zelle transfers will almost never be reimbursed to accountholders.

40. Indeed, upon information and belief, NFCU maintains secret policy whereby it refuses to reimburse fraud losses incurred via Zelle, even where its accountholders timely inform NFCU of the fraud.

41. It misrepresents and fails to disclose this secret policy.

42. Further, NFCU's Deposit Agreement & Disclosures applicable to consumer accounts repeatedly promises users that, if they timely report fraud, such fraud will be fairly investigated and accountholders will not be liable for fraudulent transfers:

Your Liability for Unauthorized Electronic Funds Transfers

Notify us AT ONCE if you believe:

- your account may have been accessed without your authority;
- your card, code, or password has been lost or stolen;
- someone has transferred or may transfer money from your account without your permission; or
- an electronic funds transfer has been made without your permission using information from your check or your MMSA check

The best way to minimize your possible loss is to telephone or, if you have Online Banking, contact us through our eMessaging system at **navyfederal.org**, although you may advise us in person or in writing. See the telephone numbers and address listed at the end of this agreement and disclosure. If you do not notify us, you could lose all the money in your account (*plus your maximum line of credit amount*).

If you tell us within two (2) business days after you discover your password or other means to access your account has been lost or stolen, your liability is no more than \$50.00 should someone access your account without your permission. If you do not tell us within two (2) business days after you discover such loss or theft, and we can prove that we could have prevented the unauthorized use of your password or other means to access your account if you had told us, you could be liable for as much as \$500.00.

Also, if your statement shows transfers that you did not make or authorize, tell us AT ONCE. If you do not tell us within sixty (60) days after the statement was delivered to you of any unauthorized or fraudulent use of your account, you may not get back any of the money you lost after the sixty (60) days if we can prove that

we could have stopped someone from taking the money if you had told us in time. If a good reason (*such as a long trip or a hospital stay*) prevented you from telling us, we may in our sole discretion extend the time periods.

In Case of Errors or Questions about your Electronic Transfers

If you think your statement or receipt is wrong, or if you need more information about a transaction listed on your statement or receipt, contact us as soon as possible at the telephone numbers and address listed at the end of this agreement and disclosure.

We must hear from you no later than sixty (60) days after the FIRST statement on which the problem or error appeared... We will determine whether an error occurred within ten (10) business days (*twenty (20) business days for new accounts*) after you notify us of the error and will correct any error promptly... If it is determined that there was no error, we will... send you a written explanation within three (3) business days... You may ask for copies of documents used in our investigation.

43. These provisions are and were reasonably understood by Plaintiff to mean that Plaintiff would not be liable for electronic funds transfers effectuated by fraud.

C. Plaintiff's Experience

44. When Plaintiff signed up for Zelle she was not informed that Zelle's service had a significant "catch" and that significant monetary losses could result from signing up for the service—or that those losses almost never are reimbursed by users' banks or credit unions.

45. For example, on March 17, 2021, a fraudster transferred \$2,996.02 from Plaintiff's personal bank account using the Zelle service.

46. Plaintiff received an automated voicemail purporting to be her utility company—PSE&G Electric. The automated voicemail informed Plaintiff her electric bill was overdue and requested immediate payment to prevent service disconnection. The automated voicemail provided Plaintiff with a number to Zelle transfer her overdue balance. At the time, New Jersey had a utility moratorium in effect and Plaintiff was indeed months behind on her electric bill. Fearful of her power and lights being shutoff, Plaintiff transferred \$998.01 via Zelle to the number provided who she believed to be her electric company.

47. To verify receipt of her payment, Plaintiff called the automated number back and was connected with different fraudsters acting under the guise of PSE&G Electric “agents” who stated that they did not receive her Zelle transfer and requested she transfer the money due again. The fraudsters reassured Plaintiff that any amounts paid over the balance would be refunded, thus Plaintiff complied and transferred another \$998.01 via Zelle to the fraudsters.

48. Again, the fraudsters, acting as PSE&G Electric “agents,” repeatedly told Plaintiff that her payment was not received and suggested that she split the payment into two Zelle transfers and continue to reassure her that any overpayment received would be refunded. As requested, Plaintiff transferred \$450.29 and \$549.71 via Zelle in hopes of avoiding the power shutoff.

49. The next morning, Plaintiff, still distraught over the prior day’s events, called the PSE&G Electric customer service number (not the fraudulent PSE&G number) to confirm receipt of her payment, but instead, she confirmed that she fell victim to fraud. The customer service representative informed her that PSE&G Electric does not accept payment via Zelle and warned Plaintiff of sophisticated scammers preying on their customers by threatening immediate shutoffs.

50. Plaintiff immediately informed NFCU of the fraud, but NFCU refused to reimburse her for the losses.

CLASS ALLEGATIONS

51. Pursuant to New Jersey Rules of Court 4:32, Plaintiff brings this action individually and as representatives of all those similarly situated, on behalf of the below-defined Classes:

All persons with a NFCU account who signed up for the Zelle Service and incurred unreimbursed losses due to fraud (the “Class”).

All New Jersey persons with a NFCU account who signed up for the Zelle Service and incurred unreimbursed losses due to fraud (the “New Jersey Subclass”).

52. Excluded from the Classes are Defendant and its affiliates, parents, subsidiaries, employees, officers, agents, and directors. Also excluded are any judicial officers presiding over this matter and the members of their immediate families and judicial staffs.

53. This case is appropriate for class treatment because Plaintiff can prove the elements of their claims on a class wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claims.

54. **Numerosity (N.J. Ct. R. 4:32(a)(1)).** The members of the Classes are so numerous that joinder of all members would be unfeasible and impracticable. The precise membership of the Classes is unknown to Plaintiff at this time; however, it is estimated that the Classes are greater than one hundred individuals. The identity of such membership is readily ascertainable via inspection of Defendant's books and records or other approved methods. Class members may be notified of the pendency of this action by mail, email, internet postings, and/or publication.

55. **Common Questions of Law or Fact (N.J. Ct. R. 4:32(a)(2)).** There are common questions of law and fact as to Plaintiff and all other similarly situated persons, which predominate over questions affecting only individual Class members, including, without limitation:

- a) Whether Defendant's representations and omissions about the Zelle service are false, misleading, deceptive, or likely to deceive;
- b) Whether Defendant failed to disclose the risks of using the Zelle service;
- c) Whether Plaintiff and the Class members were damaged by Defendant's conduct;
- d) Whether Defendant's actions or inactions violated the consumer protection statute invoked herein; and
- e) Whether Plaintiff is entitled to a preliminary and permanent injunction enjoining Defendant's conduct.

56. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendant's uniform practices applicable to each individual Class member. As such, these common questions predominate over individual questions concerning each Class member's showing as to his or her eligibility for recovery or as to the amount of his or her damages.

57. **Typicality (N.J. Ct. R. 4:32(a)(3)).** Plaintiff's claims are typical of the claims of the other members of the Classes because, among other things, Plaintiff and all Class members were similarly injured through Defendant's uniform misconduct as alleged above. As alleged herein, Plaintiff, like the members of the Classes, were deprived of monies that rightfully belonged to them. Further, there are no defenses available to Defendant that are unique to Plaintiff.

58. **Adequacy of Representation (N.J. Ct. R. 4:32(a)(4)).** Plaintiff is an adequate class representative because they are fully prepared to take all necessary steps to represent fairly and adequately the interests of the members of the Classes, and because their interests do not conflict with the interests of the other Class members they seek to represent. Moreover, Plaintiff's attorneys are ready, willing, and able to fully and adequately represent Plaintiff and the members of the Classes. Plaintiff's attorneys are experienced in complex class action litigation, and they will prosecute this action vigorously.

59. **Superiority (N.J. Ct. R. 4:32(b)(3)).** The nature of this action and the claims available to Plaintiff and members of the Classes make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each Class member were required to file an individual lawsuit, Defendant would necessarily gain an unconscionable advantage since it would be able to exploit and overwhelm the limited resources of each individual

Plaintiff with its vastly superior financial and legal resources. Moreover, the prosecution of separate actions by individual Class members, even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to the individual Class members against Defendant, and which would establish potentially incompatible standards of conduct for Defendant and/or legal determinations with respect to individual Class members which would, as a practical matter, be dispositive of the interests of the other Class members not parties to adjudications or which would substantially impair or impede the ability of the Class members to protect their interests. Further, the claims of the individual members of the Classes are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attending thereto.

FIRST CAUSE OF ACTION

Violation of New Jersey Consumer Fraud Act (“NJCFA”)

N.J. Stat. Ann. § 56:8-1, *et seq.*

(Asserted on Behalf of the New Jersey Class)

60. Plaintiff repeats and realleges the above allegations as if fully set forth herein.

61. Defendant, Plaintiff, and the Class members are “persons” within the meaning of N.J. Stat. Ann. § 56:8-1(d).

62. The New Jersey Consumer Fraud Act makes unlawful “[t]he act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate ... is declared to be an unlawful practice.” N.J. Stat. Ann. § 56:8-2.

63. Defendant’s practices, as described herein, constitute unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing,

concealment, suppression, or omission of any material fact, with respect to the advertisement of the Zelle service utilized by Plaintiff and New Jersey Class Members, in violation of the NJCFA, including by knowingly and intentionally making false or misleading representations that it provides “safe” and “secure” Zelle money transfer service through its website and mobile app.

64. Defendant, as described herein, violated the NJCFA, by knowingly and intentionally concealing and failing to disclose material facts regarding the true risks of utilizing the Zelle money transfer service through its website and mobile app.

65. Defendant’s practices, as described herein, constitute deceptive and/or fraudulent business practices in violation of the NJCFA because, among other things, they are likely to deceive reasonable consumers, who expect their bank to fully investigate and protect fraudulent losses incurred using the Zelle service. Moreover, Defendant’s willful and intentional concealment and omission of the security risks of using the Zelle service, including the risk of fraud and the risk that fraudulent losses will never be reimbursed by NFCU as a matter of secret policy, is a practice that is likely to deceive a consumer acting reasonably under the circumstances, to the consumer’s detriment.

66. Defendant committed deceptive and fraudulent business acts and practices in violation of the NJCFA, by affirmatively and knowingly misrepresenting on its website and mobile app the true risks and operation of its service.

67. Defendant’s business practices have misled Plaintiff and the proposed New Jersey Class and will continue to mislead them in the future.

68. Plaintiff relied on Defendant’s misrepresentations.

69. Plaintiff and the New Jersey Class members had no way of discerning that Defendant’s representations were false and misleading, or otherwise learning the facts that

Defendant had concealed or failed to disclose. Plaintiff and the New Jersey Class members did not, and could not, unravel Defendant's deception on their own.

70. Had Plaintiff known the true risks of using the Zelle service, she never would have signed up for and used the Zelle service.

71. As a direct and proximate result of Defendant's deceptive and fraudulent business practices, Plaintiff and New Jersey Class members suffered and will continue to suffer ascertainable loss and actual damages. Defendant's fraudulent conduct is ongoing and present a continuing threat to New Jersey Class members that they will be deceived into making money transfers with the Zelle service.

72. Plaintiffs and New Jersey Class members seek order enjoining Defendant's unfair and deceptive acts or practices in violation of the NJCFA and awarding actual damages, costs, attorneys' fees, and any other just and proper relief available under the NJCFA.

SECOND CAUSE OF ACTION

Breach of Contract Including Breach of the Covenant of Good Faith and Fair Dealing (Asserted on Behalf of the Classes)

73. Plaintiff repeats and realleges the above allegations as if fully set forth herein.

74. Plaintiff and members of the Classes contracted with NFCU for checking account services, as embodied in the Deposit Agreement & Disclosures.

75. NFCU breached the terms of its contract with consumers when as described herein, NFCU failed to fairly investigate reported fraudulent transactions on the Zelle money transfer service and failed to reimburse accountholders for fraud-induced losses incurred using the Zelle service.

76. Further, under the law of each of the states where NFCU does business, an implied covenant of good faith and fair dealing governs every contract. The covenant of good faith and fair dealing constrains Defendant's discretion to abuse self-granted contractual powers.

77. This good faith requirement extends to the manner in which a party employs discretion conferred by a contract.

78. Good faith and fair dealing, in connection with executing contracts and discharging performance and other duties according to their terms, means preserving the spirit—not merely the letter—of the bargain. Put differently, the parties to a contract are mutually obligated to comply with the substance of their contract in addition to its form. Evading the spirit of the bargain and abusing the power to specify terms constitute examples of bad faith in the performance of contracts.

79. Subterfuge and evasion violate the obligation of good faith in performance even when an actor believes his conduct to be justified. A lack of good faith may be overt or may consist of inaction, and fair dealing may require more than honesty. Other examples of violations of good faith and fair dealing are willful rendering of imperfect performance, abuse of a power to specify terms, and interference with or failure to cooperate in the other party's performance.

80. Defendant breached the covenant of good faith and fair dealing when it failed to fairly investigate reported fraudulent transactions on the Zelle money transfer service and failed to reimburse accountholders for fraud-induced losses incurred using the Zelle service.

81. Each of Defendant's actions was done in bad faith and was arbitrary and capricious.

82. Plaintiff and members of the Classes have performed all of the obligations imposed on them under the contract.

83. Plaintiff and members of the Classes have sustained monetary damages as a result of NFCU's breaches of the contract and covenant of good faith and fair dealing.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the Classes, demands a jury trial on all claims so triable and judgment as follows:

- A. Certifying the proposed Classes, appointing Plaintiff as representative of the Classes, and appointing counsel for Plaintiff as lead counsel for the respective Classes;
- B. Declaring that Defendant's policies and practices as described herein constitute a breach of contract, and a breach of the covenant of good faith and fair dealing or unjust enrichment, violation of the New Jersey Consumer Fraud Act.
- C. Enjoining Defendant from the wrongful conduct as described herein;
- D. Awarding restitution of all fees at issue paid to Defendant by Plaintiff and the Classes as a result of the wrongs alleged herein in an amount to be determined at trial;
- E. Compelling disgorgement of the ill-gotten gains derived by Defendant from its misconduct;
- F. Awarding actual and/or compensatory damages in an amount according to proof;
- G. Punitive and exemplary damages;
- H. Awarding pre-judgment interest at the maximum rate permitted by applicable law;
- I. Reimbursing all costs, expenses, and disbursements accrued by Plaintiff in connection with this action, including reasonable attorneys' fees, costs, and expenses, pursuant to applicable law and any other basis; and

J. Awarding such other relief as this Court deems just and proper.

DESIGNATION OF TRIAL COUNSEL

JURY TRIAL DEMAND

Plaintiff and all others similarly situated hereby demand trial by jury on all issues in this Class Action Complaint that are so triable, pursuant to R. 1:8-2(b) and 4:35-1(a).

CERTIFICATION OF NO OTHER ACTIONS

Pursuant to R. 4:5-1, I hereby certify to the best of my knowledge that the matter in controversy is not the subject of any other action pending in any court or the subject of a pending arbitration proceeding, nor is any other action or arbitration proceeding contemplated. I further certify that I know of no party who should be joined in the action at this time.

Dated: April 18, 2022

DAPEER LAW, P.A.

/s/ Rachel Edelsberg

Rachel Edelsberg, Esq.

New Jersey Bar No. 039272011

3331 Sunset Avenue

Ocean, New Jersey 07712

Telephone: 305-610-5223

rachel@dapeer.com

Scott Edelsberg*

Christopher Gold*

EDELSBERG LAW, PA

20900 NE 30th Ave, Suite 417

Aventura, Florida 33180

Telephone: 305-975-3320

scott@edelsberglaw.com

chris@edelsberglaw.com

Andrew J. Shamis*

SHAMIS & GENTILE, P.A.

14 NE First Avenue, Suite 705

Miami, Florida 33132

Telephone: 305-479-2299

ashamis@shamisgentile.com

**Pro Hac Vice forthcoming*

*Counsel for Plaintiff and the Proposed
Class*