

IN THE DISTRICT COURT OF DOUGLAS COUNTY

DONNA SEMPEK,

Plaintiff,

Case No. CI 22-4495

v.

CENTRIS FEDERAL CREDIT UNION,

Defendant.

PRELIMINARY APPROVAL ORDER

This matter is before the Court on the Unopposed Motion of Plaintiff Donna Sempek for Preliminary Approval of Class Action Settlement (the “Motion”), and the Court, being duly advised, now finds that the Motion should be, and hereby is, GRANTED.

IT IS THEREFORE ORDERED, ADJUDGED, and DECREED:

1. Capitalized terms not defined in this Preliminary Approval Order (“Order”) have the meaning defined in the class action Settlement Agreement and Release that is attached as Exhibit 1 to the Motion.
2. This Court has jurisdiction over the subject matter of this lawsuit and jurisdiction over the Named Plaintiff and Defendant (the “Parties”).
3. The Court finds that the Agreement was negotiated with the assistance of neutral Hon. Gerald E. Rosen (Ret.), and there is no reason to believe that it was not the result of extensive, arm’s-length negotiations between the Parties after Class Counsel and Defendant’s Counsel investigated the claims, sufficiently litigated the claims, and

became familiar with the strengths and weaknesses of the claims. The terms of the Agreement appear not to be collusive, have no obvious defects, and fall within the range of reasonableness.

4. The Court finds that, solely for the purposes of settlement, the requirements of Neb. Rev. Stat. Ann. § 25-319 for class certification have been met, specifically there “exist[s] both a question of common or general interest and numerous parties so as to make it impracticable to bring all the parties before the court.” *Hoiengs v. Cnty. of Adams*, 245 Neb. 877, 901, 516 N.W.2d 223, 240 (1994). The Court therefore **CERTIFIES** the following classes (“Settlement Classes”) for purposes of Notice and the settlement provided for in the Agreement:

APPSN Fee Class: Those current or former members of Defendant who are residents of Nebraska and were assessed APPSN Fees (“APPSN Fees” means overdraft fees that were charged and not refunded from June 15, 2017 to April 30, 2022 on signature Point of Sale debit card transactions where there was a sufficient available balance at the time the transaction was authorized, but an insufficient available balance at the time the transaction was presented to Defendant for payment and posted to a member’s account).

Retry Fee Class: Those current or former members of Defendant who are residents of Nebraska and were assessed Retry Fees (“Retry Fees” means overdraft and/or nonsufficient funds/returned item fees that were paid by Class Members and not refunded from September 28, 2017 to August 31, 2019, for Automated Clearing House (ACH) and check transactions that were re-submitted by a merchant after previously being returned by Defendant for insufficient funds).

5. For settlement purposes only, the Court appoints Named Plaintiff as Class Representative of these Classes and appoints Lynn A. Toops of Cohen & Malad, LLP; Gerard Stranch, IV and Martin F. Schubert of Stranch, Jennings & Garvey, PLLC; Christopher D.

Johnson of the Johnson Firm; and Frederick D. Stehlik and Zachary W. Lutz-Priefert of Gross Welch Marks Clare PC LLO.

6. The Court further appoints KCC Class Action Services, LLC as Settlement Administrator.

7. The Court finds that the terms of the Agreement are within the range of a fair, reasonable, and adequate settlement between the Settlement Classes and Defendant under the circumstances of this case. The Court therefore preliminarily approves the terms of the Agreement and directs the Parties to perform and satisfy the terms and conditions of the Agreement that are triggered by this Order.

8. The proposed Notices, in the forms attached to the Settlement, and the manner of distribution of such Notices by the Settlement Administrator by email and/or direct mail and posting on the settlement website, is hereby approved as the best notice practicable to the Settlement Classes. The form and manner of Notice proposed in the Agreement comply with the requirements of due process.

9. The Settlement Administrator shall email and/or mail, or cause to be sent to each Class Member (in accordance with the Agreement) no later than thirty (30) days from the date of this Order, a copy of the Email Notice and Mail Notice in the form attached to the Agreement. The Notice shall be sent in the manner set forth in the Agreement.

10. Settlement Class Members shall have 30 days from the first date on which the Notice is sent to object to or opt out of the terms of the Agreement, as provided in the Notice. Members of the Classes who do not timely and validly opt out in accordance with the Notice and the Agreement shall be bound by all determinations and judgments in the action. Any member of the Settlement Classes who does not make his or her objection known in the manner provided in the Agreement and Notice shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed settlement.

11. If the Agreement does not become effective or is rescinded pursuant to its terms, the proposed settlement and all proceedings had in connection therewith shall be without prejudice to the status quo ante rights of the Plaintiff and Defendant, and all Orders issued pursuant to the Agreement shall be vacated.

12. Class Counsel and Defendant's Counsel are hereby authorized to use all reasonable procedures in connection with approval and administration of the terms of the Agreement that are not materially inconsistent with this Order, including without the Court's further approval, making minor form or content changes to the Notices they jointly agree are reasonable or necessary.

13. The Court hereby schedules a hearing on final approval of the Settlement and on any request for fees, expenses, or service award in conjunction with the Settlement for October 10th, 2023, at 9:30a.m. (Central Time) before the Honorable Katie L. Benson in the District Court of Douglas County, Nebraska, Courtroom 617, 6th Floor, 1701 Farnam Street, Omaha, Nebraska.

14. All pretrial proceedings in this Action are stayed and suspended until further order of this Court, except such actions as may be necessary to implement the Agreement and this Order.

DATED this 31st day of July, 2023.

BY THE COURT:



HON. KATIE L. BENSON
DISTRICT COURT JUDGE