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**EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA**

LATANYA COLEMAN-CURTIS,  
individually, and on behalf of all others  
similarly situated,

Plaintiff,

v.

ONE NEVADA CREDIT UNION,  
Defendant.

Case No.: A-22-859045-C  
Dept. No.” XIV

**MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

**Hearing Requested**

**UNOPPOSED MOTION FOR PRELIMINARY APPROVAL**  
**OF CLASS ACTION SETTLEMENT**

Plaintiff Latanya Coleman-Curtis (“Named Plaintiff”), individually and on behalf of all others similarly situated, by and through her Counsel, respectfully moves for an order:

- Granting preliminary approval of the Settlement Agreement and Release (the “Agreement”) entered into with Defendant One Nevada Credit Union, finding the terms to be within the range of being fair, adequate, and reasonable;
- Provisionally certifying the settlement Class pursuant to Nev. R. Civ. P. 23 for settlement purposes only;
- Appointing Named Plaintiff as the class representative for the provisionally certified Class;
- Appointing James J. Jimmerson of The Jimmerson Law Firm, P.C.; Sophia G. Gold and Jeffrey D. Kaliel of KalielGold PLLC; and Christopher D. Jennings and Tyler B. Ewigleben of Jennings PLLC, as Class Counsel for the provisionally certified Class;
- Approving the form and content of the Notices and directing that Notice of the proposed Settlement be given to the Settlement Class in accordance with the Agreement by the Notice Deadline;
- Establishing deadlines for the Settlement Class Members to object to or exclude themselves from the Settlement; and
- Setting the Final Approval Hearing Date for as soon as the Court’s calendar permits.

The grounds for this Joint Motion are set forth in the accompanying Memorandum

Dated: May 23, 2024

**THE JIMMERSON LAW FIRM, P.C.**

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***Attorneys for Plaintiff and the Settlement Class***

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Latanya Coleman-Curtis (“Named Plaintiff”), on behalf of herself and the  
4 proposed Settlement Class, through her attorneys, respectfully submits this Memorandum of Law  
5 in Support of Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action Settlement  
6 (the “Motion”). Defendant One Nevada Credit Union (“Defendant” or “One Nevada”) does not  
7 oppose the relief sought in Plaintiff’s Motion. The terms and conditions of the proposed class  
8 action settlement is set forth in the Parties’ Settlement Agreement and Release <sup>1</sup> (the  
9 “Agreement”), a copy of which is attached hereto as **Exhibit 1**.

10 Plaintiff alleges that Defendant’s improper practice of charging overdraft fees (“OD  
11 Fees”) on debit card transactions that did not overdraw an account at the time they were authorized  
12 (“APPSN transactions”) constitute breach of contract and violation of consumer protection laws.  
13 Defendant denies the allegations in the Complaint, but given the risks, uncertainties, and burdens  
14 of litigation, has agreed to settlement according to the terms of the Agreement.

15 The Settlement achieved by the Parties, which was reached through arm’s-length  
16 negotiations with the assistance of a third-party neutral mediator, guarantees a substantial  
17 monetary benefit for the Settlement Class Members. As detailed below, the Parties have agreed  
18 that One Nevada will establish a Settlement Fund of **\$2,750,000.00** in monetary relief, that will  
19 be directly distributed—without the need for Settlement Class Members to complete a claim form  
20 or submit any accompanying proof—to the Settlement Class in the form of either a direct deposit  
21 into Settlement Class Members’ active checking or savings accounts held at One Nevada or a cash  
22 settlement check mailed to Settlement Class Members who are no longer members of One Nevada  
23 at the time of the distribution. Subject to the Court’s approval, and in addition to the Settlement  
24 Class Member Payments, the Settlement Fund will also be used to pay: Class Counsel’s attorneys’  
25 fees and costs; any service award to the Named Plaintiff; the costs of Class Notice; and any fees  
26 paid to the Claims Administrator, and if applicable, the total amount of uncashed checks to a cy

27  
28 <sup>1</sup> The capitalized terms used herein are defined and have the same meaning as used in the Agreement unless otherwise stated.

1 *pres* recipient. Gold Decl., ¶ 14.

2 Additionally, the Settlement also provides an additional monetary benefit for the  
3 Settlement Class in that One Nevada has agreed to forgive the Uncollected Fees for those  
4 Settlement Class Members who were assessed APPSN Fees but were not collected by Defendant  
5 because they were charged-off, in the total amount of \$150,750.00. Gold Decl., ¶ 15.

6 The Parties have also agreed to a robust Class Notice plan designed to afford all members  
7 of the Settlement Class due process and advise them of their rights under the Agreement.

8 As such, Named Plaintiff respectfully requests that this Court enter the Preliminary  
9 Approval/Notice Order submitted herewith that would, in pertinent part:

- 10
- 11 • Grant preliminary approval of the Agreement, finding the terms to be within the range  
12 of being fair, adequate, and reasonable;
  - 13 • Provisionally certify the Settlement Class pursuant to Rule 23 for settlement purposes  
14 only;
  - 15 • Appoint Class Counsel as counsel for the provisionally certified Settlement Class; and
  - 16 • Approve the proposed Class Notice and authorize its dissemination to the Settlement  
17 Class.

18 For the reasons set forth below, the Agreement meets all requirements of preliminary  
19 approval and provisional certification of the Settlement Class. Thus, Named Plaintiff respectfully  
20 requests that the Court grant the Motion.

## 21 **II. BACKGROUND**

### 22 **A. Litigation History**

23 On September 28, 2022, Named Plaintiff filed her class action complaint entitled *Latanya*  
24 *Coleman-Curtis v. One Nevada Credit Union* in the Eighth Judicial District Court of Clark  
25 County, Nevada, Case No.: A-22-859045-C, on behalf of herself and all others similarly situated  
26 against One Nevada arising out of Defendant's practice of charging OD Fees in connection with  
27 APPSN transactions. The Complaint alleged a claim for breach of contract and for violation of  
28 consumer protection laws.

On January 6, 2023, Defendant filed a motion to dismiss Named Plaintiff's Complaint,  
which was denied without prejudice on September 20, 2023.

1 On September 22, 2023, the Parties participated in a mediation before the Hon. Peggy  
2 Leen (Ret.). In advance of mediation, One Nevada provided Plaintiff’s counsel with certain  
3 aggregate and transactional data to allow the Parties to analyze potential class-wide damages  
4 under Plaintiff’s theory of liability. Equipped with this data, Plaintiff engaged an expert consultant  
5 to review the transactional data and analyze the estimated damages at issue for the putative class.

6 The mediation resulted in a Mediator’s Proposal, which both Parties accepted. The  
7 Mediator’s Proposal is embodied in the Agreement now pending preliminary approval before the  
8 Court.

9 **B. The Key Terms of the Proposed Settlement**

10 The Parties have entered into the Agreement, which completely resolves the Action in its  
11 entirety. The Agreement includes the following pertinent terms:

12 **1. The Settlement Class**

13 Named Plaintiff proposes, for settlement purposes only, that this Court certify the  
14 Settlement Class defined as:

15 Any member of Defendant who (i) was a citizen of Nevada; (ii) had a checking  
16 account with Defendant; and (iii) who was assessed an APPSN Fee during the  
Class Period.

17 The APPSN Class includes the Settlement Class Members who may be entitled to  
18 cash distribution that will be made from the Net Settlement Fund.

19 Agreement, § 1(c); (u).

20 **2. Settlement Benefits**

21 Settlement Class Member Payments. Within 10 days after entry of the Final Approval  
22 Order, the \$2,750,000.00 Settlement Fund, less the total amount that will be credited to Class  
23 Members, shall be paid by One Nevada and held by the Claims Administrator. Agreement, §§  
24 1(v); 7.

25 Within ten days of the Effective Date, One Nevada shall make Individual Payments to  
26 those Class Members who are members of Defendant in the form of an account credit to their  
27 individual checking or savings account. *Id.*, § 7(d)(iv)(B)(1). For those Settlement Class Members  
28

1 who are not members of One Nevada at the time of distribution, the Claims Administrator shall  
2 mail them their Individual Payment via check. *Id.*, § 7(d)(iv)(B)(2).

3 The calculation of Settlement Class Members' Individual Payments will be made out of  
4 the Net Settlement Fund and will be allocated on a *pro rata* basis by dividing the Net Settlement  
5 Fund by the total number of APPSN Fees assessed and multiplying that amount by the total  
6 number of APPSN Fees charged to and paid by each APPSN Fee Class member. *Id.*, § 7(d)(iv)(A).

7 In the event there are uncashed or returned checks in the Net Settlement Fund after 180  
8 days from the date the distribution check is mailed, the Claims Administrator shall redistribute  
9 these funds to Settlement Class Members on a *pro rata* basis. *Id.*, § 7(d)(iv)(B)(2). Otherwise, 30  
10 days after the Final Report, the total amount of uncashed checks held by the Claims Administrator  
11 shall be paid to a *cy pres* recipient nominated by the parties and subject to Court approval. *Id.*, §  
12 10.

13 Overdraft Forgiveness. Upon the Effective Date, One Nevada will reduce the total amount  
14 of outstanding APPSN Fees owing to Defendant by Settlement Class Members that were assessed  
15 but not paid because they were charged off, in the amount of \$150,750. Agreement, §§ 1(z); 8(a).

### 16 3. Releases

17 Upon Final Approval, Named Plaintiff and each of the Settlement Class Members shall be  
18 deemed to have released and forever discharged the Defendant Releasees from any and all claims  
19 that arise out of and/or relate to the facts and claims alleged in the Action. Agreement, § 13.

### 20 4. Attorneys' Fees and Costs; Service Awards; Claims Administration 21 Fees

22 One Nevada has agreed not to oppose Class Counsel's request for reasonable attorneys'  
23 fees from the Settlement Fund in an amount not to exceed 33.33% of the Value of the Settlement.  
24 Agreement, § 7(d)(i). Nor will Defendant object to Class Counsel's request for reimbursement of  
25 reasonable litigation costs from the Settlement Fund. *Id.* Defendant also agrees not to oppose  
26 Class Counsel's request for a service award in the amount of \$5,000.00 to be paid to the Named  
27 Plaintiff for her role in serving as the Settlement Class representative. *Id.*, § 7(d)(ii). Additionally,  
28

1 Defendant agrees to pay the Claims Administrator’s fees and costs arising from its distribution of  
2 notice to the Settlement Class and in administering the Settlement. *Id.*, § 7(d)(iii).

3 **III. PRELIMINARY APPROVAL OF THE SETTLEMENT IS WARRANTED**

4 There is a strong judicial policy favoring class action settlements. *Class Plaintiffs v. City*  
5 *of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992).<sup>2</sup> Nevada Rule of Civil Procedure 23(f) requires  
6 that “[a] class action may not be dismissed or compromised without the approval of the court.”  
7 Nev. R. Civ. P. 23(f). The approval process for a class action settlement involves two stages. *See*  
8 *Manual for Complex Litig.* (Fourth) § 21.632 (describing multi-step approval process)). In the  
9 first stage, commonly known as “preliminary approval,” the Court determines whether the class  
10 can be certified for purposes of giving notice to the class members and whether the proposed  
11 settlement is within the range of possible final approval. *Id.* In this preliminary evaluation of a  
12 proposed settlement, the Court determines only whether the settlement has “obvious deficiencies”  
13 or whether “it is in the range of fair, reasonable, and adequate.” *Id.* In the second stage, commonly  
14 known as “final approval,” after notice has been given to the class members and they have had an  
15 opportunity to opt-out or object, the Court holds a final hearing to decide whether to grant final  
16 approval to the settlement and enter judgment upon it as being “fair, reasonable, and adequate.”  
17 *Manual* at § 21.634.

18 The Supreme Court of Nevada has made clear that, unlike its federal counterpart, NRCP  
19 23 contains no requirement that the district court find that the settlement’s terms are “fair,  
20 reasonable, and adequate.” *See Roe 1 v. Shepard*, No. 85605, 539 P.3d 661, 2023 WL 8251386,  
21 at \*2 (Nev. 2023) (unpublished disposition); *Murray v. Dubric*, No. 83492, 514 P.3d 1081, 2022  
22 WL 3335982, at \*2 (Nev. 2022) (unpublished disposition) (“[W]e decline appellants’ invitation  
23 to adopt the Ninth Circuit’s eight-factor test for determining whether a proposed class action  
24 settlement is fair, adequate, and reasonable at this time” but noting that after the district court  
25

26 \_\_\_\_\_  
27 <sup>2</sup> In Nevada, “[f]ederal cases interpreting the Federal Rules of Civil Procedure ‘are strong  
28 persuasive authority, because the Nevada Rules of Civil Procedure are based in large part upon  
their federal counterparts.’” *Exec. Mgmt. v. Tictor Title Ins. Co.*, 118 Nev. 46, 53 (2002) (quoting  
*Las Vegas Novelty, Inc. v. Fernandez*, 106 Nev. 113, 119 (1990)).



1 considered those factors, the settlement “would likely satisfy that test if applied”). Nevertheless,  
2 this Settlement meets this standard.

3 In assessing a settlement’s fairness, courts in the Ninth Circuit, including those in Nevada,  
4 generally weigh the factors set forth in *Churchill Village, LLC v. Gen. Elec.*, 361 F.3d 566, 575  
5 (9th Cir. 2004). *See e.g., Daniels v. Aria Resort & Casino, LLC*, No. 2:20-cv-00453-GMN-DJA,  
6 2023 WL 2634613 (D. Nev. Mar. 23, 2023); *Andersen v. Briad Restaurant Group, LLC*, No. 2:14-  
7 cv-00786-GMN-BNW, 2022 WL 181262 (D. Nev. Jan. 19, 2022); *La Caria v. Northstar Location*  
8 *Services, LLC*, No. 2:18-cv-00317-GMN-DJA, 2021 WL 94477 (D. Nev. Jan. 11, 2021). The  
9 *Churchill* factors include:

10 (1) the strength of the plaintiff’s case; (2) the risk, expense, complexity and likely  
11 duration of further litigation; (3) the risk of maintaining class action status  
12 throughout trial; (4) the amount offered in the settlement; (5) the extent of  
13 discovery completed and the stage of the proceedings; (6) the experience and view  
14 of counsel; (7) the presence of a governmental participant; and (8) the reaction of  
15 the class members of the proposed settlement.

14 *Churchill Village*, 361 F.3d at 575.<sup>3</sup>

15 **C. The Strength of Plaintiff’s Case and Risk of Further Litigation**

16 Courts typically analyze the first two *Churchill* factors together by weighing the strength  
17 of Plaintiff’s case against the risk of protracted litigation. *See e.g., Smith v. One Nevada Credit*  
18 *Union*, No. 2:16-cv-02156-GMN-NJK, 2018 WL 4407251, at \*5 (D. Nev. Sept. 16, 2018) (citing  
19 *Lane v. Facebook, Inc.*, 696 F.3d 811, 823 (9th Cir. 2012)). “Approval of a class settlement is  
20 appropriate in cases in which ‘there are significant barriers plaintiffs must overcome in making  
21 their case.’” *Daniels*, 2023 WL 2634613, at \*2 (quoting *Chun-Hoon v. McKee Foods Corp.*, 716  
22 F. Supp. 2d 848, 851 (N.D. Cal. 2010)).

23 Several decisions throughout the country involving claims challenging identical fee  
24 practices such as Defendant’s alleged in this case demonstrate the strength of Named Plaintiff’s  
25 claims. For example, several courts have found financial institutions that assess overdraft fees on  
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27 <sup>3</sup> Plaintiff’s Motion will not discuss the final two *Churchill* factors. The seventh *Churchill*  
28 factor—presence of a governmental participant—is inapplicable here. And the eighth *Churchill*  
factor—reaction of the settlement class—is inapplicable at the preliminary approval stage and  
will be revisited at final approval after notice is disseminated to the Settlement Class.

1 APPSN transactions in the same manner One Nevada did here might defy consumers’ reasonable  
2 understandings of how overdraft fee determinations are made on debit card transactions according  
3 to those institutions’ selected contract language. *See e.g., Varga v. American Airlines Federal*  
4 *Credit Union*, No. CV 20-4380 DSF (KSx), 2020 WL 8881747, at \*4 (C.D. Cal. Dec. 1, 2020)  
5 (denying credit union’s motion to dismiss breach of contract claim as to APPSN Fee claim on the  
6 basis that defendant’s contract language was ambiguous because a “consumer could reasonably  
7 construe [the relevant] provision as requiring overdraft fees be assessed at the time of the  
8 transaction, meaning at the time of the preauthorization hold, as opposed to when the transaction  
9 posts”).<sup>4</sup>

10 Although Class Counsel believes that Named Plaintiff’s claims have substantial merit  
11 considering the success these claims have had at the pleading stage, the fact remains that, to Class  
12 Counsel’s knowledge, no similar APPSN Fee claims have proceeded to trial. This means that  
13 there is no model for Named Plaintiff’s case, and therefore, unforeseen pitfalls could easily derail  
14 the Settlement Class’s claims should they proceed through the rigors of litigation. Indeed, this  
15 case faced potential obstacles at all levels that could have resulted in no recovery at all for the  
16 Settlement Class, including losing on One Nevada’s motion to dismiss; losing potential motions  
17 for summary judgment; losing class certification; losing at trial; and losing on appeal at either  
18 class certification or after a successful trial. Each and any one of these risks would have been  
19 devastating to the potential recovery, and even if the case had survived to a final collected  
20 judgment, that would only be obtained after years of delay and increased costs of litigation would  
21 reduce the benefit obtained. Plainly, there was no guarantee at any juncture that Named Plaintiff  
22 would ultimately prevail in the action. A settlement that “eliminates this lengthy process” weighs  
23 in favor of granting preliminary approval. *Daniels*, 2023 WL 2634613 at \*2 (citing *Nat’l Rural*  
24 *Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 526 (C.D. Cal. 2004) (“In most situations,

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27 <sup>4</sup> *See also Burns v. TD Bank, N.A.*, No. 1:21-cv-18194-KMW-AMD, 2022 WL 17547258, at  
28 \*5-8 (D.N.J. Dec. 8, 2022) (same); *Lussoro v. Ocean Financial Federal Credit Union*, 456 F.  
Supp. 3d 474, 482-486 (E.D.N.Y. 2020) (same); *Gardner v. Flagstar Bank, FSB*, No. 20-cv-  
12061, 2021 WL 3772866, at \*2-6 (E.D. Mich. Aug. 23, 2021) (same).

1 unless the settlement is clearly inadequate, its acceptance and approval are preferable to lengthy  
2 and expensive litigation with uncertain results.”)).

3 Thus, the strength of Named Plaintiff’s case when weighed against the risks of continued  
4 litigation—in light of the guaranteed and immediate monetary benefit of \$2.75 million as a result  
5 of the Settlement reached by the Parties—supports granting the Settlement preliminary approval.

6 **D. The Risk of Maintaining Class Action Status Throughout Trial**

7 The third *Churchill* factor, which considers the risk of Named Plaintiff maintaining class  
8 status through the duration of the case, also supports preliminary approval. Rule 23(d) recognizes  
9 that a court’s order granting class certification “may be conditional and may be altered or amended  
10 before the decision on the merits.” Nev. R. Civ. P. 23(d)(1). At the time this Settlement was  
11 reached, no class had been certified yet. As discussed above, there are undoubtedly risks involved  
12 in pursuing this case as a class action, especially given Named Plaintiff’s novel legal issues. Given  
13 these uncertainties, “there are risks associated with pursuing and maintaining the instant class  
14 action” and thus, this factor also supports preliminary approval. *See Smith*, 2018 WL 4407251 at  
15 \*6.

16 **E. Amount Offered in Settlement**

17 In terms of relief offered, this Settlement is exceptional. The instant dispute concerns One  
18 Nevada’s allegedly unfair and unlawful assessment and collection of APPSN Fees on deposit  
19 accounts. This Settlement achieves Named Plaintiff’s desired goal of compensating Class  
20 Members charged these APPSN Fees during the Class Period. While Named Plaintiff’s best-case  
21 scenario is a 100% refund of the APPSN Fees, there was a substantial risk that Named Plaintiff  
22 would not achieve such a result, or any recovery at all. Prior to settlement, One Nevada filed a  
23 motion to dismiss, arguing that the relevant language in its account agreements was not  
24 ambiguous, and thus, specifically permits Defendant to assess APPSN Fees accordingly.  
25 Although Named Plaintiff prevailed on the motion to dismiss at the pleading stage, she could have  
26 later failed to obtain class certification or lost at summary judgment on the issue of contract  
27 interpretation.

28 The proposed Settlement amounts to a recovery of approximately 50% of the APPSN Fees

1 that were improperly charged to Class Members during the Class Period. Gold Decl., ¶ 16. This  
2 Settlement is comparable to results achieved in other bank fee cases, including overdraft fee class  
3 actions nationwide. *See e.g., Thompson v. Community Bank, N.A.*, No. 8:19-CV-919  
4 (MAD/CFH), 2021 WL 4084148 at \*8 (N.D.N.Y. Sept. 8, 2021) (finding settlement that  
5 represented 39% of defendant’s potential damages exposure based on the value of the settlement  
6 “represents a substantial recovery for Settlement Class Members, particularly in light of the risks  
7 of litigation”); *Roberts v. Capital One, N.A.*, Case No. 1:16-cv-04841, Dkt. No. 198 (S.D.N.Y.  
8 Dec. 1, 2020) (approving a cash fund representing approximately 35% of relevant overdraft fees  
9 alleged by plaintiff); *Bodnar v. Bank of Am., N.A.*, No. 14-3224, 2016 WL 4582084, at \*4 (E.D.  
10 Pa. Aug. 4, 2016) (approving a cash fund of between 13% and 48% of the maximum amount of  
11 damages they may have been able to secure at trial, and describing such a result as a “significant  
12 achievement” and outstanding”); *In re Checking Account Overdraft Litig.*, No. 1:09-MD-02036,  
13 2015 WL 12641970, at \*7 (S.D. Fla. May 22, 2015) (approving \$31,767,200 settlement  
14 representing approximately 35% of the most probable aggregate damages); *Hawthorne v.*  
15 *Umpqua Bank*, No. 11-cv-06700, 2015 WL 1927342, at \*3 (N.D. Cal. Apr. 28, 2015) (approving  
16 \$2,900,000 settlement for approximately 38% of what could have been obtained at trial); *In re*  
17 *Checking Account Overdraft Litig.*, No. 1:09-MD-02036, 2013 WL 11319242, at \*1 (S.D. Fla.  
18 Aug. 2, 2013) (approving \$4,000,000 settlement for 25% of the most probable recoverable  
19 damages); *In re Checking Account Overdraft Litig.*, 830 F. Supp. 2d 1330, 1346 (S.D. Fla. 2011)  
20 (approving \$410 million settlement for between 9% and 45% of the total potential damages);  
21 *Trombley v. Nat’l City Bank*, 826 F. Supp. 2d 179, 198 (D.D.C. 2011) (approving settlement with  
22 recovery range of 12% to 30% as “within the realm of reasonableness”).

23           Ultimately, however, even if “a proposed settlement may only amount to a fraction of the  
24 potential recovery does not, in and of itself, mean that the proposed settlement is grossly  
25 inadequate and should be disapproved.” *Linney v. Cellular Alaska P’ship*, 151 F.3d 1234, 1242  
26 (9th Cir. 1998) (quoting *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 455 (2d Cir. 1974)). Even  
27 in theory, a settlement amounting “to a hundredth or even a thousandth part of a single percent of  
28 the potential recovery” is passable. *Grinnell*, 495 F.2d at 455 n.2. Indeed, “the very essence of a

1 settlement is compromise, a ‘yielding of absolutes and an abandoning of highest hopes.’” *Officers*  
2 *for Justice v. Civil Serv. Comm’n*, 688 F.2d 615, 625 (9th Cir. 1982) (citations omitted).

3 **F. Extent of Discovery Completed and the Stage of the Proceedings**

4 In assessing the sufficiency and meaningfulness of discovery, “a court need not possess  
5 evidence to decide the merits of the issue, because compromise is proposed in order to avoid  
6 further litigation.” Newberg & Conte, *Newberg on Class Actions*, § 11.45 (4th ed. 2008). Rather,  
7 a court needs only sufficient information “to raise its decision above mere conjecture.” *Id.* In  
8 assessing this factor, the Court will also “analyze[] the degree of case development accomplished  
9 prior to settlement to determine whether counsel had sufficient appreciation of the merits of the  
10 case before negotiating settlement.” *Daniels*, 2023 WL 2634613 at \*3.

11 Here, the Parties exchanged significant information in conjunction with both informal  
12 negotiations and mediation that included the class size and demographics, information regarding  
13 One Nevada’s APPSN Fee practices, and Class Members’ transactional data. Based on this  
14 information, Class Counsel retained an expert to formulate damages methodologies consistent  
15 with Named Plaintiff’s liability theory and to calculate One Nevada’s damages exposure.  
16 Accordingly, Named Plaintiff had more than sufficient information available after a year of  
17 litigation to adequately weigh the benefits of settlement against further litigation. *See e.g.*,  
18 *Murray*, 2022 WL 3335982 at \*2 (noting settlement reached “as a result of lengthy negotiations”  
19 with the “assistance of both a jointly retained expert and an experienced judicial officer”  
20 supported approval); *Daniels*, 2023 WL 2634613 at \*3 (finding “counsel had a good grasp on the  
21 merits of their case before settlement talks began” where the “parties engaged in extensive  
22 informal discovery” including “investigating claims” and “exchanging records”) (quoting  
23 *Rodriguez v. West Publishing Corp.*, 563 F.3d 948, 967 (9th Cir. 2009)).

24 **G. Experience of Counsel**

25 The Ninth Circuit “has long deferred to the private consensual decision of the parties.”  
26 *Rodriguez*, 563 F.3d at 965 (citing *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir. 1998)).  
27 Indeed, the “[p]arties represented by competent counsel are better positioned than courts to  
28

1 produce a settlement that fairly reflects each party's expected outcome in litigation." *Id.* at 967  
2 (quoting *In re Pac. Enters. Sec. Litig.*, 47 F.3d 373, 378 (9th Cir. 1995)).

3 Class Counsel are highly experienced in complex class action litigation, including  
4 consumer disputes involving banking fee claims. *See* Gold Decl., ¶¶ 7-13; Exhibits A-C (firm  
5 resumes). Collectively, Class Counsel has secured hundreds of millions of dollars on behalf of  
6 consumers as a result of their efforts in evoking large-scale reform of overdraft fee practices  
7 through class action settlements reached with financial institutions nationwide. *See id.* Counsel  
8 for both Parties, as highly experienced trial attorneys and class counsel, are confident in the terms  
9 of the Settlement after expending a significant amount of time engaging in informed negotiations.  
10 Gold Decl., ¶ 8. Thus, Class Counsel's experience and considered judgment weighs heavily in  
11 favor of finding the Settlement to be fair, adequate, and reasonable. *See e.g., Harris v. U.S.*  
12 *Physical Therapy, Inc.*, No. 2:10-cv-01508-JCM-VCF, 2012 WL 3277278, at \*7 (D. Nev. July  
13 18, 2012).

14 **IV. PROVISIONAL CLASS CERTIFICATION OF THE SETTLEMENT CLASS IS**  
15 **WARRANTED**

16 It is well-settled that, to obtain class certification under Rule 23, a moving party must  
17 satisfy the four elements of Rule 23(a) and at least one element of Rule 23(c). *See* Nev. R. Civ. P.  
18 23. Here, Named Plaintiff seeks to certify a class, for settlement purposes only, pursuant to Rules  
19 23(a) and (c)(3). As set forth below, the proposed Settlement Class satisfies all elements of Rule  
20 23(a) and (c)(3).

21 **A. The Proposed Settlement Class Satisfies Rule 23(a)**

22 Rule 23(a) provides:

23 One or more members of a class may sue or be sued as representative parties on  
24 behalf of all only if: (1) the class is so numerous that joinder of all members is  
25 impracticable; (2) there are questions of law or fact common to the class; (3) the  
26 claims or defenses of the representative parties are typical of the claims or defenses  
27 of the class; and (4) the representative parties will fairly and adequately protect the  
28 interests of the class.

Nev. R. Civ. P. 23(a).

1                   **1.       The Settlement Class is Sufficiently Numerous**

2                   Rule 23(a)(1) requires that a class be “so numerous that joinder of all members is  
3 impracticable.” Classes exceeding forty members typically satisfy the numerosity requirement.  
4 *See Keegan v. Am. Honda Motor Co., Inc.*, 284 F.R.D. 504, 522 (C.D. Cal. 2012) (noting that  
5 “[a]s a general rule...classes of 40 or more are numerous enough”) (citations omitted). Here,  
6 Defendant’s records indicate that the Settlement Class includes thousands of current and former  
7 members of One Nevada. Therefore, the Settlement Class is sufficiently numerous such that  
8 joinder is impracticable.

9                   **2.       Common Questions of Law and Fact Exist**

10                  Commonality is determined by whether the issues raised “have the capacity of a classwide  
11 proceeding to generate common answers apt to drive the resolution of the litigation.” *Wal-Mart*  
12 *Stores, Inc. v. Dukes*, 131 S. Ct. 2541, 2551 (2011). Even “one significant issue common to the  
13 class may be sufficient to warrant certification.” *Santoro v. Aaron Agency, Inc.*, 252 F.R.D. 675,  
14 680 (D. Nev. 2008) (citations and quotations omitted).

15                  Commonality is satisfied here because the Settlement Class Members’ claims arise from  
16 a common and nucleus of facts since all of them maintained accounts governed by One Nevada’s  
17 form contract language and were uniformly assessed APPSN Fees in the same manner. Common  
18 legal issues also unite the Settlement Class. They include: (1) the elements of Named Plaintiff’s  
19 claims and One Nevada’s defenses; (2) whether Defendant breached its contracts with Named  
20 Plaintiff and the Settlement Class Members when it assessed OD Fees in connection with APPSN  
21 transactions; (3) whether Defendant’s practice of assessing APPSN Fees violated consumer  
22 protection laws; (4) whether Named Plaintiff and the Settlement Class Members have sustained  
23 damages as a result of Defendant’s business practices; and (5) the measure of damages owed to  
24 Named Plaintiff and Settlement Class Members. There are no issues of law or fact that affect only  
25 individual Settlement Class Members.

26                  Thus, because resolution of these issues will globally affect the claims of all proposed  
27 Settlement Class Members, the commonality requirement of Rule 23 is met.





1 In addition, Class Counsel are qualified to represent the Settlement Class. They have  
2 extensive experience in prosecuting bank fee cases, having certified settlement classes in  
3 numerous cases across the country. In this case, they have spent considerable time investigating  
4 Class Members' injuries and claims and negotiating a well-informed Settlement on behalf of the  
5 Classes. Accordingly, the Rule 23(a) prerequisites have been met.

6 **B. The Proposed Settlement Class Satisfies Rule 23(c)(3)**

7 Rule 23(c)(3) provides, in relevant part, that if Rule 23(a) is satisfied, an action may be  
8 maintained as a class action if:

9 [T]he court finds that the questions of law or fact common to the members of the  
10 class predominate over any questions affecting only individual members, and that  
11 a class action is superior to other available methods for the fair and efficient  
adjudication of the controversy. . .

12 Nev. R. Civ. P. 23(c)(3).

13 **1. Common Questions Predominate**

14 Rule 23(c)(3)'s predominance requirement focuses primarily on whether a defendant's  
15 liability is common enough to be resolved on a class basis, *see Dukes*, 131 S. Ct. at 2551-57, and  
16 whether the proposed class is "sufficiently cohesive to warrant adjudication by representation."  
17 *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 623 (1997). The "predominance" requirement  
18 does not mean that all questions of law or fact must be common to every Class Member; rather,  
19 the "existence of shared legal issues with divergent factual predicates is sufficient, as is a common  
20 core of salient facts coupled with disparate legal remedies within the class." *Hanlon*, 150 F.3d at  
21 1019.

22 In this case, the key predominating question is whether One Nevada breached terms of its  
23 uniform contracts. The many common questions of fact and law that arise from Defendant's  
24 conduct predominate over any individualized issues. *See In re TD Bank, N.A. Debit Card*  
25 *Overdraft Fee Litig.*, 325 F.R.D. 136, 159 (D.S.C. 2018) (finding predominance satisfied as to  
26 breach of contract and implied covenant claims in contested motion for nationwide class  
27 certification in banking fee case where the same form contracts and same bank policies applied  
28 to all consumers); *Buono*, 847 F.3d at 1123 (affirming certification of nationwide breach of

1 contract class action). Accordingly, the common questions of fact and law that arise from  
2 Defendant's conduct predominate over any individualized issues.

3 **2. A Class Action is the Superior Method to Resolve the Controversy**

4 Finally, a class action is superior to other methods available to fairly, adequately, and  
5 efficiently resolve the claims of the proposed Settlement Class. Indeed, class certification is the  
6 best way to "achieve economies of time, effort and expense, and promote uniformity of decision  
7 as to persons similarly situated, without sacrificing procedural fairness." *Amchem*, 521 U.S. at  
8 615. To determine if superiority requirements are met for certification of a settlement class, courts  
9 consider:

10 (A) the interest of members of the class in individually controlling the prosecution  
11 or defense of separate actions; (B) the extent and nature of any litigation  
12 concerning the controversy already commenced by or against members of the  
13 class; (C) the desirability or undesirability of concentrating the litigation of the  
claims in the particular forum; and (D) the difficulties likely to be encountered in  
the management of a class action.

14 Nev. R. Civ. P. 23(c)(3).

15 Proceeding as a class action in this case is superior to other means of adjudication. There  
16 is no indication in this case that any Class Member wishes to litigate their claims individually,  
17 with the high cost of litigating a case like this requiring expert investigation and testimony to  
18 prove damages, individualized litigation is impracticable. This is particularly true in consumer  
19 protection lawsuits, "[w]here a case involves multiple claims for relatively small individual sums,  
20 some plaintiffs may not be able to proceed as individuals because of the disparity between their  
21 litigation costs and what they hope to recover." *Astiana v. Kashi Co.*, 291 F.R.D. 493, 507 (S.D.  
22 Cal. 2013); *see e.g., In re T.D. Bank*, 325 F.R.D. at 162 (class action was superior method in  
23 litigating overdraft bank fee case).

24 Any likely difficulties in managing a class action are small and supremely outweighed by  
25 the benefits of resolution. Class Counsel are well-credentialed and experienced class action  
26 litigators and have immense experience in particular with bank fee litigation, having led and co-  
27 led some of the largest such cases across the country. Class Counsel draw on their experience  
28

1 from those cases—from pre-suit investigation, litigation, settlement, and settlement  
2 administration to oversee the settlement, notice, and administration of this matter.

3 The Court respectfully should certify the Settlement Class, for settlement purposes only,  
4 as the superiority requirement, along with all other requirements Rule 23(a) and (c)(3), are  
5 satisfied.

6 **V. THE COURT SHOULD APPROVE NAMED PLAINTIFF’S NOTICE PROGRAM**

7 Rule 23(f) requires that notice of a proposed settlement be given to all members of the  
8 class. Nev. R. Civ. P. 23(f). “An elementary and fundamental requirement of due process in any  
9 proceeding which is to be accorded finality is notice reasonably calculated, under all the  
10 circumstances, to apprise interested parties of the pendency of the action and afford them an  
11 opportunity to present their objections.” *Grupo Famsa v. Eighth Jud. Dist. Ct.*, 132 Nev. 334, 337,  
12 371 P.3d 1048, 1050 (2016). The Ninth Circuit has held that neither due process, nor FRCP 23  
13 require that class members receive *actual* notice. *See Silber v. Mabon*, 18 F.3d 1449, 1453-54 (9th  
14 Cir. 1994). Rather, Rule 23(d)(3) only requires that class members receive “the best notice  
15 practicable under the circumstances.”

16 “A class action settlement notice ‘is satisfactory if it generally describes the terms of the  
17 settlement in sufficient detail to alert those with adverse viewpoints to investigate and to come  
18 forward and be heard.’” *Smith*, 2018 WL 4407251, at \*9 (quoting *Churchill*, 561 F.3d at 575)).  
19 For any class certified under Rule 23(c)(3) in particular, the Class Notice must inform Class  
20 Members that “the court will exclude the member from the class if the member so requests by a  
21 specified date;” that “the judgment, whether favorable or not, will include all members who do  
22 not request exclusion;” and that “any member who does not request exclusion may, if the member  
23 desires, enter an appearance through the member’s counsel.” Nev. R. Civ. P. 23(c)(3)(A)-(C).

24 The proposed Class Notice is accurate, informative, neutral, and readable by the average  
25 person. *See* Agreement at Exhibits 1 and 2. They are written in plain, simple language, and provide  
26 key information about the Agreement so that members of the Class can choose what to do,  
27 including: the Settlement benefits; the fact that Class Members will be bound by the judgment;  
28 the right to opt out or object and the method for doing so; and the time, date, and place of the final

1 approval hearing. Moreover, the Class Notice will be directly delivered via mail or e-mail to each  
2 Class Member.

3           Thus, the Parties are confident that these methods cumulatively provide a strong chance  
4 of effectuating notice of the Settlement to a substantial number of Class Members. *See e.g., Roe*  
5 *I*, 2023 WL 8251386 at \*1 (mailing notice was reasonably calculated to afford members notice  
6 and satisfied due process). In light of the amount of Class Member contact information within  
7 Defendant’s control, this constitutes the best notice practicable under the circumstances.  
8 Moreover, the content of the Class Notice sets forth substantial detail regarding the nature of the  
9 action and claims, the structure of the Settlement and Class benefits, and apprises each Class  
10 Member of his or her rights and obligations. As such, the Court should approve the proposed  
11 Class Notice.

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1 **VI. CONCLUSION**

2 In light of the foregoing, Named Plaintiff respectfully requests that this Court enter the  
3 proposed Preliminary Approval/Notice Order submitted herewith, which preliminarily approves  
4 the proposed Settlement and the ancillary relief requested therein.

5 Dated: May 23, 2024

**THE JIMMERSON LAW FIRM, P.C.**

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***Attorneys for Plaintiff and the Settlement Class***

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on 23<sup>rd</sup> day of May, 2024, I served a true and correct copy of Memorandum of Law In Support of Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement via the Court’s Electronic Filing/Service system upon all the parties on the E-Service Master List:

Robert E. Schumacher  
**Gordon Rees Scully Mansukhani, LLP**  
300 South 4<sup>th</sup> Street, Suite 1550  
Las Vegas, Nevada 889101  
rschumacher@grsm.com

*Attorneys for Defendant*

/s/ James Jimmerson, Esq.

**EXHIBIT 1**

**EXHIBIT 1**

1. **DEFINITIONS.** In addition to the definitions contained elsewhere in this Agreement, the following definitions shall apply:

(a) “Account Holder” means any person who has or had any interest, whether legal or equitable, in a checking account maintained by Defendant during the Class Period.

(b) “APPSN Fee” shall be an Overdraft Fee charged by Defendant during the Class Period on a debit card transaction when the checking account had a positive available balance at time it was authorized but an insufficient available balance at the time the transaction was presented to Defendant for payment and posted to a customer’s checking account and the charge was not refunded

(c) “APPSN Fee Class Member” shall mean any member of Defendant who (i) was a citizen of Nevada; (ii) had a checking account with Defendant; and (iii) was assessed an APPSN Fee during the Class Period.

(d) “Bar Date To Object” will be the date set by the Court as the deadline for Class Members to file an Objection and shall be approximately thirty (30) days after the date the Notice (defined below) must be delivered to the Class Members.

(e) “Bar Date To Opt Out” shall be the date set by the Court as the deadline for Class Members to opt out. The Bar Date shall be thirty (30) days after the date the Notice (defined below) must be delivered to the Class Members.

(f) “Class Period” shall mean the dates from August 1, 2018 to September 22, 2023, both dates inclusive.

(g) “Claims Administrator” shall mean the entity that will provide the notice and other administrative handling in this Settlement Agreement. Class Counsel shall request bids of at least two separate claims administrators and the one providing the lowest bid shall be selected.

(h) “Class Counsel” shall mean James J. Jimmerson of The Jimmerson Law Firm, P.C., Sophia G. Gold and Jeffrey D. Kaliel of Kaliel Gold PLLC, and Christopher D. Jennings and Tyler B. Ewigleben of Jennings PLLC.

(i) “Court” shall mean the Eighth Judicial District Court of Clark County, Nevada.

(j) “Defendant’s Counsel” shall mean Robert E. Schumacher, Peter Siachos, and Eric Evans of Gordon & Rees LLP.

(k) “Effective Date” shall be thirty (30) days after the entry of the Final Approval Order (defined below) provided no objections are made to this Agreement. If there are objections to the Agreement, then the Effective Date shall be the later of: (i) Ninety (90) days after entry of the Final Approval Order, if no appeals are taken from the Final Approval Order; or (ii) if appeals are taken from the Final Approval Order, then thirty (30) days after an Appellate Court ruling affirming the Final Approval Order; or (iii) Thirty (30) days after entry of a dismissal of the appeal.



(l) “Exclusion Letter” shall mean a letter by a Class Member who elects to opt out of this Agreement.

(m) “Final Approval Hearing Date” shall be the date set by the Court for the hearing on any and all motions for final approval of this Agreement.

(n) “Final Approval Order” shall mean the Order and Judgment approving this Agreement issued by the Court at or after the Final Approval Hearing Date.

(o) “Final Report” shall mean the report prepared by the Claims Administrator of all receipts and disbursements from the Settlement Fund, as described in Section 9, below.

(p) “Motion For Final Approval” shall mean the motion or motions filed by Class Counsel, as referenced in Section 5 below.

(q) “Net Settlement Fund” shall mean the net amount of the Settlement Fund, as defined below, after payment of court approved attorneys’ fees and costs, any court approved service award and the costs of Notice, and any fees paid to the Claims Administrator.

(r) “Notice” shall mean the notice to Class Members of the settlement provided for under the terms of this Agreement, as ordered by the Court in its Preliminary Approval/Notice Order (defined below), and shall refer to the form of Notice attached hereto as **Exhibit 1** and **Exhibit 2**.

(s) “Overdraft Fee” means any fee or fees assessed to an Account Holder for items paid when the checking account had insufficient funds.

(t) “Preliminary Approval/Notice Order” shall mean the Order issued by the Court preliminarily approving this Agreement and authorizing the sending of the Notice to Class Members, as provided in Sections 3 and 4 below.

(u) “Settlement Class Member” means any members of the APPSN Class who has not opted-out of the Settlement and who is entitled to the benefits of the Settlement. “APPSN Class Settlement Member” includes the Settlement Class Members who may be entitled to cash distribution that will be made from the Net Settlement Fund, pursuant to the allocation terms of the Settlement.

(v) “Settlement Fund” shall mean the two million seven hundred fifty thousand dollars and zero cents (\$2,750,000.00) to be paid by Defendant under the terms of this Agreement.

(w) “Uncollected Fees” shall mean any APPSN Fees that were assessed but were not paid because they were charged-off, in the amount of \$150,750.

(x) “Value of the Settlement” shall mean the Settlement Fund plus the value of the Prospective relief described in Section 8 below, including the value of the Uncollected Fees as defined in Section 1(z).

**2. CLASS ACTION SETTLEMENT.** Plaintiff shall propose and recommend to the

Court that the settlement class defined above be certified. Defendant agrees solely for purposes of the settlement provided for in this Agreement and the implementation of such settlement that this case shall proceed as a class action; provided, however, that if a Final Approval Order is not issued, then Defendant shall retain all rights to object to maintaining this case as a class action. Plaintiff and Class Counsel shall not reference this Agreement in support of any subsequent motion relating to certification of a liability class.

**3. PRELIMINARY SETTLEMENT APPROVAL.** Class Counsel shall use reasonable efforts promptly to file a motion seeking a Preliminary Approval/Notice Order by March 8, 2024. The Preliminary Approval/Notice Order shall provide for: preliminary approval of this Agreement, provisional certification of the classes for settlement purposes, appointment of Class Counsel as counsel to the provisionally certified class, and the requirement that the Notice be given to the Class Members as provided in Section 5, below (or as otherwise determined by the Court).

**4. NOTICE TO THE CLASS.**

(a) The Claims Administrator shall send the Notice to all Class Members as specified by the Court in the Preliminary Approval/Notice Order.

(b) For those Class Members who are current members of Defendant and have agreed to receive notices regarding their accounts from Defendant by email, Defendant shall provide the Claims Administrator with the most recent email addresses it has for the Class Members. The Claims Administrator shall email an Email Notice (see Exhibit 1) to each such Class Member's last known email address, in a manner that is calculated to avoid being caught and excluded by spam filters or other devices intended to block mass email. For any emails that are returned undeliverable, the Claims Administrator shall use the best available databases to obtain current email address information, update its database with these emails, and resend the Notice by email. The Email Notice shall inform Class Members how they may request a copy of the Long Form Notice (see Exhibits 1-2).

(c) For those Class Members who are not current members of Defendant or who have not agreed to receive notices regarding their accounts from Defendant by email, the Notice shall be mailed to these Class Members by first class United States mail to the best available mailing addresses. Defendant shall provide the Claims Administrator with last known mailing addresses for these Class Members. The Claims Administrator will run the names and addresses through the National Change of Address Registry and update as appropriate. If a mailed Notice is returned with forwarding address information, the Claims Administrator shall re-mail the Notice to the forwarding address. For all mailed Notices that are returned as undeliverable, the Claims Administrator shall use standard skip tracing devices to obtain forwarding address information and, if the skip tracing yields a different forwarding address, the Claims Administrator shall re-mail the Notice to the address identified in the skip trace, as soon as reasonably practicable after the receipt of the returned mail.

(d) The Notice shall also be posted on a settlement website created by the Claims Administrator.

(e) The Claims Administrator shall maintain a database showing mail and email addresses to which each Notice was sent and any Notices that were not delivered by mail and/or email. A summary report of the Notice shall be provided to the Parties at least five (5) days prior to the deadline to file the Motion for Final Approval. The database maintained by the Claims Administrator regarding the Notice shall be available to the parties and the Court upon request. It shall otherwise be confidential and shall not be disclosed to any third party.

(f) The Notice and Email Notice shall be in a form approved by the Court and, substantially similar to the notice form attached hereto as Exhibit 1 and Exhibit 2. The parties may by mutual written consent make non-substantive changes to the Notice without Court approval.

(g) All costs associated with publishing, mailing and administering the Notice as provided for in this Section, and all costs of administration, including but not limited to the Claims Administrator's fees and costs shall be paid out of the Settlement Fund.

**5. MOTION FOR FINAL APPROVAL.** Within a reasonable time after the Bar Date to Opt Out, and provided the conditions in Section 15, below, are satisfied, Class Counsel shall file a Motion for Final Approval of this Agreement so that same can be heard on the Final Approval Hearing Date.

**6. ENTRY OF JUDGMENT.** The Final Approval Order shall constitute the Court's final judgment in this action. The Court shall retain jurisdiction to enforce the terms of the Final Approval Order.

**7. THE SETTLEMENT FUND AND DISTRIBUTION.**

(a) Payments to Class Members. Within ten (10) days after the entry of the Final Approval Order, Defendant shall transfer the Settlement Fund to the Claims Administrator, less the total amount that will be credited to Class Members by Defendant, as provided in subsection 7(d)(iv)b(1), below. The Settlement Fund shall be the total amount Defendant is obligated to pay under the terms of this Agreement and includes: (i) Class Counsels' fees and costs; (ii) any service award payment to the Named Plaintiff; (iii) costs associated with administering the Notice in accordance with Section 5, above; and (iv) any fees paid to the Claims Administrator for services rendered in connection with the administration process. Defendant shall not make any additional or further contributions to the Settlement Fund, even if the total amount of all alleged improper fees charged to the Class Members exceeds the value of the Net Settlement Fund. In the event a Final Approval Order is not issued, or this Agreement is terminated by either party for any reason, including pursuant to Section 15, below, the portion of the Settlement Fund paid to the Claims Administrator (including accrued interest, if any) less expenses actually incurred by the Claims Administrator or due and owing to the Claims Administrator in connection with the settlement provided for herein, shall be refunded to Defendant within two (2) business days after the Final Approval Order is denied and this Agreement is terminated.

(b) All funds held by the Claims Administrator shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until distributed pursuant to this Agreement.

(c) All funds held by the Claims Administrator at any time shall be deemed to

be a Qualified Settlement Fund as described in Treasury Regulation §1.468B-1, 26 C.F.R. §1.468B-1.

(d) Payments shall be made from the Settlement Fund as follows:

(i) Plaintiffs' Fees and Costs. Plaintiff's reasonable attorneys' fees and costs, as determined and approved by the Court, shall be paid from the Settlement Fund within ten (10) business days after entry of the Final Approval Order, n. Class Counsel shall apply for an award of attorneys' fees of up to one-third (33-1/3%) of the Value of the Settlement to the Class Members plus reimbursement of reasonable litigation costs, to be approved by the court. Defendant agrees not to oppose an application up to one-third (33-1/3%) of the Value of the Settlement but reserves the right to oppose an application for fees in excess of that amount. Should the judgment approving the settlement be reversed on appeal, Class Counsel shall immediately repay all fees and costs to Defendant; should the award of fees and costs be reduced on appeal, Class Counsel shall immediately repay into the Settlement Fund an amount equal to the reduction ordered by the appellate court.

(ii) Service Award. Named Plaintiff may apply to the Court for a service award of up to \$5,000.00. Subject to the Court's approval, the service award shall be paid from the Settlement Fund ten (10) days after the Effective Date.

(iii) Claims Administrator's Fees. The Claims Administrator's fees and costs, including estimated fees and costs to fully implement the terms of this Agreement, as approved by the Court, shall be paid within ten (10) days after the Effective Date.

(iv) Payments to Settlement Class Members. The amount paid to each Settlement Class Member shall be calculated as follows:

(A) The Net Settlement Fund shall be allocated to members of the Settlement Classes on a *pro rata* basis. Settlement Class Members shall be paid per incurred APPSN Fee calculated as follows: (Net Settlement Fund/Total APPSN Fees) x Total number of APPSN Fees charged to and paid by each APPSN Fee Class member.

(B) Payments to those members of the Classes ("Individual Payments") shall be made no later than ten (10) days after the Effective Date, as follows:

(1) For those Class Members who are members of Defendant at the time of the distribution of the Net Settlement Fund, their individual checking or savings accounts shall be credited in the amount of the Individual Payment they are entitled to receive.

(2) For those Class Members who are not members of Defendant at the time of the distribution of the Net Settlement Fund, they shall be sent a check by the Claims

Administrator at the address used to provide the Notice, or at such other address as designated by the Class Member. The Class Member shall have one-hundred eighty (180) days to negotiate the check. Any checks uncashed after one-hundred eighty (180) days shall be distributed to Class Members on a pro-rata basis if practical. Otherwise, any residual shall be distributed pursuant to Section 12.

(C) In no event shall any portion of the Settlement Fund revert to Defendant.

## **8. PROSPECTIVE RELIEF**

(a) **Forgiveness of Uncollected Fees.** Upon the occurrence of the Effective Date, Defendant shall forgive the Uncollected Fees as defined in Section 1(z) that are the Uncollected Fees portion of any amounts owing to Defendant by Class Members to the extent, if any, Defendant is attempting to collect thereon. If any Uncollected Fees are inadvertently collected, then they shall be refunded by Defendant insofar as Defendant is aware of the Uncollected Fees. If a member of Defendant with Uncollected Fees attempts to open a new account or re-open a closed account, Defendant shall not require payment of the Uncollected Fees as a condition to account opening insofar as Defendant is aware of the outstanding Uncollected Fees.

(b) **FINAL REPORT TO THE COURT.** Within two hundred (200) days after the Effective Date, Class Counsel shall submit to the Court a Final Report, setting forth: (a) the amounts paid to Class Members by the Claims Administrator; (b) any checks not cashed or returned; (c) the efforts undertaken to follow up on uncashed and/or returned checks; (d) the total amount of money unpaid to Class Members; and (e) the total amount of credits issued to Class Members by Defendant pursuant to Paragraph 7(d)(iv)(B)(1). Defendant shall provide a declaration under penalty of perjury setting forth the amount of the credits issued to Class Members. Class Counsel shall be entitled to verify credits by confidential review of Class Member account statements.

## **9. THE CLAIMS ADMINISTRATOR.**

(a) The Claims Administrator shall execute a retainer agreement that shall provide, among other things, that the Claims Administrator shall be bound by and shall perform the obligations imposed on it under the terms of this Agreement.

(b) The Claims Administrator shall be subject to the jurisdiction of the Court with respect to the administration of this Agreement.

(c) The Claims Administrator shall keep all information regarding Class Members confidential except as otherwise provided herein. All data created and/or obtained and maintained by the Claims Administrator pursuant to this Agreement shall be destroyed twelve (12) months after the Final Report is submitted to the Court, provided that Class Counsel and Defendants Counsel, or either of them, at their own cost, shall receive a complete digital copy of the Claims Administrator's records, together with a declaration establishing completeness and

authenticity, which they may maintain consistent with their own document retention policies.

(d) The Claims Administrator also shall be responsible for timely and properly filing all tax returns necessary or advisable, if any, with respect to the Settlement Fund. Except as provided herein, Class Members shall be responsible for their own tax reporting of payments received under the terms of this Agreement.

(e) The Claims Administrator shall provide the data in its claims administration database to Defendant's Counsel and/or Class Counsel in response to any written request, including an email request. The written request shall be copied to the other party when made.

(f) Any notice required under the Class Action Fairness Act, 28 U.S.C. § 1715, shall be paid out of the Settlement Fund.

(g) Within one hundred-ninety (190) days after the Effective Date, the Claims Administrator shall prepare a declaration setting forth the total payments issued to Class Members by the Claims Administrator, the total amount of any checks uncashed and/or returned, and the total amount of money being held by the Claims Administrator.

**10. CY PRES PAYMENT.** Subject to Court approval, thirty (30) days after the Final Report the total amount of uncashed checks, and amounts held by the Claims Administrator at the time of the Final Report, shall be paid by the Claims Administrator to one or more public interest organizations nominated by the parties and subject to Court approval.

**11. OPT-OUTS.**

(a) A Class Member who wishes to exclude themselves from this Agreement, and from the release of claims and defenses provided for under the terms of this Agreement, shall submit an Exclusion Letter by mail to the Claims Administrator. For an Exclusion Letter to be valid, it must be postmarked on or before the Bar Date to Opt Out. Any Exclusion Letter shall identify the Class Member, state that the Class Member wishes to exclude themselves from the Agreement, and shall be signed and dated.

(b) The Claims Administrator shall maintain a list of persons who have excluded themselves and shall provide such list to Defendant's Counsel and Class Counsel at least five (5) days prior to the date Class Counsel is required to file the Motion for Final Approval. The Claims Administrator shall retain the originals of all Exclusion Letters (including the envelopes with the postmarks). The Claims Administrator shall make the original Exclusion Letters available to Class Counsel, Defendant's Counsel and/or the Court upon two (2) court days' written notice.

**12. OBJECTIONS.**

(a) Any Class Member, other than a Class Member who timely submits an Exclusion Letter, may object to this Agreement.

(b) To be valid and considered by the Court, the objection must be in writing and sent by first class mail, postage pre-paid, to the Claims Administrator. The objection must be postmarked on or before the Bar Date to Object, and must include the following information:

(i) The objector's name, address, telephone number, and the contact information for any attorney retained by the objector in connection with the objection or otherwise in connection with this case;

(ii) A statement of the factual and legal basis for each objection and any exhibits the objector wishes the Court to consider in connection with the objection; and

(iii) A statement as to whether the objector intends to appear at the Final Approval Hearing, either in person or through counsel, and, if through counsel, identifying the counsel by name, address and telephone number.

(c) Class Counsel shall file any objections and responsive pleadings at least seven (7) days prior to the Final Approval Hearing Date.

**13. RELEASE.** Except as to the rights and obligations provided for under the terms of this Agreement, Latanya Coleman-Curtis, on behalf of herself and each of the Class Members, hereby releases and forever discharges Defendant, and all of its past, present, and future predecessors, successors, subsidiaries, divisions, employees, affiliates, assigns, officers, directors, shareholders, representatives, attorneys, and agents (collectively the "Defendant Releasees") from any and all claims, charges, complaints, debts, liabilities, demands, obligations, costs, expenses, actions, and causes of action of every nature, character, and description, whether known or unknown, asserted or unasserted, suspected or unsuspected, which Named Plaintiff and Class Members who do not opt out now have, own, or hold against any of the Defendant Releasees that arise out of and/or relate to the facts and claims alleged in the Action, including Overdraft Fees governed under the Electronic Fund Transfer Act (Regulation E), 12 C.F.R. § 1005 *et. seq.*

**14. CONDITIONS TO SETTLEMENT.**

(a) This Agreement shall be subject to and is expressly conditioned on the occurrence of all of the following events:

(i) The Court has entered the Preliminary Approval/Notice Order, as required by Section 4 above;

(ii) The Court has entered the Final Approval Order as required by Sections 6 and 7 above, and all objections, if any, to such Order are overruled, and all appeals taken from such Order are resolved in favor of approval; and

(iii) The Effective Date has occurred.

(b) If all of the conditions specified in Section 16(a) are not met, then this Agreement shall be cancelled and terminated.

(c) Defendant shall have the option to terminate this Agreement if five (5%) percent or more of the Class Members opt out. Defendant shall notify Class Counsel and the Court of its intent to terminate this Agreement pursuant to this Section 16 within fifteen (15) business days after the Bar Date To Opt Out or the option to terminate shall be considered waived.

(d) Defendant shall provide reasonable confirmatory discovery to confirm its overdraft fee practices and the amount of the APPSN Fees at issue. If the confirmatory discovery reveals that the APPSN Fees at issue are materially different than as provided in the Parties' pre-mediation and mediation information exchange, then Plaintiff may withdraw from the settlement.

(e) In the event this Agreement is terminated pursuant to Section 15(c) immediately above or fails to become effective in accordance with Sections 15(a) and/or (b) immediately above, then the parties shall be restored to their respective positions in this case as they existed as of the date of the execution of this Agreement. In such event, the terms and provisions of this Agreement shall have no further force and effect with respect to the parties and shall not be used in this case or in any other action or proceeding for any other purpose, and any order entered by this Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*.

**15. REPRESENTATIONS.**

(a) The parties to this Agreement represent that they have each read this Agreement and are fully aware of and understand all of its terms and the legal consequences thereof. The parties represent that they have consulted or have had the opportunity to consult with and have received or have had the opportunity to receive advice from legal counsel in connection with their review and execution of this Agreement.

(b) The parties have not relied on any representations, promises, or agreements other than those expressly set forth in this Agreement.

(c) The Named Plaintiff, on behalf of the Class Members, represents that she has made such inquiry into the terms and conditions of this Agreement as she deems appropriate, and that by executing this Agreement, she believes the Agreement and all the terms and conditions set forth herein are fair and reasonable to all Class Members.

(d) The Named Plaintiff represents that she has no conflicts or other personal interests that would in any way impact her representation of the class in connection with the execution of this Agreement.

(e) Defendant represents and warrants that it has obtained all corporate authority necessary to execute this Agreement.

**16. FURTHER ASSURANCES.** Each of the parties agrees to execute and deliver all such further documents consistent with this Agreement and to take all such further actions consistent with this Agreement as may be required in order to carry the provisions of this Agreement into effect, subject to Class Counsel's obligation to protect the interests of the Class Members.

**17. APPLICABLE LAW.** This Agreement shall be governed by and interpreted, construed, and enforced pursuant to the laws of the State of Nevada.

**18. NO ORAL WAIVER OR MODIFICATION.** No waiver or modification of any provision of this Agreement or of any breach thereof shall constitute a waiver or modification of



any other provision or breach, whether or not similar. Nor shall any actual waiver or modification constitute a continuing waiver. No waiver or modification shall be binding unless executed in writing by the party making the waiver or modification.

**19. ENTIRE AGREEMENT.** This Agreement, including the exhibits attached hereto, constitutes the entire agreement made by and between the parties pertaining to the subject matter hereof and fully supersedes any and all prior or contemporaneous understandings, representations, warranties, and agreements made by the parties hereto or their representatives pertaining to the subject matter hereof. No extrinsic evidence whatsoever may be introduced in any judicial proceeding involving the construction or interpretation of this Agreement.

**20. BINDING ON SUCCESSORS.** This Agreement shall inure to the benefit of and shall bind each of the parties hereto and their successors.

**21. SEVERABILITY.** In the event any one or more of the provisions of this Agreement is determined to be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained in this Agreement will not in any way be affected or impaired thereby.

**22. COUNTERPARTS AND FACSIMILE SIGNATURES.** This Agreement may be executed and delivered in separate counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts together shall constitute but one and the same instrument and agreement. Facsimile and PDF signature pages shall have the same force and effect as original signatures.

**23. NOTIFICATION.** Any notice to be given to Class Counsel and/or Named Plaintiff shall be sent by email as follows:

Sophia G. Gold  
Jeffrey D. Kaniel  
KanielGold PLLC  
1100 15<sup>th</sup> St NW, 4<sup>th</sup> Floor  
Washington, D.C. 20005  
(202) 350-4783  
[sgold@kanielgold.com](mailto:sgold@kanielgold.com)  
[jkaniel@kanielgold.com](mailto:jkaniel@kanielgold.com)

Any notice to be given to Defendant under the terms of this Agreement shall be sent by email as follows:

Eric Evans  
Gordon & Rees LLP  
18 Columbia Turnpike, Suite 220  
Florham Park, New Jersey 07932  
(973) 549-2500  
[eevans@grsm.com](mailto:eevans@grsm.com)

Any notice to the Claims Administrator shall be sent by email to the address of the claims

administrator, which will be determined by the lowest bid for services.

IN WITNESS WHEREOF, the parties have entered this Agreement as of the dates set forth below.

Dated: March 13, 2024 | 10:03 AM PDT

ONE NEVADA CREDIT UNION, a federally chartered credit union

By: DocuSigned by:  
Paul Parrish  
286BBTAFB76B450...  
CEO  
Its: Paul Parrish

Dated: 3/11/2024 | 1:58 PM PDT

LATANYA COLEMAN-CURTIS, an individual on behalf of herself and those she represents

By: DocuSigned by:  
[Signature]  
364EF0FAEC51420...  
Latanya Coleman-Curtis

**APPROVED AS TO FORM:**

Dated: March 13, 2024 | 11:11 AM PDT

GORDON & REES LLP  
Robert E. Schumacher  
Peter Siachos  
Eric Evans

By: DocuSigned by:  
Robert Schumacher  
2F22F153B0FB447...  
Robert Schumacher  
Attorneys for Defendant One Nevada Credit Union

Dated: 2/27/2024 | 3:12 PM PST

By: DocuSigned by:  
Sophia Gold  
501212B088474A2...  
KALIELGOLD PLLC  
Sophia G. Gold  
Jeffrey D. Kalie

Dated: 2/27/2024 | 2:28 PM PST

By: DocuSigned by:  
Tyler Ewigleben  
5E5C7A5AA47E40D...  
JENNINGS PLLC  
Christopher D. Jennings  
Tyler B. Ewigleben

Attorneys for Plaintiff Latanya Coleman-Curtis

## Exhibit 1 – Email and Postcard Notice

Coleman-Curtis v. One Nevada Credit Union

### NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT

**READ THIS NOTICE FULLY AND CAREFULLY—THE PROPOSED SETTLEMENT MAY AFFECT YOUR RIGHTS!**

**IF YOU HAVE OR HAD A CHECKING ACCOUNT WITH ONE NEVADA CREDIT UNION AND YOU WERE CHARGED CERTAIN OVERDRAFT OR NSF FEES BETWEEN AUGUST 1, 2018 TO SEPTEMBER 22, 2023, THEN YOU MAY BE ENTITLED TO A PAYMENT FROM A CLASS ACTION SETTLEMENT AND/OR FORGIVENESS OF CERTAIN UNCOLLECTED FEES**

The Eighth Judicial District Court of Clark County, Nevada has authorized this Notice; it is not a solicitation from a lawyer.

You may be a member of the settlement Class in *Coleman-Curtis v. One Nevada Credit Union* in which the Plaintiff alleges that Defendant One Nevada Credit Union (“Defendant”) unlawfully assessed certain Overdraft Fees (the “Relevant Fees”) between August 1, 2018 to September 22, 2023. If you are a member of the Settlement Class and if the Settlement is approved, you may be entitled to receive a cash payment from the \$2,750,000.00 Settlement Fund and/or the forgiveness of Uncollected Fees, which are benefits established by the Settlement. If you are a member of the Settlement Class, you will receive a payment from the Settlement Fund so long as you do not opt out of or exclude yourself from the Settlement. **You do not have to do anything to be entitled to a payment from the Settlement Fund.**

The Court has preliminarily approved this Settlement. It will hold a Final Approval Hearing in this case on **[INSERT DATE]**. At that hearing, the Court will consider whether to grant Final Approval to the Settlement, and whether to approve payment from the Settlement Fund of up to **\$5,000.00** in a Service Award to the Class Representative, up to 33.33% of the Value of the Settlement as attorneys’ fees, and reimbursement of costs to the attorneys and the Settlement Administrator. If the Court grants Final Approval of the Settlement and you do not request to be excluded from the Settlement, you will release your right to bring any claim covered by the Settlement. In exchange, Defendant has agreed to issue a credit to your Account, a cash payment to you if you are no longer a customer, and/or to forgive certain Relevant Fees.

**To obtain a Long Form Notice and other important documents please visit **[INSERT WEBSITE ADDRESS]**. Alternatively, you may call **[INSERT PHONE #]**.**

*If you do not want to participate in this Settlement—meaning you do not want to receive a cash payment and/or the forgiveness of Uncollected Fees and you do not want to be bound by any judgment entered in this case—you may exclude yourself by submitting an opt-out request postmarked no later than **[PARTIES TO INSERT DATE]**. If you want to object to this Settlement because you think it is not fair, adequate, or reasonable, you may object by submitting an objection postmarked no later than **[PARTIES TO INSERT DATE]**. You may learn more about the opt-out and objection procedures by visiting **[PARTIES TO PROVIDE WEBSITE ADDRESS]** or by calling **[Insert Phone #]**.*

## Exhibit 2 – Long Form Notice

Coleman-Curtis v. One Nevada Credit Union

### NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT

**READ THIS NOTICE FULLY AND CAREFULLY—THE PROPOSED SETTLEMENT  
MAY AFFECT YOUR RIGHTS!**

**IF YOU HAVE OR HAD A CHECKING ACCOUNT WITH ONE NEVADA  
CREDIT UNION (“DEFENDANT”) AND YOU WERE CHARGED  
CERTAIN OVERDRAFT OR NSF FEES BETWEEN AUGUST 1, 2018 TO  
SEPTEMBER 22, 2023, THEN YOU MAY BE ENTITLED TO A PAYMENT  
FROM A CLASS ACTION SETTLEMENT.**

The Eighth Judicial District Court of Clark County, Nevada has authorized this Notice. It is not a solicitation from a lawyer.

<b>SUMMARY OF YOUR OPTIONS AND THE LEGAL EFFECT OF EACH OPTION</b>	
<b>DO NOTHING</b>	If you don’t do anything, you will receive a payment from the Settlement Fund so long as you do not opt out of or exclude yourself from the settlement (described in the next box).
<b>EXCLUDE YOURSELF FROM THE SETTLEMENT; RECEIVE NO PAYMENT BUT RELEASE NO CLAIMS</b>	You can choose to exclude yourself from the settlement or “opt out.” This means you choose not to participate in the settlement. You will keep your individual claims against Defendant but you will not receive a payment for Relevant Fees and/or forgiveness of Uncollected Fees. If you exclude yourself from the settlement but want to recover against Defendant, you will have to file a separate lawsuit or claim.
<b>OBJECT TO THE SETTLEMENT</b>	You can file an objection with the Court explaining why you believe the Court should reject the settlement. If your objection is overruled by the Court, then you may receive a payment and/or forgiveness of Uncollected Fees and you will not be able to sue Defendant for the claims asserted in this litigation. If the Court agrees with your objection, then the settlement may not be approved.

These rights and options – *and the deadlines to exercise them* – along with the material terms of the settlement are explained in this Notice.

## **BASIC INFORMATION**

### **1. What is this lawsuit about?**

The lawsuit that is being settled is entitled *Coleman-Curtis v. One Nevada Credit Union*. It is pending in the Eighth Judicial District Court of Clark County, Nevada, Case No. A-22-859045-C. The case is a “Class Action.” That means that the “Class Representative,” Latanya Coleman-Curtis, is an individual who is acting on behalf of current and former customers who were assessed certain assessed certain Overdraft and NSF fees (“Relevant Fees”) between August 1, 2018 to September 22, 2023. The Class Representative has asserted a claim for breach of the Account agreement and violation of consumer protection laws.

Defendant does not deny it charged the fees the Class Representative is complaining about, but contends it did so properly and in accordance with the terms of its agreements and applicable law. Defendant therefore denies that its practices give rise to claims for damages by the Class Representative or any Settlement Class members.

### **2. Why did I receive this Notice of this lawsuit?**

You received this Notice because Defendant’s records indicate that you were charged one or more Relevant Fees that are the subject of this action. The Court directed that this Notice be sent to all Settlement Class members because each such member has a right to know about the proposed settlement and the options available to them before the Court decides whether to approve the settlement.

### **3. Why did the parties settle?**

In any lawsuit, there are risks and potential benefits that come with a trial versus settling at an earlier stage. It is the Class Representative’s and their lawyers’ job to identify when a proposed settlement offer is good enough that it justifies recommending settling the case instead of continuing to trial. In a class action, the Class Representative’s lawyers, known as Class Counsel, make this recommendation to the Class Representative. The Class Representative has the duty to act in the best interests of the class as a whole and, in this case, it is her belief, as well as Class Counsels’ opinion, that this settlement is in the best interest of all Settlement Class members.

There is legal uncertainty about whether a judge or a jury will find that Defendant was contractually and otherwise legally obligated not to assess the fees at issue. And even if it was contractually wrong to assess these fees, there is uncertainty about whether the Class Representative’s claims are subject to other defenses that might result in no or less recovery to Settlement Class members. Even if the Class Representative were to win at trial, there is no assurance that the Settlement Class Members would be awarded more than the current settlement amount and it may take years of litigation before any payments would be made. By settling, the Settlement Class members will avoid these and other risks and the delays associated with continued litigation.

While Defendant disputes the allegations in the lawsuit and denies any liability or wrongdoing, it enters into the Settlement solely to avoid the expense, inconvenience, and distraction of further proceedings in the litigation.

## **WHO IS IN THE SETTLEMENT**

### **4. How do I know if I am part of the Settlement?**

If you received this notice, then Defendant's records indicate that you are a member of the Settlement Class who is entitled to receive a payment or credit to your Account.

## **YOUR OPTIONS**

### **5. What options do I have with respect to the Settlement?**

You have three options: (1) do nothing and you will receive a payment according to the terms of this Settlement; (2) exclude yourself from the settlement ("opt-out" of it); or (3) participate in the Settlement but object to it. Each of these options is described in a separate section below.

### **6. What are the critical deadlines?**

There is no deadline to receive a payment. If you do nothing, then you will get a payment or forgiveness of Uncollected Fees.

The deadline for sending a letter to exclude yourself from or opt-out of the settlement is [REDACTED].

The deadline to file an objection with the Court is also [REDACTED].

### **7. How do I decide which option to choose?**

If you do not like the Settlement and you believe that you could receive more money by pursuing your claims on your own (with or without an attorney that you could hire) and you are comfortable with the risk that you might lose your case or get less than you would in this Settlement, then you may want to consider opting out.

If you believe the Settlement is unreasonable, unfair, or inadequate and the Court should reject the Settlement, you can object to the Settlement terms. The Court will decide if your objection is valid. If the Court agrees, then the Settlement may not be approved and no payments will be made to you or any other member of the Class. If your objection (and any other objection) is overruled and the Settlement is approved, then you may still get a payment and/or forgiveness of Uncollected Fees and will be bound by the Settlement.

If you want to participate in the Settlement, then you don't have to do anything. You will receive a payment if the Settlement is approved by the Court.

### **8. What has to happen for the Settlement to be approved?**

The Court has to decide that the Settlement is fair, reasonable, and adequate before it will approve it. The Court already has decided to provide Preliminary Approval of the Settlement, which is why you received a Notice. The Court will make a final decision regarding the Settlement at a "Fairness Hearing" or "Final Approval Hearing," which is currently scheduled for [REDACTED].

## THE SETTLEMENT PAYMENT

### **9. How much is the Settlement?**

Defendant has agreed to create a Settlement Fund of \$2,750,000.00. It will also forgive Uncollected Fees totaling approximately \$150,750.00, as defined in the Settlement Agreement, and change its practices regarding the Relevant Fees going forward.

As discussed separately below, attorneys' fees, litigation costs, and the costs paid to a third-party Settlement Administrator to administer the Settlement (including mailing and emailing notice) will be paid out of the Settlement Fund. The Net Settlement Fund will be divided among all Settlement Class Members entitled to Settlement Class Member Payments based on formulas described in the Settlement Agreement.

### **10. How much of the Settlement Fund will be used to pay for attorney fees and costs?**

Class Counsel will request the Court to approve attorneys' fees of not more than 33.33% of the Value of the Settlement and will request that it be reimbursed for litigation costs incurred in prosecuting the case. The Court will decide the amount of the attorneys' fees and costs based on a number of factors, including the risk associated with bringing the case on a contingency basis, the amount of time spent on the case, the amount of costs incurred to prosecute the case, the quality of the work, and the outcome of the case.

### **11. How much of the Settlement Fund will be used to pay the Class Representative a Service Award?**

Class Counsel will request that the Class Representative be paid a service award in the amount of \$5,000.00 each for their work in connection with this case. The Service Awards must be approved by the Court.

### **12. How much will my payment be?**

The balance of the Settlement Fund after attorneys' fees and costs, the service award, and the Settlement Administrator's fees, also known as the Net Settlement Fund, will be divided among all Settlement Class Members entitled to Settlement Class Member Payments in accordance with the formulas outlined in the Settlement Agreement. Current customers of Defendant will receive a credit to their Accounts for the amount they are entitled to receive. Former customers of Defendant shall receive a check from the Settlement Administrator. Settlement Class Members entitled to forgiveness of Uncollected Fees shall receive this benefit automatically.

### **13. Do I have to do anything if I want to participate in the Settlement?**

No. If you received this Notice, then you may be entitled to receive a payment for a Relevant Fee and/or forgiveness of Uncollected Fees without having to make a claim, unless you choose to exclude yourself from the settlement or "opt out."

### **14. When will I receive my payment?**

The Court will hold a Final Approval Hearing on [REDACTED], at [REDACTED] to consider whether the Settlement should be approved. If the Court approves the Settlement, then payments should be made or credits should be issued approximately 90 days later. However, if someone objects to the

Settlement, and the objection is sustained, then there is no Settlement. Even if all objections are overruled and the Court approves the Settlement, an objector could appeal, and it might take months or even years to have the appeal resolved, which would delay any payment.

### **EXCLUDING YOURSELF FROM THE SETTLEMENT**

#### **15. How do I exclude myself from the settlement?**

If you do not want to receive a payment or if you want to keep any right you may have to sue Defendant for the claims alleged in this lawsuit, then you must exclude yourself, or “opt-out.”

To opt-out, you **must** send a letter to the Settlement Administrator that you want to be excluded. Your letter can simply read, “I hereby elect to be excluded from the settlement in the *Coleman-Curtis v. One Nevada Credit Union* class action. Be sure to include your name, the last four digits of your account number(s) or former account number(s), address, telephone number, and email address. Your exclusion or opt-out request must be postmarked by [REDACTED], and sent to:

Coleman-Curtis v. One Nevada Credit Union

Attn:

**ADDRESS OF THE SETTLEMENT ADMINISTRATOR**

#### **16. What happens if I opt-out of the Settlement?**

If you opt-out of the Settlement, you will preserve and not give up any of your rights to sue Defendant for the claims alleged in this case. However, you will not be entitled to receive a payment from the settlement.

### **OBJECTING TO THE SETTLEMENT**

#### **17. How do I notify the Court that I do not like the Settlement?**

You can object to the settlement or any part of it that you do not like **IF** you do not exclude yourself, or opt-out, from the Settlement. (Settlement Class members who exclude themselves from the Settlement have no right to object to how other Settlement Class members are treated.) To object, you **must** send a written document by mail or private courier (e.g., Federal Express) to the Clerk of Court, Settlement Administrator, Class Counsel, and Defendant’s Counsel at the addresses below. Your objection must include the following information:

- a. the name of the Action;
- b. the objector’s full name, address, and telephone number;
- c. all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector’s counsel;
- d. the number of times the objector has objected to a class action settlement within the five years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector’s prior objections that were issued by the trial



- and appellate courts in each listed case;
- e. the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement or fee application;
  - f. the number of times in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the five years preceding the date that of the filed objection, the caption of each case in which counsel or the firm has made such objection and a copy of any orders related to or ruling upon counsel's or the counsel's law firm's prior objections that were issued by the trial and appellate courts in each listed case in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the preceding five years;
  - g. any and all agreements that relate to the objection or the process of objecting—whether written or oral—between objector or objector's counsel and any other person or entity;
  - h. the identity of all counsel (if any) representing the objector who will appear at the Final Approval Hearing;
  - i. a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection;
  - j. a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and
  - k. the objector's signature (an attorney's signature is not sufficient).

All objections must be post-marked no later than [REDACTED], and must be mailed to the Settlement Administrator as follows:

**ADDRESS OF THE SETTLEMENT ADMINISTRATOR**

**18. What is the difference between objecting and requesting exclusion from the settlement?**

Objecting is telling the Court that you do not believe the Settlement is fair, reasonable, and adequate for the Settlement Class and you are asking the Court to reject it. You can object only if you do not opt-out of the settlement. If you object to the Settlement and do not opt-out, then you are entitled to a payment for a Relevant Fee and/or forgiveness of Uncollected Fees if the Settlement is approved, but you will release claims you might have against Defendant. Excluding yourself or opting-out is telling the Court that you do not want to be part of the Settlement, and you do not want to receive a payment for a Relevant Fee or forgiveness of Uncollected Fees or release claims you might have against Defendant for the claims alleged in this lawsuit.

**19. What happens if I object to the Settlement?**

If the Court sustains your objection or the objection of any other member of the Settlement Class, then there is no Settlement. If you object, but the Court overrules your objection and any other objection(s), then you will be part of the Settlement.

**THE COURT’S FINAL APPROVAL HEARING**

**20. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Final Approval or Fairness Hearing at [redacted] on [redacted], 2024 at the Regional Justice Center of the Eighth Judicial District Court of Clark County, Nevada, which is located at 200 Lewis Avenue, Las Vegas, Nevada 89155. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court may also decide how much to award Class Counsel for attorneys’ fees and litigation costs and the amount of the Service Award to the Class Representative. The hearing may be virtual, in which case the instructions to participate shall be posted on the website at [www.\[redacted\]](#).

**21. Do I have to come to the hearing?**

No. Class Counsel will answer any questions the Court may have. You may attend if you desire to do so. If you have submitted an objection, then you may want to attend.

**22. May I speak at the hearing?**

If you have objected, you may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must include with your objection, as described in Question 18 above, and the statement: “I hereby give notice that I intend to appear at the Final Approval Hearing.”

**THE LAWYERS REPRESENTING YOU**

**23. Do I have a lawyer in this case?**

The Court ordered that the lawyers and their law firms referred to in this notice as “Class Counsel” will represent you and the other Settlement Class members.

**24. Do I have to pay the lawyer for accomplishing this result?**

No. Class Counsel will be paid directly from the Settlement Fund.

**25. Who determines what the attorneys’ fees will be?**

The Court will be asked to approve the amount of attorneys’ fees at the Fairness Hearing. Class Counsel will file an application for attorneys’ fees and costs and will specify the amount being sought as discussed above. You may review a physical copy of the fee application at the website established by the Settlement Administrator or by requesting the court record online from the Eighth Judicial District Court of Clark County, Nevada at [HERE](#).

## **GETTING MORE INFORMATION**

This Notice only summarizes the proposed Settlement. More details are contained in the Settlement Agreement, which can be viewed/obtained online at [[WEBSITE](#)] or at the [Clerks Office for the Eighth Judicial District Court of Clark County, Nevada, which is located at 200 Lewis Avenue, Las Vegas, Nevada 89155](#), by asking for the Court file containing the Motion For Preliminary Approval of Class Settlement (the settlement agreement is attached to the motion) or obtaining a copy online at [HERE](#).

For additional information about the settlement and/or to obtain copies of the Settlement Agreement, or to change your address for purposes of receiving a payment, you should contact the Settlement Administrator as follows:

Latanya Coleman-Curtis v. One Nevada Credit Union  
Settlement Administrator  
Attn:

For more information, you also can contact the Class Counsel as follows:

James J. Jimmerson  
The Jimmerson Law Firm, P.C.  
415 South Sixth Street, Suite 100  
Las Vegas, Nevada  
(702) 388-7171  
[jmj@jimmersonlawfirm.com](mailto:jmj@jimmersonlawfirm.com)

Sophia G. Gold  
Jeffrey D. Kaliel  
KalielGold PLLC  
1100 15<sup>th</sup> St NW, 4<sup>th</sup> Floor  
Washington, D.C. 20005  
(202) 350-4783  
[sgold@kalielgold.com](mailto:sgold@kalielgold.com)  
[jkaliel@kalielgold.com](mailto:jkaliel@kalielgold.com)

Christopher D. Jennings  
Tyler B. Ewigleben  
Jennings PLLC  
P.O. Box 25972  
[chris@jenningspllc.com](mailto:chris@jenningspllc.com)  
[tyler@jenningspllc.com](mailto:tyler@jenningspllc.com)

***PLEASE DO NOT CONTACT THE COURT OR ANY REPRESENTATIVE OF  
DEFENDANT CONCERNING THIS NOTICE OR THE SETTLEMENT.***