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**FIRST CIRCUIT**

**1CCV-24-0000154**

**23-SEP-2024**

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**IN THE CIRCUIT COURT FOR THE FIRST CIRCUIT**

**STATE OF HAWAII**

JOSEPH SMITH AND TONY LEE,  
individually, and on behalf of all others  
similarly situated,

Plaintiffs,

v.

HAWAIIUSA FEDERAL CREDIT UNION,

Defendant.

Case No.: 1CCV-24-0000154

**ORDER GRANTING FINAL APPROVAL  
OF CLASS SETTLEMENT;  
EXHIBIT "A"**

**HEARING:**

Date: September 17, 2024

Time: 2:00 p.m.

Judge: The Honorable Karin L. Holma

## ORDER GRANTING FINAL APPROVAL OF CLASS SETTLEMENT

Plaintiffs' Motion for Final Approval of Class Action Settlement, filed September 3, 2024 [Dkt. 59], (the "Motion") came for hearing before the Honorable Karin L. Holma on September 17, 2024 at 2:00 p.m. Robert M. Hatch, Esq. appeared in-person on behalf of local counsel for JOSEPH SMITH AND TONY LEE and the Proposed Class ("Plaintiffs"). Gary M. Klinger, Esq. also appeared remotely as *pro hac vice* for JOSEPH SMITH AND TONY LEE and the Proposed Class ("Plaintiffs"). Abigail M. Holden, Esq. appeared in-person on behalf of local counsel for DEFENDANT HAWAIIUSA FEDERAL CREDIT UNION, ("Defendant"). Sarah A. Ballard also appeared remotely as *pro hac vice* for DEFENDANT HAWAIIUSA FEDERAL CREDIT UNION, ("Defendant"). No other appearances were made in this matter.

The Court, having considered the Motion, declaration in support thereof, the Statement of No Objections as to Plaintiffs' Motion for An Award of Attorneys' Fees Reimbursement of Expenses, and Service Awards for Class Representatives, Filed July 12, 2024 [Dkt. 57], filed September 9, 2024 [Dkt. 63]; and Statement of No Objection As To Plaintiffs' Motion for Final Approval of Class Action Settlement, Filed September 3, 2024 [DKT. 59], filed September 9, 2024 [Dkt. 63] the records and pleadings on file, being fully apprised in the premises, good cause appearing therefor, and for the reasons stated on the record, **IT IS HEREBY ORDERED that the Motion is GRANTED as follows:**

The Court enters an Order granting final approval of the class action settlement involving Plaintiffs Joseph Smith and Tony Lee, individually and on behalf of all others similarly situated ("Plaintiffs" or "Settlement Class Representatives"), and Defendant HawaiiUSA Federal Credit Union ("Defendant") as fair, reasonable and adequate, awarding attorneys' fees and costs to Class Counsel as outlined herein, and awarding service awards to Plaintiffs as detailed below.

Having reviewed and considered the Settlement Agreement and the motion for final approval of the settlement, an award of attorneys' fees and costs, and service awards to the Plaintiffs and having conducted a Final Fairness Hearing, the Court makes the following findings and grants the relief set forth below approving the settlement upon the terms and conditions set forth in this Final Order and Judgment.

**THE COURT** not being required to conduct a trial on the merits of the case or to determine with certainty the factual and legal issues in dispute when determining whether to approve a proposed class action settlement; and

**THE COURT** makes the findings and conclusions hereinafter set forth for the limited purpose of determining whether the settlement should be approved as being fair, reasonable, adequate under Hawai'i Rule of Civil Procedure 23, and in the best interests of the Settlement Class;

1. The settlement involves allegations set forth in Plaintiffs' Class Action Complaint that Defendant failed to adequately safeguard the private information of individuals saved in its systems from the Data Incident that may have resulted in the compromise of certain of their personal information.

2. The settlement does not constitute an admission of liability by Defendant, and the Court expressly does not make any finding of liability or wrongdoing by Defendant.

3. Unless otherwise noted, words spelled in this Order with initial capital letters have the same meaning as set forth in the Settlement Agreement.

4. On May 3, 2024, this Court entered an Order which among other things: (a) approved the notice to the Settlement Class, including approval of the form and manner of notice under the notice program set forth in the Settlement Agreement; (b) provisionally certified a class

in this matter, including defining the class, appointed Plaintiffs as the Settlement Class Representatives, and appointed Settlement Class Counsel; (c) preliminarily approved the settlement; (d) set deadlines for opt-outs and objections; (e) approved and appointed the Claims Administrator and (f) set the date for the Final Fairness Hearing.

5. In the Order Granting the Motion for Preliminary Approval of Class Settlement Agreement, for settlement purposes only, the Court certified the Settlement Class, defined as follows:

All persons in the United States to whom HawaiiUSA mailed a notification that their information may have been impacted in the Data Incident.

Excluded from the Settlement Class are; (i) HawaiiUSA and its respective officers and directors; (ii) all members of the Settlement Class who timely and validly request exclusion from the Settlement Class; (iii) the Judge and Magistrate Judge assigned to evaluate the fairness of this settlement; and (iv) any other Person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding, or abetting the Data Incident or who pleads nolo contendere to any such charge.

6. The Court, having reviewed the terms of the Settlement Agreement submitted by the parties, grants final approval of the Settlement Agreement and finds that the settlement is fair, reasonable and adequate and meets the requirements of Hawai'i Rule of Civil Procedure 23.

7. The terms of the Settlement Agreement are fair, reasonable and adequate and are hereby approved, adopted and incorporated by the Court. The Parties, their respective attorneys, and the Claims Administrator are hereby directed to consummate the settlement in accordance with this Order and the terms of the Settlement Agreement.

8. Notice of the Final Fairness Hearing, the proposed motion for attorneys' fees, costs and expenses, and the proposed service award payment to Plaintiffs have been provided to Settlement Class Members as directed by this Court's Orders, and an affidavit or declaration of the Claims Administrator's compliance with the notice program has been filed with the Court.

9. The Court finds that such notice as therein ordered, constitutes the best possible notice practicable under the circumstances and constitutes valid, due and sufficient notice to all Settlement Class Members in compliance with the requirements of Hawai'i Rule of Civil Procedure 23(e).

10. As of the final date for Settlement Class Members to submit a request for exclusion, four potential Settlement Class Members have submitted a valid request to be excluded from the Settlement. The names of those persons are set forth in **Exhibit A** to this Order. Those persons are not bound by this Final Order and Judgment, as set forth in the Settlement Agreement.

11. The Court has considered all the documents filed in support of the settlement, and has fully considered all matters raised, all exhibits and affidavits filed, all evidence received at the Final Fairness Hearing, all other papers and documents comprising the record herein, and all oral arguments presented to the Court.

12. Further to the Settlement Agreement, on the Effective Date and in consideration of the promises and covenants set forth in this Settlement Agreement, Plaintiffs and the Settlement Class Members release claims against Defendant and all Released Persons. The releases set forth in the Settlement Agreement are expressly incorporated herein in all respects. The releases are effective as of the Effective Date. Accordingly, this Court orders that, upon the Effective Date, and in consideration of the Settlement benefits described in the Settlement Agreement, each

Settlement Class Members shall be deemed to have released, acquitted, and forever discharged Defendants and each of the Released Persons from any and all Released Claims.

13. Pursuant to the Settlement Agreement, and in recognition of their efforts on behalf of the Settlement Class, the Court approves payments to Plaintiffs in the amount of \$1,500 each as a service award for their efforts on behalf of the Settlement Class. Class Counsel shall make such payment in accordance with the terms of the Settlement Agreement.

14. The Court has appointed Cafferty Clobes Meriwether & Sprengel LLP, Milberg Coleman Bryson Phillips Grossman, PLLC, and Bronster Fujichaku Robbins as Class Counsel.

15. The Court, after careful review of the time entries and rates requested by Settlement Class Counsel and after applying the appropriate standards required by relevant case law, hereby grants Settlement Class Counsel's application for attorneys' fees and costs in the amount of \$250,000. Payment shall be made pursuant to the terms of the Settlement Agreement.

16. The matter is hereby dismissed with prejudice and without costs except that the Court reserves jurisdiction over the consummation and enforcement of the Settlement.

17. In accordance with Hawai'i Rule of Civil Procedure 23, this Final Order and Judgment resolves all claims against all parties in this Litigation and is a final order.

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18. There is no just reason to delay the entry of final judgment in this matter, and the Clerk is directed to file this Order as the final judgment in this matter.

DATED: Honolulu, Hawai'i, September 23, 2024.

/s/Karin L. Holma 

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JUDGE OF THE ABOVE-ENTITLED COURT

**APPROVED AS TO FORM:**

/s/ Abigail M. Holden, Esq.

ABIGAIL M. HOLDEN, ESQ.

Attorney for Defendant

HAWAIIUSA FEDERAL CREDIT UNION

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JOSEPH SMITH, et al. v. HAWAIIUSA FEDERAL CREDIT UNION; Case No.: 1CCV-24-0000154 **(PROPOSED) ORDER GRANTING FINAL APPROVAL OF CLASS SETTLEMENT**

**EXHIBIT A**



## Exclusion Requests

*Smith, et al. v. HawaiiUSA Federal Credit Union, Case No. 1CCV-24-0000154*

<b>Count</b>	<b>First Name</b>	<b>Last Name</b>	<b>State</b>	<b>Postmark Date</b>
1	Jay	Omaye	HI	6/11/2024
2	Jeanne	Omaye	HI	6/11/2024
3	Rex	Shilo	HI	7/17/2024
4	Janice	Selga (Choy)	HI	7/25/2024