

02/21/2024 at 04:32:00 PM

Clerk of the Superior Court  
By Mariejo Guyot, Deputy Clerk

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**FOR THE COUNTY OF SAN DIEGO, HALL OF JUSTICE**

ELAINE WARD-HOWIE, on behalf of herself  
and all others similarly situated,

Plaintiff,

vs.

FRONTWAVE CREDIT UNION,

Defendant.

Case No. 37-2022-00016328-CU-BC-CTL  
Assigned to: Hon. Katherine A. Bacal  
Dept. C-69

**REVISED ~~[PROPOSED]~~ ORDER  
GRANTING PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

**[Notice of Filing Revised Long Form  
Notice and Revised Long Form Notice  
filed concurrently herewith]**

**Date: February 9, 2024**  
**Time: 1:30 a.m.**  
**Dept: C-69**

**Final Approval Hearing: July 12, 2024**  
**Time: 1:30 p.m.**  
**Dept: C-69**

Amended Complaint Filed: January 4, 2023  
Complaint Filed: April 29, 2022  
Trial Date: None Set

**THIS MATTER HAVING** come before this Court on Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement in the above-captioned action (the "Motion"). The Court having reviewed the Motion and the Settlement Agreement and Releases and attachments thereto, executed by the Parties, and submitted to the Court with the Motion, and good cause

1 appearing;

2 **IT IS HEREBY ORDERED** as follows:

3 1. Capitalized terms in this Order have the same meaning they are given in the Agreement  
4 filed with the Motion.

5 2. For purposes of the Settlement, and conditioned upon the Settlement receiving Final  
6 Approval following the Final Approval Hearing, the Court preliminarily certifies the Settlement  
7 Class, consisting of the APPSN Fee Class and Retry Fee Class, defined as follows and subject to the  
8 stated exclusions below, for settlement purposes only:

9 “APPSN Fee Class” means those current or former members of Defendant who  
10 were assessed APPSN Fees from April 29, 2018 through June 30, 2022.

11 “Retry Fee Class” shall mean those current or former members of Defendant who  
12 were assessed Retry Fees from January 4, 2019 through June 30, 2022.

13 3. Excluded from the Settlement Class is Defendant, its parents, subsidiaries, affiliates,  
14 officers, and directors; all Settlement Class members who make a timely election to be excluded; and  
15 all judges assigned to this litigation and their immediate family members.

16 4. The Court grants Preliminary Approval of the Settlement based on the terms set forth  
17 in the Settlement Agreement. The Settlement appears to be fair, reasonable, and adequate to the  
18 Settlement Class and presumptively valid, subject to any objections that may be raised before the  
19 Final Approval Hearing. The Court preliminarily finds that, for purposes of Settlement: (a) the  
20 number of members in the Settlement Class is so numerous that joinder is impracticable and that they  
21 are ascertainable from Defendant’s records; (b) the required community of interest exists as there are  
22 predominate questions of law and fact common to the members in the Settlement Class and the claims  
23 of the Plaintiff are typical of the claims of the members in the Settlement Class; (c) the Plaintiff is an  
24 adequate representative for the Settlement Class, and has retained experienced and adequate Class  
25 Counsel; and (d) a class action is superior to the other available methods for the fair and efficient  
26 adjudication of the controversy.

27 5. For purposes of Settlement only, the Court preliminarily finds and determines that  
28 Plaintiff Elaine Ward-Howie, will fairly and adequately represent the interests of the Settlement Class

1 in enforcing their rights in the Action, and preliminarily appoints her as the Class Representative.

2 6. For purposes of the Settlement only, the Court preliminarily approves Sophia Goren  
3 Gold and Jeffrey D. Kaliel of KalielGold PLLC and Jeff Ostrow of Kopelowitz Ostrow P.A. as Class  
4 Counsel.

5 7. The Court approves Epiq Class Action & Claims Solutions, Inc. as Settlement  
6 Administrator. The Settlement Administrator shall abide by the terms and conditions of the  
7 Agreement that pertain to the Settlement Administrator.

8 8. The Settlement, on the terms and conditions stated in the Agreement, is preliminarily  
9 approved by this Court as being fair, reasonable and adequate, free of collusion or indicia of  
10 unfairness, and within the range of possible final judicial approval.

11 9. The Final Approval Hearing Date shall be held on **July 12, 2024 at 1:30 p.m.** before  
12 the Honorable Katherine A. Bacal in Department C-69 of the Superior Court of the State of California,  
13 County of San Diego, located at San Diego County Superior Court, Hall of Justice, 330 W. Broadway,  
14 San Diego, California 92101, to consider: (a) the fairness, reasonableness and adequacy of the  
15 proposed Settlement; (b) any objections made by Settlement Class Members to the proposed  
16 Settlement; (c) whether the Settlement should be finally approved by this Court; (d) Class Counsel's  
17 Application for Attorneys' Fees, Costs, and Incentive Award; and (e) such other matters as this Court  
18 may deem proper and necessary.

19 10. Class Counsel are to file and serve the Motion for Final Approval and the Application  
20 for Attorneys' Fees, Costs, and Incentive Award on or before 45 days prior to the original date set for  
21 the Final Approval Hearing. The Application for Attorneys' Fees, Costs, and Incentive Award will  
22 be heard concurrently with the Motion for Final Approval.

23 11. The Court approves as to form and content the Email Notice and Postcard Notice  
24 attached as Exhibit 1 to the Agreement, and the revised version of the Long Form Notice (Exhibit 2  
25 to the Agreement) the Court required in its February 9, 2024 Tentative.<sup>1</sup> The Court approves the  
26 procedure for Settlement Class members to opt-out from and Settlement Class Members to object to

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28 <sup>1</sup> Plaintiff filed the revised Long Form Notice on February 9, 2024.

1 the Settlement as set forth in the Notices. The Parties may by mutual written consent make non-  
2 substantive changes to the Notices without Court approval. The Settlement Administration Costs,  
3 including but not limited to the costs of giving Notice to the Settlement Class, will be paid from the  
4 Settlement Fund.

5 12. The Court directs the sending of the Notices in accordance with the schedule set forth  
6 below. The Court finds that the Email Notice, Postcard Notice, and Long Form Notice, as set forth  
7 in Exhibits 1 and 2 to the Agreement, and approved by this Preliminary Approval Order, and the  
8 manner of giving notice meet the requirements of due process and provide the best notice practicable,  
9 and is reasonably calculated, under the circumstances, to apprise the Settlement Class members of the  
10 pendency of the Action and their right to participate in, object to, or opt-out from the Settlement. This  
11 Court further finds that the Email Notice, Postcard Notice, and Long Form Notice are due and  
12 sufficient notice of the Final Approval Hearing, the Settlement, the Motion for Final Approval and  
13 Application for Attorneys' Fees, Costs, and Incentive Award, and other matters set forth in the  
14 Agreement, and that the Email Notice, Postcard Notice, and Long Form Notice fully satisfy California  
15 Rules of Court and due process of law, to all persons entitled thereto.

16 13. Any member of the Settlement Class who intends to object to the fairness,  
17 reasonableness and adequacy of the Settlement, Class Counsel's application for attorneys' fees and  
18 costs, and the application for an Incentive Award for the Plaintiff as Class Representative must object.  
19 Written objections must be sent by first class mail, postage pre-paid, to the Settlement Administrator  
20 at the address set forth on the Notices and postmarked no later than the last day of the Objection  
21 Period, which is 30 days before the original date set for the Final Approval Hearing. The approved  
22 Long Form Notice provides information requested to be included in a written objection. The Court  
23 will consider all timely objections. The Parties may argue that an objection should be rejected because  
24 information required by this paragraph is omitted. The Court will consider such arguments at the Final  
25 Approval Hearing on a case-by-case basis.

26 14. Members of the Settlement Class may elect to opt-out from the Agreement if they  
27 submit a request to do so postmarked by the last day of the Opt-Out Period, which is 30 days before  
28 the original date set for the Final Approval Hearing. A signed and mailed opt-out notice must be sent

1 to the Settlement Administrator. To confirm its validity, the opt-out notice shall identify the  
2 Settlement Class member's name, the last four digits of the member number(s), address, telephone  
3 number, and email address (if any), and include a statement indicating a request to be excluded from  
4 the Settlement Class. If an Account has more than one Accountholder, and if one Accountholder opts-  
5 out himself or herself from the Settlement Class, then all Accountholders on that Account shall be  
6 deemed to have opted-out of the Settlement with respect to that Account and no Accountholder shall  
7 be entitled to a payment under the Settlement. Any Settlement Class member who timely and properly  
8 requests exclusion in compliance with these requirements will not be included in the Settlement Class,  
9 will not have any rights of Settlement Class Members under the Settlement, will not be entitled to  
10 receive a Settlement Class Member Payment or forgiveness of Uncollected Relevant Fees, and will  
11 not be bound by the Agreement or the Final Approval Order. Settlement Class members who do not  
12 submit a valid and timely opt-out notice shall be bound by all terms of the Agreement and the Final  
13 Approval Order, regardless of whether they have requested to be opted-out from the Settlement.

14 15. Any Settlement Class member who submits a timely opt-out request may not file an  
15 objection to the Settlement and shall be deemed to have waived any rights or benefits under the  
16 Agreement.

17 16. All pretrial proceedings in this action are stayed until further order of this Court, except  
18 such actions as may be necessary to implement the Agreement and this Preliminary Approval Order.

19 17. For the benefit of the Settlement Class and to protect this Court's jurisdiction, this  
20 Court retains continuing jurisdiction over the Settlement proceedings to ensure the effectuation  
21 thereof in accordance with the Settlement preliminarily approved herein and the related orders of this  
22 Court.

23 18. The Parties are directed to carry out their obligations under the Agreement.

24 19. Class Counsel shall serve a copy of this Preliminary Approval Order on all named  
25 Parties or their counsel within 7 days of receipt.

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1           20.     The Court orders the following implementation schedule for further proceedings:<sup>2</sup>

<b>Deadline to Complete Notice Program</b>	May 13, 2024 60 days before Final Approval Hearing
<b>Deadline to file Motion for Final Approval and Application for Attorneys' Fees, Costs, and Incentive Award</b>	May 28, 2024 45 days before Final Approval Hearing
<b>Deadline for Settlement Class members to Opt-Out of the Settlement</b>	June 12, 2024 30 days before Final Approval Hearing
<b>Deadline for Settlement Class Members to make Objections to the Settlement</b>	June 12, 2024 30 days before Final Approval Hearing
<b>Deadline to file written response to Objections</b>	June 27, 2024 15 days prior to Final Approval Hearing
<b>Final Approval Hearing</b>	<b>July 12, 2024</b> at 1:30 p.m.

11 **IT IS SO ORDERED.**

12 Dated: 02/21/2024

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14 The Honorable Katherine A. Bacal  
15 Judge of the Superior Court

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27 <sup>2</sup> All references to the Final Approval Hearing in the implementation refers to the original date set for  
28 the Final Approval Hearing.

**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF SAN DIEGO**

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the District of Columbia. My business address is 950 Gilman Avenue, Suite 200, Berkeley, California 94710.

On February 9, 2024, I served true copies of the following document(s) described as:

**REVISED [PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

on the interested parties in this action as follows:

Stuart M. Richter	Attorneys for Defendant
Camille A. Brooks	FRONTWAVE CREDIT UNION
Ashley T. Brines	
KATTEN MUCHIN ROSENMAN LLP	
2029 Century Park East, Suite 2600	
Los Angeles, CA 90067-3012	

**BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with KalielGold PLLC's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

**BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused a copy of the document(s) to be sent from e-mail address ngarcia@kalielpllc.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on February 9, 2024, at Los Angeles, California.

  
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NEVA GARCIA