

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

ANGELIQUE BROWER, on behalf of  
herself and all others similarly situated,

Plaintiff,

v.

NORTHWEST COMMUNITY CREDIT  
UNION,

Defendant.

Case No. 20CV38608

**ORDER PRELIMINARILY APPROVING  
CLASS SETTLEMENT, APPOINTING  
CLASS COUNSEL, DIRECTING  
NOTICE, AND SETTING DATE FOR  
FINAL APPROVAL HEARING**

Hon. Andrew M. Lavin

WHEREAS, Plaintiff Angelique Brower, individually and on behalf of a proposed Settlement Class, and Defendant Northwest Community Credit Union (NWCCU), all acting by and through their respective counsel, have agreed, subject to Court approval, to settle this Action upon the terms and conditions stated in the Settlement Agreement:

NOW, THEREFORE, based upon the Settlement Agreement, upon the files, records, and proceedings herein, statements of counsel, and it appearing to the Court that a hearing should be held to determine whether the proposed Settlement described in the Settlement Agreement should be finally approved as fair, reasonable, and consistent with precedent concerning class settlements in Oregon.

IT IS HEREBY ORDERED THAT:

1. All capitalized terms herein shall have the same meanings as those in the Settlement Agreement.
2. The Court has jurisdiction over the subject matter of this Action and personal

1 jurisdiction over the Parties, including the Named Plaintiff and Potential Settlement Class  
2 Members.

3 3. The Court preliminarily approves the Settlement, including the Notice to be sent  
4 to the Potential Settlement Class Members, finding that the proposed Settlement is sufficiently  
5 fair, reasonable, and consistent with precedent concerning class settlements in Oregon to warrant  
6 providing Notice to the Settlement Class, but such finding is not to be deemed as an admission of  
7 fault or liability by Defendant or a finding of the validity of any claims asserted in the Action or  
8 of any wrongdoing or of any violation of law by Defendant. Defendant shall maintain all rights  
9 to assert that but for settlement purposes, the Action should not be certified as a class.

10 4. For purposes of determining whether the Court should finally approve the terms  
11 of the proposed Settlement as fair, reasonable, and consistent with precedent concerning class  
12 settlements in Oregon, the following Settlement Class is preliminarily certified for settlement  
13 purposes only:

14 All accountholders who incurred a Retry NSF/Overdraft Fee during  
15 the Class Period.

16 “Class Period” shall mean: October 1, 2015 through February 28,  
17 2021.

18 Excluded from the Settlement Class are Defendant, its subsidiaries, affiliates, officers and  
19 directors, all Potential Settlement Class Members who make a timely election to be excluded, and  
20 all judges assigned to this litigation and their immediate family members.

21 5. The Court preliminarily finds that the terms of the Settlement are fair, adequate,  
22 and consistent with precedent concerning class settlements in Oregon. In so finding, the Court  
23 finds the Settlement presumptively fair because it was the product of arm’s-length bargaining  
24 with the benefit of discovery, and the amount of the Settlement is fair and reasonable.

25 6. The Court finds that, solely for purposes of settlement: (a) the number of  
26 members of the Settlement Class is so numerous that joinder is impracticable; (b) there are

1 questions of law and fact common to the members of the Settlement Class; (c) the claims of the  
2 Named Plaintiff are typical of the claims of the members of the Settlement Class; (d) the Named  
3 Plaintiff is an adequate representatives for the Settlement Class, and has retained experienced  
4 and adequate Class Counsel; (e) the questions of law and fact common to the members of the  
5 Settlement Class predominate over any questions affecting any individual members of the  
6 Class; and (f) a class action is superior to the other available methods for the fair and efficient  
7 adjudication of this controversy.

8         7. For purposes of settlement only, the Court finds and determines that Plaintiff will  
9 fairly and adequately represent the interests of the Class in enforcing their rights in the action,  
10 and preliminarily appoints Plaintiff Brower as class representative. The Court preliminarily  
11 appoints the following attorneys as Class Counsel for the Settlement Class:

12             The Kick Law Firm APC

13             KalielGold PLLC

14             Sugerman Dahab

15         8. The Parties have selected Epiq Systems to serve as the Settlement Administrator.  
16 The Court hereby approves of and appoints Epiq Systems as the Settlement Administrator and  
17 directs it to commence sending Notice to the Potential Settlement Class Members and to  
18 otherwise comply with all obligations of the Settlement Administrator as outlined in the  
19 Agreement.

20         9. The Parties have prepared the Post Card Notice, and Long Form Notice, which  
21 are attached to the Settlement Agreement as Exhibits 1-2. The Court preliminarily finds that the  
22 notice provided to Potential Settlement Class Members (i) is the best practicable notice; (ii) is  
23 reasonably calculated, under the circumstances, to apprise Potential Settlement Class Members  
24 of the pendency of the Action and of their right to object or to exclude themselves from the  
25 Settlement; and (iii) is reasonable and constitutes due, adequate, and sufficient notice to all  
26 Potential Settlement Class Members entitled to receive notice.

1           10.     The Court has carefully reviewed and hereby approves the Notice as to form and  
2 content and directs that it be sent to Potential Settlement Class Members without material  
3 alteration unless otherwise modified by agreement of the Parties and approved by the Court. The  
4 Court directs that Notice be sent to the Settlement Class in the manner outlined in the Settlement  
5 Agreement.

6           11.     Potential Settlement Class Members who wish to opt out of the Settlement and  
7 exclude themselves from participation may do so by submitting timely and valid requests at any  
8 time before the Bar Date to Opt-Out. The process to opt out is set forth in the Agreement and in  
9 the Notice. Potential Settlement Class Members who opt out shall have no rights under the  
10 Settlement, shall not share in any of the benefits of the Settlement, and shall not be bound by the  
11 Settlement or by any Final Approval Order and judgment approving the Settlement.

12          12.     All Settlement Class Members who do not submit a timely, written request for  
13 exclusion in the manner set forth in the Notice and Agreement shall be bound by any Final  
14 Approval Order and judgment entered, even if such Settlement Class Members never received  
15 actual notice of this Action or the Settlement. If Final Approval of the Settlement is granted, they  
16 shall be barred, now and in the future, from asserting any of the Released Claims, as defined in  
17 the Settlement Agreement, against any Released Parties as defined in the Settlement Agreement.

18          13.     Settlement Class Members who wish to object to the Settlement and/or to Class  
19 Counsel's application for attorneys' fees and costs and/or a Service Award to the Named  
20 Plaintiff shall file any objections pursuant to the requirements of this paragraph. To be valid and  
21 considered by the Court, the objection must be in writing and sent by first class mail, postage  
22 pre-paid, to the Court, and Settlement Administrator, Class Counsel, and Defendant's Counsel.  
23 The objection must be postmarked on or before the Bar Date to Object, and must include the  
24 following information: (a) a heading referring to the *Brower v. NWCCU* Action; (b) the  
25 objector's name, address, telephone number, the last four digits of either his or her account  
26 number (current or former) or Social Security Number, and the contact information for any

1 attorney retained by the objector in connection with the objection or otherwise in connection  
2 with this case; (c) a statement of the factual and legal basis for each objection and any exhibits  
3 the objector wishes the Court to consider in connection with the objection; and (d) a statement as  
4 to whether the objector intends to appear at the Final Approval Hearing, either in person or  
5 through counsel, and, if through counsel, identifying the counsel by name, address, and  
6 telephone number. Class Counsel and/or Defendant's Counsel shall file any responses to  
7 objections at least seven (7) days prior to the Final Approval Hearing Date. Any objector who  
8 retains counsel shall be solely responsible for paying his or his own attorney's fees and costs.  
9 Any objector who fails to comply with the provisions herein shall waive and forfeit any and all  
10 rights to appear and/or object separately and shall be bound by the terms of this Agreement and  
11 the orders and judgments of the Court.

12 14. The Court will hold a Final Approval Hearing to consider the fairness,  
13 reasonableness, and adequacy of the Settlement on 10/5, 2022 at 8:30AM/~~PM~~. The  
14 Court will advise the Parties in advance of the Final Approval Hearing whether the hearing will  
15 be held in person at \_\_\_\_\_ or by video conference. The date and time of the Final  
16 Approval Hearing will be set forth in the Notice and published on the Settlement Website.  
17 During the Final Approval Hearing, the Court will consider whether the Settlement should be  
18 approved as fair, reasonable, and consistent with precedent concerning class settlements in  
19 Oregon, and whether the Court should grant Final Approval of the Settlement and dismiss this  
20 Action on the merits, with prejudice. The Court will also consider the amount of any attorneys'  
21 fees and costs to be awarded to Class Counsel, whether to approve the amount of any Service  
22 Award to the Named Plaintiff. The Final Approval Hearing may be postponed, adjourned, or  
23 rescheduled by order of the Court without further notice to Potential Settlement Class Members  
24 other than on the Settlement Website and the Court's docket.

15. The Court confirms the following schedule (which the court, upon showing of good cause by the Parties, may extend any of the deadlines):

Deadline to Complete Notice	30 days after Preliminary Approval
Deadline for Motion for attorneys' fees, costs, and for a Service Award	45 days after Preliminary Approval
Bar Date to Opt-Out	90 days after Preliminary Approval
Bar Date to Object	90 days after Preliminary Approval
Deadline for Motion for Final Approval of the Settlement	120 days after Preliminary Approval
Final Approval Hearing	<u>10/5</u> , 2022 at <u>8:30</u> AM/PM <del>X</del> [at least 150 days after preliminary approval]

16. The Court stays all proceedings in this Action until further Order of the Court, except that the Parties may conduct such limited proceedings as may be necessary to implement the proposed Settlement or to effectuate the term of the Agreement.

**IT IS SO ORDERED.**

8/5/2022 7:10:39 AM

Andrew Jones

**Circuit Court Judge Andrew M. Lavin**

Order Submitted By:

/s/ Nadia H. Dahab  
**Nadia H. Dahab**, OSB No. 125630

**UTCRC 5.100 CERTIFICATE OF READINESS**

In accordance with UTCRC 5.100(1) & (2), I hereby certify that the foregoing proposed order is ready for judicial signature because:

- ☐ Each party affected by this order or judgment has stipulated to the order or judgment, as shown by each party's signature on the document being submitted.
- ☐ Each party affected by this order or judgment has approved the order or judgment, as shown by each party's signature on the document being submitted or by written confirmation of approval sent to me.
- ☒ I have served a copy of this order or judgment on each party entitled to service and:
- ☒ No objection has been served on me.
- ☐ I received objections that I could not resolve with a party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved.
- ☐ After conferring about objections, the parties agreed to independently file any remaining objection.
- ☐ Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.
- ☐ This is a proposed judgment that includes an award of punitive damages and notice has been served on the Director of the Crime Victims' Assistance Section as required by subsection (5) of this rule.
- ☐ Other: \_\_\_\_\_

DATED this 3rd day of August, 2022.

By: /s/ Nadia H. Dahab

**David F. Sugerman**, OSB No. 862984

**Nadia H. Dahab**, OSB No. 125630

SUGERMAN DAHAB

707 SW Washington Street, Suite 600

Portland, Oregon 97205

Tel: (503) 228-6474

david@sugermindahab.com

nadia@sugermindahab.com

Attorneys for Plaintiffs

**CERTIFICATE OF SERVICE**

I hereby certify that I caused to be served the foregoing **ORDER PRELIMINARILY APPROVING CLASS SETTLEMENT, APPOINTING CLASS COUNSEL, DIRECTING NOTICE, AND SETTING DATE FOR FINAL APPROVAL HEARING** on the following named person(s) on the date indicated below:

Kimberly Hanks McGair  
Farleigh Wada Witt  
121 SW Morrison St, Suite 600  
Portland OR 97204  
Tel: (503) 228-6044

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by Overnight Delivery  
by Facsimile  
by U.S. Mail with postage prepaid  
By OJD File & Serve  
by Email  
kmcgair@fwwlaw.com

Attorneys for Defendant Northwest  
Community Credit Union

DATED this 3rd day of August, 2022.

By: /s/ Nadia H. Dahab  
**David F. Sugerman**, OSB No. 862984  
**Nadia H. Dahab**, OSB No. 125630  
SUGERMAN DAHAB  
707 SW Washington Street, Suite 600  
Portland, Oregon 97205  
Tel: (503) 228-6474  
david@sugermindahab.com  
nadia@sugermindahab.com

Attorneys for Plaintiffs