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U.S. DISTRICT COURT
DISTRICT OF MARYLAND

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RECEIVED IN THE OFFICE OF
BETH P. GESNER

SEP 30 2013

September 30, 2013 DEPUTY

UNITED STATES MAGISTRATE JUDGE

Clerk of the Court
USDC, District of Maryland
101 W. Lombard Street
Baltimore, Maryland 21201

Via Courier Delivery

Re: ***Objection to Class Settlement in Deanna Driscoll v. Navy Federal Credit Union***
No. 13-cv-00137-BPG

To the Honorable Beth P. Gesner:

I object to the proposed class action settlement and the application for attorney fees by class counsel. This settlement is not fair, reasonable and adequate.

I am a Navy Federal Credit Union member (#2967237) and a class member. I have submitted a claim form.

A class action should convey a benefit to an injured class and a settlement cannot be found to be fair, reasonable and adequate if the benefit delivered to the class is inadequate. This class receives no benefit under the proposed settlement. All class members can get the exact same benefit for free by going to freecreditreport.com. This is nearly identical to the illusory settlement addressed by USDC Judge Charles Breyer in *Stephen Yeagley v. Wells Fargo & Co.*, No. C 05-3403 CRB, Doc. No. 215, May 20, 2010 (USDC, N.D. California). I would urge the court to review Judge Breyer's opinion and fee award.

The attorneys have applied for an award of fees which is excessive under both a lodestar and a percentage of recovery methodologies. Additional objection is made to the failure of class counsel to make a detailed attorneys' fee and expense application within a reasonable and adequate amount of time for objectors to evaluate the fee and expense application. A 40% fee request is excessive to the point it demonstrates abandonment of their fiduciary duty.

No fees should be awarded until the court reviews the total claims and total benefit distributed to the class. It should be incumbent upon class counsel to not just negotiate but also deliver the benefit they tout as a fair settlement.

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I object to the *cy pres* provision of the proposed settlement. Giving money to Wounded Warriors bestows no direct or indirect benefit on the class. There is no *nexus* between the entire class and Wounded Warriors. Giving the class' money to a deserving military organization does not make the donation a proper *cy pres* distribution just because defendant is the "Navy" Federal Credit Union. An organization that guards against the alleged abusive banking practices would be a better recipient. Cloaking improper distributions with patriotism feelings does not change the improper nature of the distribution. The court should directly inquire about the amount of money NFCU already gives to Wounded Warriors. This is nearly the exact illusory scenario shot down when Kelloggs promised to give \$5M of cereal to hungry people in *Dennis v. Kellogg*, 697 F.3d 858 (9th Cir. 2012).

Specific objection is made that proponents of this settlement have not met their burden to show the settlement is fair, reasonable, and adequate. There is no admissible evidence in the record and the opinions of the attorney proponents alone cannot support a settlement nor can it replace the court's independent fiduciary duty to safeguard the interests of the class.

I also object to the proponents of the settlement not sustaining their burden of proof on commonality, predominance, superiority and adequacy of class counsel and class representatives under Federal Rule of Civil Procedure 23.

I also join in and incorporate by reference all other objections.

I will not attend the fairness hearing.

I am serving the attorneys identified in the notice via email. I request those attorneys serve me with copies of all future filings via email and contact me only by email.

Sincerely,


Michael Liguori

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