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UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

IN RE NOVO NORDISK  
SECURITIES LITIGATION

No. 3:17-cv-00209-ZNQ-LHG

**NOTICE OF LEAD PLAINTIFFS' MOTION FOR  
APPROVAL OF DISTRIBUTION PLAN**

TO: All Counsel of Record

PLEASE TAKE NOTICE that in accordance with Federal Rule of Civil  
Procedure 23(e) and this Court's Order and Judgment Approving Class Action

Settlement (ECF No. 363), Lead Plaintiffs Lehigh County Employees' Retirement System, Oklahoma Firefighters Pension and Retirement System, Boston Retirement System, Employees' Pension Plan of the City of Clearwater, and Central States, Southeast and Southwest Areas Pension Fund ("Lead Plaintiffs"), on behalf of themselves and the Class, will and do hereby move this Court for entry of the accompanying Proposed Order Approving Distribution Plan ("Class Distribution Order"). In further support of this motion, Lead Plaintiffs submit (i) the Declaration of Luiggy Segura in Support of Lead Plaintiffs' Motion for Approval of Distribution Plan ("Segura Declaration") submitted on behalf of the Court-approved Claims Administrator, JND Legal Administration ("JND"); (ii) the Memorandum of Law in Support of Lead Plaintiffs' Motion for Approval of Distribution Plan; and (iii) all other papers and proceedings herein.

Among other things, the Class Distribution Order would: (i) approve the administrative determinations of JND accepting and rejecting Claims submitted in connection with the Settlement reached in the above-captioned Action; (ii) direct the distribution of the Net Settlement Fund to Claimants whose Claims are accepted by JND as valid and approved by the Court ("Authorized Claimants"), while maintaining a Reserve for any tax liability or claims administration-related contingencies that may arise; (iii) direct that distribution checks state that the check must be cashed within 90 days after the issue date; (iv) direct that Authorized

Claimants will forfeit all recovery from the Settlement if they fail to cash their distribution checks in a timely manner; (v) approve the recommended plan for any funds remaining after the distribution; (vi) approve JND's fees and expenses incurred and estimated to be incurred in the administration of the Settlement; (vii) release claims related to the administration process; and (viii) authorize the destruction of Claim Forms and supporting documents at an appropriate time.

This motion seeks, among other things, Court approval of the Claims Administrator's determinations accepting and rejecting Claims. The claims administration process afforded Claimants the opportunity to dispute the rejection of their Claims and the right to ask for judicial review of the Claims Administrator's determinations. One claimant has disputed the rejection of its Claim (the "Disputed Claim") and has requested review by the Court.

Lead Counsel has reviewed the Disputed Claim and agrees with the Claims Administrator's determination to reject the Disputed Claim. The Segura Declaration explains the basis for the rejection of this Disputed Claim. We are today sending the Claimant with a Disputed Claim a copy of this Motion, the Segura Declaration, the supporting documentation attached to Exhibit D of the Segura Declaration that relates to the Claimant's Disputed Claim, and the proposed Distribution Order. We are informing the Claimant in a cover letter that the Claimant does not need to take any further action to have the Court consider the

Claimant's dispute. If, however, the Claimant wishes to make an additional submission the Claimant should direct it to Your Honor's attention with a copy to Lead Counsel and postmarked no later than November 20, 2023. If any such submission is made, Lead Plaintiffs would submit a response by November 27, 2023, subject to any extension sought and granted.

Pursuant to the terms of the Stipulation, Defendants have no interest in the relief sought by the motion. Accordingly, Lead Counsel respectfully submit that the motion is ripe for consideration by the Court and may be decided on the papers without the necessity of a hearing unless the Court deems one necessary.

Dated: October 30, 2023

Respectfully submitted,

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UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

IN RE NOVO NORDISK  
SECURITIES LITIGATION

No. 3:17-cv-00209-ZNQ-LHG

**CORRECTED**  
**MEMORANDUM OF LAW IN SUPPORT OF LEAD PLAINTIFFS'**  
**MOTION FOR APPROVAL OF DISTRIBUTION PLAN**

**Dated: October 31, 2023**

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Lead Plaintiffs, Lehigh County Employees' Retirement System, Oklahoma Firefighters Pension and Retirement System, Boston Retirement System, Employees' Pension Plan of the City of Clearwater, and Central States, Southeast and Southwest Areas Pension Fund ("Lead Plaintiffs"), respectfully move for entry of the proposed Order Approving Distribution Plan ("Class Distribution Order") for the proceeds of the Settlement in the above-captioned securities class action ("Action"). The Distribution Plan is included in the accompanying Declaration of Luiggy Segura ("Segura Declaration" or "Segura Decl."), submitted on behalf of the Court-approved Claims Administrator, JND Legal Administration ("JND").<sup>1</sup>

The Class Distribution Order will, upon being entered by the Court, permit JND to make an Initial Distribution of the Settlement proceeds to eligible Claimants. Among other things, the Class Distribution Order will: (i) approve JND's administrative determinations accepting and rejecting Claims submitted in connection with the Settlement; (ii) direct the Initial Distribution of the Net Settlement Fund to Claimants whose Claims are accepted by JND as valid and approved by the Court ("Authorized Claimants"), while maintaining a Reserve for any tax liability and claims administration-related contingencies that may arise; and

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<sup>1</sup> Unless otherwise indicated in this memorandum, all terms with initial capitalization shall have the meanings ascribed to them in the Segura Declaration or the Stipulation and Agreement of Settlement dated as of November 23, 2021 (ECF No. 311-3) ("Stipulation"). The Settlement is contained in the Stipulation.

(iii) approve JND's fees and expenses incurred and estimated to be incurred in the administration of the Settlement and the Initial Distribution.

Further, pursuant to the Stipulation, Defendants have no role in or responsibility for the administration of the Settlement Fund or processing of Claims, including determinations as to the validity of Claims or the distribution of the Net Settlement Fund. *See* Stipulation ¶¶ 17, 21; *see also* Settlement Notice ¶ 44. As this matter is fully briefed before the Court, Lead Counsel respectfully submit that a hearing on this motion is not required.

## **I. BACKGROUND**

On July 13, 2022, the Court entered the Order and Judgment Approving Class Action Settlement (ECF No. 363) approving the \$100 million all-cash Settlement of this Action, and entered an Order Approving Plan of Allocation (ECF No. 362), which approved the Plan of Allocation for the Net Settlement Fund. The Settlement's "Effective Date", as defined in paragraph 31 of the Stipulation has now occurred, and claims administration is complete. Accordingly, the Net Settlement Fund may now be distributed to Authorized Claimants. In accordance with paragraph 26 of the Stipulation, Lead Plaintiffs respectfully request that the Court enter the Class Distribution Order and approve the Distribution Plan.

In accordance with the Court's Order Preliminarily Approving Settlement and Providing for Notice (ECF No. 344) ("Preliminary Approval Order"), JND mailed

the Notice of (I) Proposed Settlement and Plan of Allocation (II) Settlement Hearing; and (III) Motion for Attorneys' Fees and Litigation Expenses ("Settlement Notice") and the Proof of Claim and Release Form ("Claim Form" and, collectively with the Settlement Notice, the "Settlement Notice Packet") to potential Class Members, brokers, and other nominees. Segura Decl. ¶ 2. JND has disseminated 380,000 Settlement Notice Packets to potential Class Members, brokers, and nominees. *Id.* ¶ 4. The Settlement Notice informed Class Members that if they wished to be eligible to participate in the distribution of the Net Settlement Fund, they were required to submit a properly executed Claim Form postmarked or submitted online no later than July 27, 2022. *Id.* ¶ 7.

## **II. CLAIMS ADMINISTRATION**

As set forth in the Segura Declaration, through June 14, 2023, JND received and processed 169,694 Claims. Segura Decl. ¶ 7. All Claims received through June 14, 2023, have been fully processed in accordance with the Stipulation and the Court-approved Plan of Allocation included in the Settlement Notice (*see id.*), and JND has worked with Claimants to help them perfect their Claims. *See id.* ¶¶ 19-32. Many of the Claims were initially deficient or ineligible for one or more reasons,

including being incomplete, not signed, not properly documented, or otherwise deficient, which required substantial follow-up work by JND. *Id.* ¶¶ 19, 22.

If JND determined a Claim to be defective or ineligible, JND sent a letter (if the Claimant or filer filed a paper Claim) or an email (if the Claimant or filer filed an electronic Claim) to the Claimant or filer, as applicable, describing the defect(s) or condition(s) of ineligibility in the Claim and the steps necessary to cure any curable defect(s) in the Claim (“Deficiency Notices”). *Id.* ¶¶ 20, 22. The Deficiency Notices advised the Claimant or filer that the appropriate information or documentary evidence to complete the Claim had to be sent within twenty (20) days from the date of the Deficiency Notice or JND would recommend the Claim for rejection to the extent the deficiency or condition of ineligibility was not cured. *Id.* ¶¶ 20, 23. Examples of the Deficiency Notices are attached as Exhibits A, B, and C to the Segura Declaration.

Of the 169,694 Claims that are the subject of this motion, JND has determined that 110,964 Claims are acceptable in whole or in part, and that 58,730 Claims should be rejected because they are ineligible for payment from the Net Settlement Fund. Segura Decl. ¶¶ 39-42. Lead Plaintiffs respectfully request that the Court approve JND’s administrative determinations accepting and rejecting Claims as set forth in the Segura Declaration.

**A. Disputed Claim**

JND carefully reviewed Claimants' and filers' responses to the Deficiency Notices and worked with them to resolve deficiencies where possible. *Id.* ¶¶ 21, 26. Consistent with paragraph 24(e) of the Stipulation, the Deficiency Notices specifically advised the Claimant or filer of the right, within twenty (20) days after the mailing or emailing of the Deficiency Notice, to contest the rejection of the Claim and request Court review of JND's administrative determination of the Claim. *Id.* ¶¶ 20, 23, and Exhibits A and B.

With respect to the fully processed Claims, JND received eleven (11) requests for Court review of its administrative determinations. To resolve these disputes without necessitating the Court's intervention, JND contacted the Claimants requesting Court review and attempted to answer all questions, to explain JND's administrative determination of the Claim's status, and to facilitate the submission of missing information or documentation where applicable. *Id.* ¶ 32. As a result of these efforts, six (6) Claimants resolved their deficiencies, withdrew their requests for Court review, and their Claims are recommended for approval. *Id.* Four (4) Claimants understood the reasons for JND's determinations and are no longer requesting Court review. *Id.* Currently, one (1) Claim remains disputed and is being submitted to the Court for resolution ("Disputed Claim"). *Id.*

Exhibit D of the Segura Declaration contains a copy of the Disputed Claim with its supporting documentation and sets forth the reasons for JND's rejection of the Disputed Claim. *Id.* For privacy reasons, the documents included in Exhibit D have been redacted to remove personal information such as street addresses, email addresses, telephone numbers, account numbers, Taxpayer ID, Social Security, or Social Insurance Numbers, and all financial and transaction information not related to the Claimants' transactions in American Depository Receipts ("ADRs") of Novo Nordisk purchased/acquired during the Class Period. JND recommends Disputed Claim DVYBMFKP4Q for rejection due to the fact that the Claim did not calculate to a Recognized Claim under the Plan of Allocation. *Id.* The Segura Declaration explains in detail the calculations JND conducted that demonstrate the Disputed Claim does not calculate to a Recognized Claim. *Id.* Lead Counsel have reviewed the Disputed Claim and JND's determinations and concur that the Disputed Claim should be rejected for the reasons set forth in the Segura Declaration.

**B. Late Claims and Final Cut-Off Date**

The 169,694 Claims received through June 14, 2023, include 510 Claims that were postmarked or received after July 27, 2022, the Court-approved Claim submission deadline. *Id.* ¶¶ 33, 41. Those late Claims have been fully processed, and 281 of them are, but for their late submission, otherwise eligible to participate in the Settlement. *Id.* Although these 281 Claims were late, they were received while the

processing of timely Claims was ongoing. *Id.* Due to the amount of time needed to process the timely Claims received, the processing of these late Claims did not delay the completion of the Claims administration process or the distribution of the Net Settlement Fund. *Id.* ¶ 33. The Court has discretion to accept Claims received after the Claim submission deadline. *See* Preliminary Approval Order ¶ 7; Settlement Notice ¶ 46. Lead Plaintiffs respectfully submit that, when the equities are balanced, it would be unfair to prevent an otherwise eligible Claim from participating in the distribution of the Net Settlement Fund solely because it was received after the Court-approved Claim submission deadline if it was submitted while timely Claims were still being processed.

To facilitate the efficient distribution of the Net Settlement Fund, however, there must be a final cut-off date after which no other Claims may be accepted. Accordingly, Lead Plaintiffs respectfully request that the Court order that any *new* late Claims (and any requested adjustments to previously filed Claims that would result in an increased Recognized Claim Amount) received after June 14, 2023, shall be barred (*see also* Segura Decl. ¶ 45(f)) – subject to the proviso that if Lead Counsel later determine that an additional distribution is not cost-effective (*see* Segura Decl. ¶ 45(e)), then any post-April 20, 2023 Claimants may, at the discretion of Lead Counsel (and to the extent possible after paying remaining administrative fees and expenses owed), be paid on their new (or adjusted) Claims on a *pro rata* basis so as



to bring them into parity with other Authorized Claimants who have cashed their distribution checks.

### **III. FEES AND EXPENSES OF CLAIMS ADMINISTRATOR**

The Court-approved Claims Administrator for the Settlement, JND, was responsible for, among other things, disseminating notice of the Settlement to the Class, creating and maintaining a website and toll-free telephone helpline, processing Claims, and allocating and distributing the Net Settlement Fund to Authorized Claimants. Segura Decl. ¶ 2. JND's fees and expenses for its work performed through September 30, 2023, are \$1,365,551.13, and its estimated fees and expenses for work to be performed in connection with the Initial Distribution are \$99,762.13, which together total \$1,465,313.26. *Id.* ¶ 44. Should the estimate of fees and expenses to conduct the Initial Distribution of the Net Settlement Fund exceed the actual cost, the excess will be returned to the Net Settlement Fund and will be available for subsequent distribution to Authorized Claimants. *Id.* The brokerage firms and nominees charged JND another \$159,687.15 for their work providing names and addresses to potential Class Members and forwarding notices to their clients. *Id.* To date, JND has received payment in the amount of \$1,504,606.92 for its fees and expenses. *Id.* Accordingly, there is an outstanding balance of \$120,393.49 payable to JND, which amount includes the estimated fees and expenses to be incurred by JND in connection with the Initial Distribution. *Id.*

Lead Counsel reviewed JND's invoices and respectfully request on behalf of Lead Plaintiffs that the Court approve all of JND's fees and expenses.

#### **IV. DISTRIBUTION PLAN FOR THE NET SETTLEMENT FUND**

##### **A. Initial Distribution of the Net Settlement Fund**

Under the proposed Distribution Plan, JND will distribute 95% of the Net Settlement Fund after deducting (i) all payments previously allowed, (ii) payments approved by the Court on this motion, and (iii) any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees (i.e., the Initial Distribution). *See Segura Decl.* ¶ 45(a). In the Initial Distribution, JND will calculate award amounts for all Authorized Claimants as if the entire Net Settlement Fund were to be distributed now. *Id.* ¶ 45(a)(1). JND will first determine each Authorized Claimant's *pro rata* share of the total Net Settlement Fund based on the Claimant's Recognized Claim in comparison to the total Recognized Claims of all Authorized Claimants. *Id.* JND will eliminate from the Initial Distribution any Authorized Claimant whose *pro rata* share calculates to less than \$10.00, as these Claimants will not receive any payment from the Net Settlement Fund and will be so notified by JND. *Id.* ¶ 45(a)(2). JND will then recalculate the *pro rata* share of the Net Settlement Fund for Authorized Claimants who would have received \$10.00 or more based on the amount of the Authorized Claimant's Recognized Claim in comparison to the total Recognized Claims of all Authorized Claimants who would have

received \$10.00 or more. *Id.* ¶ 45(a)(3). This *pro rata* share is the Authorized Claimant's Distribution Amount. *Id.* Authorized Claimants whose Distribution Amount calculates to less than \$200.00 will be paid their full Distribution Amount in the Initial Distribution ("Claims Paid in Full"). *Id.* ¶ 45(a)(4). These Authorized Claimants will receive no additional funds in subsequent distributions. *Id.* After deducting the payments to the Claims Paid in Full, 95% of the remaining balance of the Net Settlement Fund will be distributed *pro rata* to Authorized Claimants whose Distribution Amount calculates to \$200.00 or more. *Id.* ¶ 45(a)(5). The remaining 5% of the Net Settlement Fund will be held in reserve (the "Reserve") to address any tax liability and claims administration-related contingencies that may arise. *Id.* To the extent the Reserve is not depleted, the remainder will be distributed in the Second Distribution. *Id.*

To encourage Authorized Claimants to cash their checks promptly, Lead Plaintiffs propose that all distribution checks bear the notation, "CASH PROMPTLY. VOID AND SUBJECT TO REDISTRIBUTION IF NOT CASHED BY [DATE 90 DAYS AFTER ISSUE DATE]." *Id.* ¶ 45(b). Authorized Claimants who do not cash their checks within the time allotted or on the conditions stated in paragraph 45(b) of the Segura Declaration will irrevocably forfeit all recovery from the Settlement, and the funds allocated to these stale-dated checks will be available

to be redistributed to other Authorized Claimants in a subsequent distribution, as described below. *Id.* ¶ 45(c).

**B. Additional Distribution(s) of the Net Settlement Fund**

After JND has made reasonable and diligent efforts to have Authorized Claimants cash their Initial Distribution checks, but not earlier than nine (9) months after the Initial Distribution, JND will, after consulting with Lead Counsel, conduct the Second Distribution of the Net Settlement Fund. *Id.* ¶ 45(d). In the Second Distribution, any amount remaining in the Net Settlement Fund, after deducting any unpaid fees and expenses incurred, will be distributed to all Authorized Claimants (other than Claims Paid in Full) who cashed their Initial Distribution checks and would receive at least \$10.00 from the Second Distribution based on their *pro rata* share of the remaining funds. *Id.* If any funds remain in the Net Settlement Fund after the Second Distribution, and if cost-effective, subsequent distributions will take place at six-month intervals. *Id.* When Lead Counsel, in consultation with JND, determine that a further distribution is not cost-effective, if sufficient funds remain to warrant the processing of Claims received after June 14, 2023, JND will process those Claims. *Id.* ¶ 45(e). Any of these Claims that are otherwise valid, as well as any earlier received Claims for which an upward adjustment was received after June 14, 2023, may be paid in accordance with paragraph 45(f) of the Segura Declaration. *Id.* If any funds remain in the Net Settlement Fund after payment of these Claims

and any unpaid fees or expenses, Lead Counsel proposes that such remaining funds (if there are any) be split equally and contributed in equal amounts to the National Consumer Law Center (“NCLC”)<sup>2</sup> and the Investor Protection Trust (“IPT”)<sup>3</sup>. Lead

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<sup>2</sup> NCLC is a private, non-sectarian, non-profit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. *Financials*, National Consumer Law Center, <https://nclc.org/about-us/financials/> (last visited October 30, 2023). For over 50 years, NCLC has worked to build and strengthen a legal network to provide legal services addressed to two main goals: improving access to the legal system for all people and enabling advocates to seek remedies for low-income people where needed. *See History*, National Consumer Law Center, <https://nclc.org/about-us/history/> (last visited October 30, 2023). NCLC’s lawyers provide policy analysis, advocacy, litigation, expert-witness services, and training for consumer advocates throughout the United States. *See Mission*, National Consumer Law Center, <https://nclc.org/about-us/mission/> (last visited October 30, 2023). “NCLC uses its unmatched expertise in consumer law to protect consumers from exploitation and expand access to fair credit by advocating for laws, rules, and regulations that benefit real people: those with low incomes, older people, students, people of color, and others who have been abused, deceived, discriminated against, or left behind in our economy.” *About Us*, National Consumer Law Center, <https://nclc.org/about-us/> (last visited October 30, 2023). NCLC has received “the highest ratings from charity watchdogs” and “welcomes *cy pres* designations of unclaimed settlement funds from class action lawsuits, which are used to support our consumer rights work advancing the core interests of underlying class members.” *History*, National Consumer Law Center, <https://nclc.org/about-us/history/> (last visited October 30, 2023), & *Cy Pres*, National Consumer Law Center, <https://nclc.org/get-involved/ways-to-give/cy-pres/> (last visited October 30, 2023)

<sup>3</sup> IPT is a non-sectarian, nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. *See About the Investor Protection Trust*, Investor Protection Trust, <https://iptrust.wpengine.com/about/> (last visited October 30, 2023), & *Investor Protection Trust*, Charity Navigator, <https://www.charitynavigator.org/ein/396570280> (last visited October 30, 2023). Founded in 1993, IPT’s primary mission is “to provide the independent, objective investor education that Americans need to make informed investment decisions.” *About the Investor Protection Trust*, Investor Protection Trust, <https://iptrust.wpengine.com/about/> (last visited October 30, 2023). IPT’s recently funded projects include radio-based and video ad-based investor protection

Counsel propose that the NCLC and IPT be designated as the “non-sectarian, not-for-profit 501(c)(3) organizations to be recommended by Lead Counsel” referenced in the Court-approved Plan of Allocation. *See* Settlement Notice ¶ App. A ¶ 17. Lead Counsel have no relationships with either of these organizations.

Federal courts have approved both NCLC and IPT as a *cy pres* recipients of residual balances of net settlement funds in other settlements. *See, e.g., Francois v. Forster & Garbus, LLP*, No. 3:21-cv 20664, ECF No. 23 (D.N.J. Dec. 9, 2022) (approving NCLC as *cy pres* recipient), attached hereto as Exhibit 1; *Griffin v. Zager*, 2017 WL 3872401, \*10 (D.N.J. Sept. 1, 2017); *Weiss v. Regal Collections*, 2006 WL 2038493, at \*1 (D.N.J. July 19, 2006); *In re Volkswagen “Clean Diesel” Mktg., Sales Pracs. & Prods. Liab. Litig.*, 2018 WL 6198311, at \*5 (N.D. Cal. Nov. 28, 2018) (“The proposed *cy pres* recipient, the Investor Protection Trust, is a nonprofit organization focused on investor education. A savvy, educated investor is hopefully more likely to identify signs of securities fraud, which furthers the Exchange Act's purpose of maintaining ‘fair and honest markets.’” (citation omitted)); *In re Patriot Nat’l, Inc. Sec. Litig.*, 2021 WL 1040462, at \*2 (S.D.N.Y.

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awareness campaigns, the creation and distribution of a digital investor education awareness campaign, and a program to educate professional groups, military organizations, and law enforcement on resources for investor protection. *See Grants, Investor Protection Trust*, <https://investorprotection.org/grants/> (last visited October 30, 2023).

Mar. 18, 2021) (approving IPT as *cy pres* recipient); *Wilson v. LSB Indus., Inc.*, 2020 WL 5628039, at \*2 (S.D.N.Y. Sept. 21, 2020) (same).

**V. RELEASE OF CLAIMS**

In order to allow the full and final distribution of the Net Settlement Fund, it is necessary to (i) bar any further claims against the Net Settlement Fund beyond the amounts allocated to Authorized Claimants, and (ii) provide that all persons involved in any aspect of Claims processing, or who are involved in the administration or taxation of the Settlement Fund or the Net Settlement Fund, be released and discharged from all claims arising out of that involvement. *See* Stipulation ¶ 28. Accordingly, Lead Plaintiffs respectfully request that the Court release and discharge all persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the Claims submitted in connection with the Settlement, or who are otherwise involved in the administration or taxation of the Settlement Fund or the Net Settlement Fund from all claims arising out of that involvement, and bar all Class Members and other Claimants, whether or not they receive payment from the Net Settlement Fund, from making any further claims against the Net Settlement Fund, Lead Plaintiffs, Lead Counsel, the Claims Administrator, the Escrow Agent or any other agent retained by Lead Plaintiffs or Lead Counsel in connection with the administration or taxation of the Settlement

Fund or the Net Settlement Fund, or any other person released under the Settlement beyond the amounts allocated to Authorized Claimants.

Courts have repeatedly approved similar releases in connection with the distribution of settlement proceeds. *See, e.g., Fernandez v. Knight Capital Group, Inc.*, 2016 WL 7468089, at \*3 (D.N.J. June 16, 2016) (“The administration of the Settlement and the proposed distribution of the Net Settlement Fund comply with the terms of the Stipulation and the Plan of Allocation and, therefore, all persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the claims submitted herein, or otherwise involved in the administration or taxation of the Settlement Fund or the Net Settlement Fund, are released and discharged from any and all claims arising out of such involvement, and all Class Members, whether or not they have claimed against, they received, or they are to receive payment from the Net Settlement Fund, are barred from making any further claims against the Net Settlement Fund or Lead Plaintiff, Counsel for Lead Plaintiff, the Claims Administrator, the escrow agent or any other agent retained by Lead Plaintiff or Lead Plaintiff’s Counsel, and are bound by all of the terms of the Stipulation, including the terms of the Final Judgment, and will be barred from bringing any action against the Released Parties concerning the Released Claims or in connection with the administration of the Settlement, or to



claim against the Net Settlement Fund for any amount greater than that allocated to such Class Member as a result of its submission of a valid proof of claim.”).

**VI. CONCLUSION**

For the foregoing reasons, Lead Plaintiffs respectfully request that the Court grant their Motion for Approval of Distribution Plan and enter the [Proposed] Order Approving Distribution Plan.

Dated: October 31, 2023

Respectfully submitted,

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# EXHIBIT 1

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

<p>ADELINE FRANCOIS, on behalf of herself and all others similarly situated,</p> <p style="text-align: center;">Plaintiffs,</p> <p>v.</p> <p>FORSTER &amp; GARBUS, LLP;</p> <p style="text-align: center;">Defendants.</p>	<p>Civil Action No. 3:21-cv-20664 (RLS)</p>
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**AMENDED FINAL APPROVAL ORDER OF THE CLASS ACTION SETTLEMENT**

This matter came for hearing on September 20, 2022, upon the joint application (the "Motion") of ADELINE FRANCOIS ("Plaintiff"), and a class of persons similarly situated ("Settlement Class Members"), and FORSTER & GARBUS, LLP ("Defendant"), for final approval of the Class Action Settlement Agreement, dated March (the "Agreement"). Due and adequate notice having been given to the Settlement Class Members, and the Court having considered the Agreement, all papers filed and proceedings had herein and all oral and written comments received regarding the proposed settlement, and having reviewed the record in this Litigation, and good cause appearing:

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:**

The Court, for purposes of this Final Order approving the settlement (the "Final Order"), adopts all defined terms as set forth in the Class Settlement Agreement.

1. On August 4, 2022 [ECF No. 14], this Court preliminarily approved the Class Settlement Agreement reached between Plaintiff and Defendant for the claims alleged in the above-captioned matters filed in the United States District Court for the District of New Jersey

(the “Litigation”). The Court approved a Notice of Proposed Class Action Settlement for mailing to the class. The Court is informed that said Notice was sent by first-class mail, via the United States Postal Service (USPS) to 86 individuals who are deemed Settlement Class Members. The USPS returned 16 of the initial Notices as undeliverable. For those without a forwarding address, Simpluris performed an advanced address search (i.e. skip trace) on all of these addresses by using Accurint, a reputable research tool owned by Lexis-Nexis. Simpluris used the Class Member’s name, previous address and Social Security number to locate a more current address. Thirteen (13) Notice Packets were re-mailed to either a newfound address, with forwarding addresses provided by the United States Postal Service or the request of the Class Member. Ultimately, after searching, three (3) Notices were undeliverable because Simpluris was unable to find a better address. One (1) Settlement Class Members submitted a timely request for exclusion. The one request for exclusion represents 1.16% of the Class. In addition, no Settlement Class members submitted a timely objection.

2. The Court has jurisdiction over the subject matter of the Litigation, the Plaintiff and Class Representative, the other Settlement Class Members, and the Defendant.

3. The Court finds that the distribution of the Notice of Proposed Class Action Settlement as provided for in the Preliminary Approval Order constituted the best notice practicable under the circumstances to all Persons within the definition of the Class, and fully met the requirements of New Jersey law and due process under the United States Constitution.

4. The Court approves the Class Action Settlement of the above-captioned actions, as set forth in the Agreement, which includes a release, and other terms, as fair, just, reasonable, and adequate as to the Parties. The Parties are directed to perform in accordance with the terms set forth in the Agreement.

5. Except as to any individual Settlement Class Member who has requested

exclusion from the Class, all claims of the Plaintiff and the other Settlement Class Members, against the Defendant are dismissed without prejudice. The Parties are to bear their own costs, except as otherwise provided in the Agreement.

6. For purposes of settlement the parties stipulate to the following class:

All New Jersey consumers who were sent initial letters and/or notices from Defendant attempting to collect a judgment on behalf of BARCLAYS BANK DELAWARE, which stated: "THE ABOVE JUDGMENT DOCKET IN COURT AGAINST YOU REMAINS UNPAID. THE JUDGMENT CONTINUES TO ACCRUE INTEREST UNTIL PAID IN FULL. PLEASE CONTACT OUR OFFICE IN ORDER TO MAKE ARRANGEMENTS TO PAY YOUR DEBT AND SATISFY THE JUDGMENT.

The parties represent that there are a total of approximately 85 members of the Class.

8. The Court finds that the stipulated class meets the requirements of Fed. R. Civ. P.

23. Specifically, the Court finds that:

(a) The class is so numerous that joinder is impracticable.

(b) There are questions of law and fact common to the members of the Class, which common questions predominate over any questions that affect only individual Settlement Class Members.

(c) Plaintiff's claims are typical of the claims of the Settlement Class Members.

(d) Plaintiff and Class Counsel have fairly and adequately represented the interests of the Settlement Class Members.

(e) A class action is superior to other alternative methods of adjudicating the issues in dispute between the parties.

9. Excluded from the Settlement Class is one Settlement Class Member, who timely and validly requested exclusion.

10. Defendant will maintain a list of Settlement Class Members who are subject to the Release.

11. Each Settlement Class Member not opting out does hereby release and forever discharge the Defendant, and their Related Parties (hereinafter, "the Released Parties") from all causes of action, suits, claims, and demands, whatsoever, known or unknown, in law or in equity, which the Class Member now has, ever had, or hereafter may have against the Released Parties, for any violations of the FDCPA arising out of the claims alleged on behalf of the Class in the Litigation. This Agreement does not affect the validity of the debts allegedly owed by the Settlement Class Members, and the Settlement Class Members do not waive or release their right to dispute any alleged debt, or any part of an alleged debt, unrelated to the collection letters at issue. This Release is conditioned on the final approval of the Agreement by the Court and Defendant meeting their obligations therein.

12. Plaintiff has given a Release of all claims as set forth in Paragraph 36 of the Agreement. This release is conditioned on the final approval of the Agreement by the Court and Defendant meeting its obligations therein.

13. Subject to Court approval, for his actual and statutory damages and for her service as class representative, ADELINE FRANCOIS will receive one thousand five hundred dollars (\$1,500.00) within 30 days after the Effective Date.

14. Within 30 days of the Effective Date, Defendant shall pay the sum of sixteen thousand five hundred seventy-five dollars (\$16,575.00) to the Class Administrator to be distributed in the amount of one hundred ninety-seven and 32/100 (\$197.32) Dollars to those Settlement Class Members who did not exclude themselves from the Class Settlement.

15. Effective Date. "Effective Date" is thirty-five (35) days after the Final Approval Order of Judgment of the Class Action Settlement.



16. Neither the Agreement nor the settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Agreement or the settlement:

a. is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of the Released Parties; or

b. is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Parties in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. The Agreement and/or the Final Order from this Litigation may be used in any other action in order to support a defense or counterclaim based on the existence of the Agreement, such as *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or the like.

17. The Court dismisses the claims of Plaintiff and the Settlement Class Members against Defendant without prejudice and without costs.

18. Within thirty (30) days after the Effective Date, Defendant shall make all payments required by the Agreement.

19. Within thirty (30) days of the Effective Date, the Class Administrator shall issue the checks and deliver them to those Settlement Class Members who have not opted out of this Settlement.

20. If any Settlement Class Member fails to cash a settlement check within ninety (90) days of mailing ("Void Date"), the check will be void, Defendant shall be released from any related obligation to the Settlement Class Member, and the Settlement Class Member's right to receive benefits pursuant to the Settlement shall be deemed forfeited.

21. The Court designates the National Consumer Law Center as the *cy pres* recipient. Class Counsel shall issue the *cy pres* award to the National Consumer Law Center within 30 days of the Void Date.

22. When all of the following have been completed: (i) payments to Plaintiff and the Settlement Member Class, (ii) the expiration of thirty (30) days after the Void Date, (iii) payment of attorney's fees to counsel for Plaintiff and the Settlement Member Class, and (iv) payment of the *cy pres* award, the Class Administrator shall file a "Notice of Compliance" that Class Counsel has complied with the Terms of the Agreement and all Settlement Class Members who are entitled to receive checks have been issued checks, and any money remaining in the Class Settlement Fund has been donated to the *cy pres* recipient, National Consumer Law Center. The Notice of Compliance will request that the Court convert the dismissal of the claims of Plaintiff and the Class against Defendant and the Released Parties to a dismissal with prejudice.

23. The Court has reviewed Class Counsel's petition for attorneys' fees and costs of \$34,425.00. The Court finds that Class Counsel's petition is fair and reasonable. Defendant shall pay \$34,425.00 to Class Counsel in accordance with the Agreement. Payment shall be made within thirty (30) days of the Effective Date.

24. The Court reserves exclusive and continuing jurisdiction over the Litigation, the Plaintiff and the Class Representatives, the Class and the Released Parties for the purpose of: supervising the implementation, enforcement, construction, administration and interpretation of the Agreement and this Final Approval Order.

25. This case is hereby terminated. This is a final decision for purposes of 28 USC Section 1291.

SO ORDERED this 7<sup>th</sup> day of December, 2022.

  
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Hon. Rukhsana L. Singh, U.S.M.J.

The Clerk of the Court is hereby directed to terminate Docket Entry Nos. 18 and 19.