

**IN THE DISTRICT COURT OF  
DOUGLAS COUNTY, NEBRASKA**

Case No. CI 22-4495

**NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT**

**READ THIS NOTICE FULLY AND CAREFULLY; THE PROPOSED SETTLEMENT MAY AFFECT YOUR RIGHTS!**

**IF YOU HAVE OR HAD AN ACCOUNT WITH CENTRIS FEDERAL CREDIT UNION (“DEFENDANT”) AND YOU WERE CHARGED OVERDRAFT AND/OR NONSUFFICIENT FUNDS/RETURNED ITEM FEES BETWEEN JUNE 15, 2017 AND APRIL 30, 2022, THEN YOU MAY BE ENTITLED TO A PAYMENT FROM A CLASS ACTION SETTLEMENT.**

The District Court of Douglas County, Nebraska has authorized this Notice; it is not a solicitation from a lawyer.

<b>SUMMARY OF YOUR OPTIONS AND THE LEGAL EFFECT OF EACH OPTION</b>	
<b>DO NOTHING</b>	If you don’t do anything and the settlement is approved, you may be sent a payment from the Settlement Fund and/or receive forgiveness of Uncollected Fees and/or Negative Account Balances so long as you do not opt out of or exclude yourself from the settlement (described in the next box).
<b>EXCLUDE YOURSELF FROM THE SETTLEMENT; RECEIVE NO PAYMENT BUT RELEASE NO CLAIMS</b>	You can choose to exclude yourself from the settlement or “opt out.” This means you choose not to participate in the settlement. You will keep your individual claims against Defendant, but you will not receive a payment or forgiveness. If you exclude yourself from the settlement but want to recover against Defendant, you will have to file a separate lawsuit or claim.
<b>OBJECT TO THE SETTLEMENT</b>	If you object to any part of the settlement, you may make an objection. You must mail any objection to the Settlement Administrator, explaining why you believe the Court should reject the settlement. If the settlement is approved, then you may be sent a payment and/or forgiveness of Uncollected Fees and/or Negative Account Balances, and you will not be able to sue Defendant for the claims asserted in this litigation.

These rights and options—and the deadlines to exercise them—along with the material terms of the settlement are explained in this Notice.

**BASIC INFORMATION**

**1. What is this lawsuit about?**

The lawsuit that is being settled is entitled *Donna Sempek v. Centris Federal Credit Union* in the District Court of Douglas County, Nebraska, Case No. CI 22-4495. The case is a “class action.” That means that the “Named Plaintiff,” Donna Sempek, is an individual who is acting on behalf of current and former members who were assessed APPSN Fees between June 15, 2017 and April 30, 2022, and Retry Fees between September 28, 2017 and August 31, 2019. APPSN Fees means overdraft fees on signature Point of Sale debit card transactions where there was a sufficient available balance at the time the transaction was authorized, but an insufficient available balance at the time the transaction was presented to Defendant for payment and posted to a member’s account. Retry Fees means overdraft or nonsufficient funds/returned item fees for Automated Clearing House (ACH) and check payments that were re-submitted after previously being returned by Defendant for insufficient funds. The Named Plaintiff claims Defendant breached its account agreement and unjustly enriched itself by assessing APPSN Fees and Retry Fees.

Defendant does not deny it charged the fees the Named Plaintiff is complaining about, but contends it did so properly and in accordance with the terms of its agreements and applicable law. Defendant therefore denies that its practices give rise to claims for damages by the Named Plaintiff or any Class Members.

**2. Why did I receive Notice of this lawsuit?**

You received Email Notice or Postcard Notice because Defendant’s records indicate that you were charged one or more APPSN Fees and/or Retry Fees. The Court directed that Notice be sent to all Class Members because each Class Member has a right to know about the proposed settlement and the options available to him or her before the Court decides whether to approve the settlement.

**3. Why did the Parties settle?**

In any lawsuit, there are risks and potential benefits that come with a trial versus settling at an earlier stage. It is the Named Plaintiff’s and her lawyer’s job to identify when a proposed settlement offer is good enough that it justifies recommending settling the case instead of continuing to trial. In a class action, the Named Plaintiff’s lawyers, known as Class Counsel, make this recommendation to the Named Plaintiff. The Named Plaintiff has the duty to act in the best interests of the class as a whole and, in this case, it is her belief, as well as Class Counsel’s opinion, that this settlement is in the best interests of all Class Members.

In Class Counsel’s opinion, there is legal uncertainty about whether a judge or a jury will find that Defendant was obligated both legally or contractually not to assess APPSN Fees or Retry Fees. Even if it was contractually improper to assess these fees, there is uncertainty about whether the Named Plaintiff’s claims are subject to other defenses that might result in no or less recovery to Class Members. Even if the Named Plaintiff was to win at trial, there is no assurance that the Class Members would be awarded more than the current settlement amount, and it may take years of litigation before any payments would be made. Based on Class Counsel’s experience, by settling now the Class Members will avoid these and other risks and the delays associated with continued litigation.

While Defendant disputes the allegations in the lawsuit and denies any liability or wrongdoing, it enters into the settlement solely to avoid the expense, inconvenience, and distraction of further litigation.

### **WHO IS IN THE SETTLEMENT?**

#### **4. How do I know if I am part of the settlement?**

If you received an Email Notice or Postcard Notice, then Defendant’s records indicate that you are a Class Member who may be entitled to receive a payment or credit to your account and/or forgiveness of Uncollected Fees and/or forgiveness of Negative Account Balances.

### **YOUR OPTIONS**

#### **5. What options do I have with respect to the settlement?**

You have three options: (1) participate in the settlement by doing nothing; (2) exclude yourself from the settlement (“opt out” of it); or (3) object to the settlement. Each of these options is described in a separate section below.

#### **6. What are the critical deadlines?**

There is no deadline to receive settlement benefits. If you do nothing and the settlement is approved, then you may receive a payment and/or receive forgiveness of Uncollected Fees and/or forgiveness of Negative Account Balances after approval.

The deadline for sending a letter to exclude yourself from or opt out of the settlement is postmarked by September 29, 2023.

The deadline for sending a letter to object to the settlement is also postmarked by September 29, 2023.

#### **7. How do I decide which option to choose?**

If you want to participate in the settlement, then you don’t have to do anything; you may be sent a payment and/or receive forgiveness of Uncollected Fees and/or receive forgiveness of Negative Account Balances if the settlement is approved by the Court.

If you do not wish to participate in the settlement, in which case you will not be sent a payment from the Settlement Fund and/or forgiveness of Uncollected Fees and/or forgiveness of Negative Account Balances and you will not be bound by the release, then you should opt out. Likewise, if you believe that you could receive more money by pursuing your claims on your own (with or without an attorney) and you are comfortable with the risk that you might lose your case or get less than you would in this settlement, then you may want to consider opting out.

If you believe any part of the settlement is unreasonable, unfair, or inadequate, you can object to the settlement terms. The Court will consider timely objections. The Court will decide whether to approve the settlement and the award of attorneys’ fees, litigation costs, a service award, and administrative costs. If the Court decides not to approve the settlement, then the settlement will be void and no payments will be issued pursuant to its terms. If the Court approves the settlement, then you may still be sent a payment and/or have your Uncollected Fees forgiven and/or have your Negative Account Balances forgiven, and you will be bound by the settlement, including the release of claims.

#### **8. What has to happen for the settlement to be approved?**

The Court has to decide that the settlement is fair, reasonable, and adequate. The Court already has decided to provide preliminary approval of the settlement, which is why you received a Notice. The Court will make a final decision regarding the settlement at a “Fairness Hearing” or “Final Approval Hearing,” which is currently scheduled for October 10, 2023 in the District Court of Douglas County, Nebraska, which is located at 1701 Farnam Street, Courtroom 418, Omaha, NE 68183. The hearing may be virtual, or the date may change, in which case the instructions to participate shall be posted on the website at [www.SempekFeesSettlement.com](http://www.SempekFeesSettlement.com).

## THE SETTLEMENT PAYMENT

### **9. How much is the settlement?**

Defendant has agreed to create a Settlement Fund of \$1,200,000.00 for the Class. It will also forgive Uncollected Fees totaling \$36,762.00 and Negative Account Balances totaling \$83,208.87, as defined in the Settlement Agreement.

As discussed separately below, attorneys' fees of up to one-third of the Value of the Settlement, litigation costs, the service award of \$5,000.00 for the Named Plaintiff, and the costs paid to a third-party Settlement Administrator to administer the settlement (including sending the Postcard Notices and Email Notices) will be paid out of the Settlement Fund. Once the requested disbursements are approved from the Settlement Fund, the Net Settlement Fund will be divided among all Class Members based on a pro rata formula based on the number of APPSN and Retry Fees paid by each Class Member as described in the Settlement Agreement.

### **10. How much of the Settlement Fund will be used to pay for attorneys' fees and costs?**

Class Counsel will request attorneys' fees be awarded by the Court of not more than one-third of the Value of the Settlement and will request that it be reimbursed for litigation costs incurred in prosecuting the case. Class Counsel will file the motion to make this request with the Court no later than September 14, 2023. The Court will decide the amount of the attorneys' fees and costs based on a number of factors.

You can access this motion by visiting [www.SempekFeesSettlement.com](http://www.SempekFeesSettlement.com).

### **11. How much of the Settlement Fund will be used to pay the Named Plaintiff a service award?**

Class Counsel will request that the Named Plaintiff be paid a service award in the amount of \$5,000.00 for her work in connection with this case. The service award must be approved by the Court. Class Counsel will file the application for this request with the Court no later than September 14, 2023.

You can access this motion by visiting [www.SempekFeesSettlement.com](http://www.SempekFeesSettlement.com).

### **12. How much will my payment be?**

The balance of the Settlement Fund after attorneys' fees and costs, the service award and the Settlement Administrator's fees, also known as the Net Settlement Fund, will be divided among all Class Members on a pro rata basis based on the number of APPSN and Retry Fees paid by each Class Member.

### **13. Do I have to do anything if I want to participate in the settlement?**

No. If you received an Email Notice or Postcard Notice, then you may be entitled to receive a payment and/or forgiveness of Uncollected Fees and/or forgiveness of Negative Account Balances without having to make a claim, unless you choose to exclude yourself from the settlement, or "opt out."

### **14. When will I receive my payment?**

The Court will hold a Fairness Hearing on October 10, 2023, in the District Court of Douglas County, Nebraska, which is located at 1701 Farnam Street, Courtroom 418, Omaha, NE 68183, to consider whether the settlement should be approved. If the settlement is approved by the Court and you are eligible for a payment, you may receive either a check or a credit to your account approximately forty-five (45) days after this hearing. However, if there is an appeal, payments may be delayed.

### **15. How will I be sent my payment?**

Current members of Defendant will be given a credit to their accounts for the amount they are entitled to receive.

Former members of Defendant will be sent a check from the Settlement Administrator. The check will be sent to the address used to provide Postcard Notice of the settlement, or at such other address as designated by the Class Member. Checks must be cashed within 180 days.

Class Members entitled to forgiveness of Uncollected Fees or Negative Account Balances shall receive this benefit automatically.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

### **16. How do I exclude myself from the settlement?**

If you do not wish to participate in the settlement and be bound by the release, and you do not want to receive a payment and/or forgiveness of Uncollected Fees and/or forgiveness of Negative Account Balances, or if you want to keep any right you may have to sue Defendant for the claims alleged in this lawsuit, then you must exclude yourself, or "opt out."

To opt out, you **must** send a letter to the Settlement Administrator that you want to be excluded. Your letter can simply state "I hereby elect to be excluded from the settlement in the *Donna Sempek v. Centris Federal Credit Union* class action." Be sure to include your name, the last four digits of your account number(s) or former account number(s), address, telephone number, and email address. Your exclusion or opt-out request must be postmarked by September 29, 2023, and sent to:

*Donna Sempek v. Centris Federal Credit Union*  
Attn: Exclusion Requests  
P.O. Box 6188  
Novato, CA 94948-6188

**17. What does it mean to be bound by the release?**

By choosing not to opt out of the Settlement Agreement, you will remain a Class Member, and as such will be bound by the release of claims in the Settlement Agreement. That means you will release any claims you may have against Defendant that arise out of and/or relate to the facts and claims alleged in the Amended Complaint filed in this action. Put differently, participating in the settlement means that you will not be able to sue the Defendant in the future for such claims.

The form of the release can be found in Section 15 of the Settlement Agreement.

**18. What happens if I opt out of the settlement?**

If you opt out of the settlement, you will preserve and not give up any of your rights to sue Defendant for the claims alleged in this case. However, you will not be entitled to receive a payment from the Settlement Fund and/or forgiveness of Uncollected Fees and/or forgiveness of Negative Account Balances.

**OBJECTING TO THE SETTLEMENT**

**19. How do I notify the Court if I do not like the settlement?**

You can object to the settlement or any part of it that you do not like **IF** you do not exclude yourself, or opt out, from the settlement. (Class Members who exclude themselves from the settlement have no right to object to how other Class Members are treated.) To object, you **must** send a written document by mail or private courier (e.g., Federal Express) to the Settlement Administrator and Class Counsel at the addresses below. Your objection must include the following:

- The name of this case, which is *Donna Sempek v. Centris Federal Credit Union*, District Court of Douglas County, Nebraska, Case No. CI 22-4495;
- Your name, address, telephone number, the last four digits of your account number(s) or former account number(s), and the contact information for any attorney retained by you in connection with the objection or otherwise in connection with this case who may be entitled to compensation for any reason related to the objection;
- A statement of the factual and legal basis for each objection and any exhibits the objector wishes the Court to consider in connection with the objection;
- A statement as to whether you intend to appear at the Final Approval Hearing, either in person or through counsel, and, if through counsel, identifying the counsel by name, address, and telephone number;
- A list of all persons who will be called to testify at the Final Approval Hearing in support of the objection; and
- Your signature or the signature of your legally-authorized representative.

All objections must be postmarked no later than September 29, 2023, and must be mailed to the Settlement Administrator and Class Counsel as follows:

SETTLEMENT ADMINSTRATOR	CLASS COUNSEL
<i>Donna Sempek v. Centris Federal Credit Union</i> Settlement Administrator Attn: Objections P.O. Box 6188 Novato, CA 94948-6188	Lynn A. Toops <b>COHEN &amp; MALAD, LLP</b> One Indiana Square, Suite 1400 Indianapolis, IN 46204

**20. What is the difference between objecting and requesting exclusion from the settlement?**

Objecting is telling the Court that you do not believe the settlement is fair, reasonable, and adequate for the Class, and asking the Court to reject it. You can object only if you do not opt out of the settlement. If you object to the settlement and do not opt out, then you are entitled to a payment for paid APPSN Fees and Retry Fees, and/or forgiveness of Uncollected Fees and/or forgiveness of Negative Account Balances if the settlement is approved, but you will be bound by the release of claims you might have against Defendant if the settlement is approved.

Excluding yourself or opting out is telling the Court that you do not want to be part of the settlement, and do not want to receive a payment for paid APPSN Fees and Retry Fees, and/or forgiveness of Uncollected Fees and/or forgiveness of Negative Account Balances, and you do not want to release claims you might have against Defendant for the claims alleged in this lawsuit.

**21. What happens if I object to the settlement?**

The Court will consider the objection. If the Court sustains your objection, or the objection of any other Class Member, then there may be no settlement. If you object, but the Court overrules your objection and any other objection(s), then you will be part of the settlement. If the Court approves the settlement, then you will participate in the settlement. If the Court does not approve the settlement, then there is no settlement.

**THE COURT'S FAIRNESS HEARING**

**22. When and where will the Court decide whether to approve the settlement?**

The Court will hold a Final Approval or Fairness Hearing at 9:30 a.m. on October 10, 2023 in the District Court of Douglas County, Nebraska, which is located at 1701 Farnam Street, Courtroom 418, Omaha, NE 68183. At this hearing, the Court will consider whether the settlement is fair, reasonable and adequate. If there are objections, the Court will consider them. The Court may also decide how much to award Class Counsel for attorneys' fees and litigation costs and the amount of the service award to the Named Plaintiff.

**23. Do I have to come to the hearing?**

No. Class Counsel will answer any questions the Court may have. You may attend if you desire to do so. If you have submitted an objection, then you may want to attend. The hearing may be virtual, in which case the instructions to participate shall be posted on the website at [www.SempekFeesSettlement.com](http://www.SempekFeesSettlement.com).

**24. May I speak at the hearing?**

If you have objected, you may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must include with your objection, described in Question 19, above, a statement, showing that you intend to appear at the Final Approval Hearing. A statement substantively similar to "I intend to appear at the Final Approval Hearing" will be sufficient. The Court will consider your objection even if you do not appear. The hearing may be virtual, in which case the instructions to participate shall be posted on the website at [www.SempekFeesSettlement.com](http://www.SempekFeesSettlement.com).

**THE LAWYERS REPRESENTING YOU**

**25. Do I have a lawyer in this case?**

The Court ordered that the lawyers and their law firms referred to in this Notice as "Class Counsel" will represent you and the other Class Members. However, you may retain a lawyer to represent you at your own expense, if you wish.

**26. Do I have to pay the lawyers for accomplishing this result?**

No. Class Counsel will request payment directly from the Settlement Fund for the legal services provided to accomplish the settlement for Class Members' benefit.

**27. Who determines what the attorneys' fees will be?**

The Court will be asked to approve the amount of attorneys' fees at the Fairness Hearing. Class Counsel will file an application for fees and costs and will specify the amount being sought as discussed above no later than September 14, 2023. You can access this application by visiting [www.SempekFeesSettlement.com](http://www.SempekFeesSettlement.com).

## GETTING MORE INFORMATION

This Notice only summarizes the proposed settlement. More details are contained in the Settlement Agreement, which can be viewed/obtained online at [www.SempekFeesSettlement.com](http://www.SempekFeesSettlement.com). For additional information about the settlement and/or to obtain copies of the Settlement Agreement, or to change your address for purposes of receiving a payment, you should contact the Settlement Administrator as follows:

*Donna Sempek v. Centris Federal Credit Union*  
Settlement Administrator  
P.O. Box 6188  
Novato, CA 94948-6188

For more information, you also can contact the Class Counsel as follows:

Lynn A. Toops  
**COHEN & MALAD, LLP**  
One Indiana Square, Suite 1400  
Indianapolis, IN 46204  
Telephone: (317) 636-6481  
Facsimile: (317) 636-2593  
[ltoops@cohenmalad.com](mailto:ltoops@cohenmalad.com)

Gerard Stranch, IV  
Martin F. Schubert  
**BRANSTETTER, STRANCH & JENNINGS, PLLC**  
223 Rosa L. Parks Avenue, Suite 200  
Nashville, TN 37203  
Telephone: (615) 254-8801  
Facsimile: (615) 255-5419  
[gerards@bsjfirm.com](mailto:gerards@bsjfirm.com)  
[martys@bsjfirm.com](mailto:martys@bsjfirm.com)

Christopher D. Jennings  
**JOHNSON FIRM**  
610 President Clinton Avenue, Suite 300  
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[chris@yourattorney.com](mailto:chris@yourattorney.com)

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1500 Omaha Tower  
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Omaha, NE 68124  
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[fstehlik@gwmclaw.com](mailto:fstehlik@gwmclaw.com)  
[zlutzpriefert@gwmclaw.com](mailto:zlutzpriefert@gwmclaw.com)

***PLEASE DO NOT CONTACT THE COURT OR ANY REPRESENTATIVE OF DEFENDANT  
OR CENTRIS FEDERAL CREDIT UNION CONCERNING THIS NOTICE OR THE SETTLEMENT.***