

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SUSAN ROY, on behalf of herself and all others
similarly situated,

Plaintiff,

vs.

ESL FEDERAL CREDIT UNION,

Defendant.

CASE NO. 6:19-cv-06122-FPG-JWF

**NOTICE OF MOTION AND UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure 23(e) and Western District of New York Local Rule 7, Plaintiff Susan Roy, (“Plaintiff”), on behalf of herself and all others similarly situated, hereby does move this Court for an order granting preliminary approval of the class action Settlement reached between her and Defendant ESL Federal Credit Union (“Defendant” or “ESL”) (collectively, the “Parties”), and to enter the [Proposed] Order Granting Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action Settlement submitted with this notice of motion.

Plaintiff believes Preliminary Approval is warranted because the terms of the proposed Settlement are fair, adequate, and reasonable under the law of the Second Circuit and the Federal Rules of Civil Procedure, and provide substantial relief for the Settlement Class. Given the significant risks inherent in this Action, the \$1,830,758.36 Value of the Settlement, consisting of ESL’s: (a) cash payment of \$1,700,000.00 and (b) agreement to forgive, waive, and not collect an additional \$130,758.36 in Uncollected Relevant Fees, is an excellent result for Settlement Class Members.

Plaintiff hereby moves, and Defendant will not oppose a request for the Court to (1) preliminarily approve the Class Action Settlement as being within the range of fair, adequate, and reasonable; (2) provisionally certify for settlement purposes only the proposed Settlement Class pursuant to Fed. R. Civ. P. 23; (3) appoint Plaintiff as Class Representative; (4) approve the Notice Program set forth in the Settlement Agreement and approve the form and content of the Notices, attached to the Settlement Agreement as Exhibits 1 and 2; (5) approve the opt-out and objection procedures set forth in the Agreement; (6) stay the Action against ESL pending Final Approval of Settlement; (7) appoint Jeff Ostrow and Jonathan Streisfeld of Kopelowitz Ostrow P.A.; Jeffrey Kaliel and Sophia Gold of Kaliel PLLC; and Andrea Gold of Tycko & Zavareei LLP as Class Counsel; and (8) schedule a Final Approval Hearing.

This unopposed Motion is based upon this Notice of Motion; the Memorandum of Points and Authorities; the Joint Declaration of Class Counsel; the Declaration of Steven Weisbrot of Angeion Group LLC; the Settlement Agreement and exhibits submitted therewith; and, all papers and pleadings on file herein.

Pursuant to Local Rule 7, Plaintiff states that she does not intend to file a reply in support of this unopposed motion.

Dated: February 16, 2021

Respectfully submitted,

REESE LLP

/s/Michael R. Reese

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Proposed Co-Lead Class Counsel