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DISTRICT COURT

CLARK COUNTY, NEVADA

ANGEL LUIS RODRIGUEZ, JR., individually
and as a representative of the class,

Plaintiff,

vs.

NATIONAL CREDIT CENTER, LLC.

Defendant.

Case No.: A-23-869000-B

Dept. No.: 16

**PLAINTIFF'S RESPONSE TO
REQUESTS FOR EXCLUSION
FROM AND OBJECTIONS TO
CLASS ACTION SETTLEMENT**

Pursuant to this Court’s July 17, 2024 Order Granting Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action Settlement (*see* Doc ID# 59 (“Preliminary Approval Order” or “PAO”), ¶ 18), Class Counsel respectfully submit this response regarding any requests for exclusion from or objections to the Class Action Settlement (the “Settlement”), and state as follows:

1. The deadline for Class Members to postmark opt-outs from or objections to the Settlement was September 25, 2024. As of October 3, 2024, 13 Class Members had opted out of the Settlement. (*See* Declaration of Ritesh Patel (“Patel Declaration” or “Patel Decl.”) as Exhibit 1, ¶ 6.) A list of Class Members who have requested to opt out of the Settlement is attached as Exhibit B to the Patel Declaration.

2. As set forth in more detail in Plaintiff’s Motion & Memorandum in Support of Unopposed Motion For Final Approval of Class Action Settlement & Certification of Settlement Class (*see* Doc ID# 68), that only 13 Class Members—in a Class of 426,487 individuals—opted out of the Settlement indicates strong Class approval and weighs heavily in favor of granting final approval of the Settlement. *See e.g., Lupei v. Optisource Intern., Inc.*, 2014 WL 4064120, at *3 (Nev. Dist. Ct. Feb. 06, 2014) (“The number of opt outs in this case is small compared with the entire class...Further, in this case, Class Members had the ability to opt out, and therefore, their remaining in the Settlement Class suggests a conscious choice to take advantage of the settlement.”).

3. Also as of October 3, 2024, only one Class Member, Jose Luis Garcia Lopez (“Mr. Garcia Lopez”), had submitted to the Settlement Administrator an objection to the Settlement (the “Objection”). (*See* Patel Decl., ¶ 5, *id.* at Ex. A.)

4. The Objection should be overruled on both substantive and procedural grounds.

5. First, as set forth in both the Settlement Agreement¹ and Preliminary Approval Order, in order to be valid, an objection must include, among other information, “all objections

¹ The Settlement Agreement (or “S.A.”), was filed with the Court on June 20, 2024 as Exhibit 1 to the Appendix to the Declaration of E. Michelle Drake.

and the basis for any such objections stated with specificity.” (S.A. ¶ 6.2; PAO ¶ 17.) Here, however, Mr. Garcia Lopez has failed to provide this basic information. Instead, the Objection is primarily comprised of portions of irrelevant state regulations and statutes (e.g., Kan. Admin. Regs. § 123-13-103), as well as what appear to be excerpts of overviews of irrelevant legal concepts and standards (e.g., the Brandenburg Test).

6. Although the Objection is difficult to parse, Class Counsel believes that Mr. Garcia Lopez has objected to the Settlement because he wishes to pursue individual claims against Defendant for “Tort, Defamation of Character, False Accusation and the monumental and significant Emotional Distress.” (Patel Decl., Ex. A, ¶ 2.) But this is not grounds to deny final approval of the Settlement, particularly when no other Class Member has objected to any of its terms. *See, e.g., Pan v. Qualcomm Inc.*, 2017 WL 3252212, at *10 (S.D. Cal. July 31, 2017) (“[T]o the extent that any of the Objectors feel that the Settlement Agreement does not adequately address their specific circumstances, the more appropriate course of action is for these Objectors to opt out of the class, rather than bar final approval of a settlement where 3,466 of 3,483 class members find the Settlement to be in their best interest.”); *Perkins v. LinkedIn Corp.*, 2016 WL 613255, at *4–5 (N.D. Cal. Feb. 16, 2016) (overruling objections, including that “the Settlement does not fully account for the level of harm caused by [defendant]’s conduct,” because objectors did not “adequately take into account the risks and delays involved in proceeding to class certification, summary judgment, and/or trial” and “ignore[d] that the Settlement provides the class with a timely, certain, and meaningful cash recovery”); *Dennis v. Kellogg Co.*, 2013 WL 6055326, at *5 (S.D. Cal. Nov. 14, 2013) (overruling objection arguing that objector should receive greater compensation because “[objector]’s dissatisfaction based on circumstances unique to her and her family cannot undermine the overall fairness of the settlement to the class as a whole in light of the significant risks posed by further litigation”); *In re Force Protection, Inc. Shareholder Litigation*, 2015 WL 6085373, at *4 (Nev. Dist. Ct. July 21, 2015) (overruling objection that the court found “not to be meritorious”).

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1 7. Second, the Settlement Agreement and Preliminary Approval Order, as well as the
2 Notices² provided to Settlement Class Members, make clear that, in order to be valid, an objection
3 must be filed with the Court. (S.A. ¶ 6.2 (“Any Settlement Class Member who...intends to object
4 to this Settlement Agreement must file the objection in writing with the Clerk of Court no later
5 than sixty (60) days from the Settlement Notice Date...Any Settlement Class Member who fails to
6 timely file and serve a written objection pursuant to this Section shall not be permitted to object to
7 the approval of the settlement or this Settlement Agreement and shall be foreclosed from seeking
8 any review of the settlement or the terms of the Settlement Agreement by appeal or other means.”);
9 PAO ¶ 16 (“Any Settlement Class Member who...wishes for any objection to be considered []
10 must file a written notice of Objection with the Court by the Opt Out & Objections Deadline...
11 Any Settlement Class Member who fails to timely file and serve a written Objection pursuant to
12 the terms of Settlement Agreement shall not be permitted to object to the approval of the settlement
13 or the Settlement Agreement and shall be foreclosed from seeking any review of the settlement or
14 the terms of the Settlement Agreement by appeal or other means.”).)

15 8. Here, however, Mr. Garcia Lopez failed to file his Objection with the Court. This
16 provides an independent basis on which to overrule the Objection. *See, e.g.,* Chavez v. PVH Corp.,
17 2015 WL 9258144, at *3 (N.D. Cal. Dec. 18, 2015) (where several objections were “procedurally
18 improper,” explaining that “on this basis alone, the Court may refuse to consider the objections at
19 issue”); *Moore v. Verizon Commc'ns Inc.*, 2013 WL 4610764, at *12 (N.D. Cal. Aug. 28, 2013)
20 (overruling several objections for failure to meet various noticed procedural requirements,
21 including requirement that objections be filed with the court).

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28 ² The Notices that were disseminated to the Settlement Class were filed with the Court on
September 18, 2024 as Exhibits A-B to the Declaration of Ritesh Patel.

9. For the above reasons, the Objection should be overruled.

Dated: October 3, 2024

/s/ Richard K. Hy

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of EGLET ADAMS EGLET HAM HENRIOD, and that on October 3, 2024, I caused the foregoing **PLAINTIFF'S RESPONSE TO REQUESTS FOR EXCLUSION FROM AND OBJECTIONS TO CLASS ACTION SETTLEMENT** to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.

/s/ Jennifer Lopez
An Employee of EGLET ADAMS EGLET HAM HENRIOD

EXHIBIT 1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

ANGEL LUIS RODRIGUEZ, JR.,
individually and as a representative of the
class,

Plaintiff,

vs.

NATIONAL CREDIT CENTER, LLC,

Defendant.

CASE No. A-23-869000-B

**DECLARATION OF RITESH PATEL
RE: OPT-OUT REQUESTS AND
OBJECTIONS**

I, Ritesh Patel, hereby declare as follows:

1. My name is Ritesh Patel and I make this declaration in Montgomery County, Pennsylvania. The statements that follow are all made of my personal knowledge.

2. I am a Partner at Continental DataLogix LLC (“Continental”), which was appointed to aid in giving notice to potential Settlement Class Members and I was responsible for overseeing the dissemination of notices to members of the Class.

3. In accordance with the Court’s July 17, 2024 Order Granting Plaintiff’s Unopposed Motion & Memorandum in Support of Unopposed Motion for Preliminary Approval of Class Action Settlement & Preliminary Certification of Settlement Class, on Order Shortening Time, Continental was appointed as the Settlement Administrator in this case.

4. The postmark deadline for opting out of or objecting to the Settlement was September 25, 2024.

5. As of October 3, 2024, Continental has received one Objection. A copy of this objection is attached as “Exhibit A”.

6. As of October 3, 2024, Continental has received 13 valid Opt-Out requests. In accordance with Section 6.1.2 of the Settlement Agreement, Continental has provided the Parties with copies of the Opt-Out requests that have been received. A list of Class Members who have requested to Opt-Out of the Settlement in accordance with the Settlement Agreement is attached as “Exhibit B”.

CASE No. A-23-869000-B

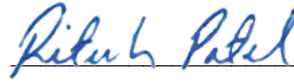
– 1 –

DECLARATION OF RITESH PATEL RE: OPT-OUT REQUESTS
AND OBJECTIONS

PLTFRSP00001

1 I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

2 Executed on this 3rd day of October 2024.

3 _____

4 Ritesh Patel

EXHIBIT A

Affidavit of Jose Luis Garcia Lopez

State of Texas

County of Galveston

Jose Luis Garcia Lopez, being duly sworn deposes and states as follows under penalty of perjury:

1. My name is Jose Luis Garcia Lopez, I am presently 28 years old, and my current address of residence is 3627 Avenue R, Galveston, Texas 77550.
2. The purpose of this Affidavit is to affirm that my affirmation is that I Jose Luis Garcia Lopez Object and the objection is in connection with the case titled "Rodriguez v. National Credit Center, LLC, Case No. A-23-869000-B." furthermore I am not a terrorist and/or a narcotics trafficker on the contrary to OFAC (Office of Foreign Asset Control's) List of Specially Designated Nationals or NCC (National Credit Center), LLC, NO. A-23-869000-B, has to say. I object, leading, not reasonable, not adequate and not fair. I'm now seeking to recover from the Tort, Defamation of Character, False Accusation and the monumental and significant Emotional Distress.
3. Citation From: <https://Law.Cornell.edu>
Citation From: NOTICE OF CLASS ACTION SETTLEMENT. to JOSE GARCIA (ME) at 3627 AVENUE R REAR GALVESTON, TX 77550-7595. Rodriguez v. National Credit Center, LLC, No. A-23-869000-B. Notice ID: NCC-3AD7A562 PIN Number: 17091294
Citation From: <https://www.Google.com>
Citation From: NTHS (National Technical Honor Society) wallet card
Citation From: STATE OF TEXAS CERTIFICATION OF VITAL RECORD
Citation From: ESCO institute wallet card Certificate No.: 889703702110 Section 608 of the Federal Clean Air Act
Citation From: ESCO institute CERTIFICATION #: 889703999999 Section 609 of the Federal Clean Air Act
Citation From: NationalCPRFoundation Provider Card Certificate: Bloodborne Pathogens ID#: 5D4CC3
Citation From: NationalCPRFoundation Provider Card Certificate:(Infant - Child - Adult) CPR/AED/First-Aid ID#: 7323F7CE
Citation From: STATE OF TEXAS TDLR TEXAS DEPARTMENT OF LICENSING & REGULATION REGISTRATION NUMBER 81863.
4. N.M. Code R. § 11.21.2.34 - OBJECTIONS
Within five days following the service of a tally of ballots or the issuance of a certification pursuant to Subsection A of Section 33 above, a party may file objections to conduct affecting the determination of majority support without an election of the result

of the election. Objections shall set forth all grounds for the objection with supporting facts and shall be served on all parties to the proceeding. The director shall, within 30 days of the filing of such objections, investigate the objections and issue a report thereon. Alternatively, the director may schedule a hearing on the objections within 30 days of the filing of the objections. A determination to hold a hearing is not reviewable by the board and shall follow the same procedures set forth in Subsections B, C and D of Section 19, Section 20 and Section 21 above. A party adversely affected by the director's or hearing examiner's report may file a request for review with the board under the same procedures set forth in Section 22, above. If the director, hearing examiner or board finds that the objections have merit and that conduct improperly interfered with the results of the election, then the results of the election may be set aside and a new election ordered. In that event, the director in his or her discretion may retain the same period for determining eligibility to vote as in the election that was set aside, or may establish a new eligibility period for the new election.

Freedom of Speech / Freedom of the Press

The most basic component of freedom of expression is the right to freedom of speech. Freedom of speech may be exercised in a direct (words) or a symbolic (actions) way. Freedom of speech is recognized as a human right under article 19 of the Universal Declaration of Human Rights. The right to freedom of speech allows individuals to express themselves without government interference or regulation. The Supreme Court requires the government to provide substantial justification for interference with the right of free speech when it attempts to regulate the content of the speech. Generally, a person cannot be held liable, either criminally or civilly for anything written or spoken about a person or topic, so long as it is truthful or based on an honest opinion and such statements.

commercial speech

Primary tabs

Commercial speech refers to any speech which promotes at least some type of commerce. As established in *Central Hudson v. Public Svn. Comm'n*, commercial speech is less protected under the First Amendment than other forms of speech.

Central Hudson established a four-part test for whether governmental regulation of commercial speech is constitutional.

First, in order for the commercial speech to be considered protected speech under the First Amendment, the speech must concern lawful activity and the speech must not be misleading.

If this step is met and the commercial speech is considered speech, then the court will use steps 2-4 below to determine whether the government regulation is constitutional. Second, the alleged governmental interest in regulating the speech must be substantial. Third, the regulation must directly advance the governmental interest asserted. Fourth, the regulation must not be more extensive than is necessary to serve the interest expressed in step 3.

For example, *Linmark Associates v. Township of Willingboro* established that a township could not prevent residents from placing "For Sale" / "Sold" signs on their lawns because preventing the flow of truthful information was more extensive than necessary to serve the township's interest of preventing further neighborhood members from leaving.

In addition to being restricted, commercial speech can also be compelled. In *Zauderer v. Office of Disc. Counsel*, the Supreme Court held that a state may situationally compel commercial speech without violating the advertiser's First Amendment rights. Specifically, a state may require an advertiser to disclose certain information "as long as disclosure requirements are reasonably related to the State's interest in preventing deception of consumers."

Kan. Admin. Regs. § 123-13-103 - Prosecution by outside agency

(a) If an offender is alleged to have committed an act covered by criminal law, the case shall be referred to the appropriate law enforcement or prosecutorial agency for consideration for prosecution, unless there is a current written statement from a prosecutor who has jurisdiction and who requests that certain types or classes of crimes not be reported or that no report be made.

(b) Any hearing officer may proceed with a disciplinary hearing under these regulations or may authorize a continuance of the disciplinary hearing to await the result of a prosecution if the disciplinary proceeding involves the same offense as that being prosecuted.

This regulation shall be effective on and after April 8, 2005.

21 N.C. Admin. Code 22J .0105 - DEFAMATION OF COMPETITORS

It shall be unethical to defame competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, or questioned credit standing or competency, or to falsely disparage the products of competitors in any respect.

Cal. Code Regs. Tit. 9, § 30508 - False Accusations or Statements

(a) False accusations or statements made by a ward or staff member in connection with the filing of a grievance or participation in the grievance procedure may be subject to disciplinary action if:

(1) The false accusation or statement was made in a knowing, deliberate, and malicious attempt to cause significant harm to another party, and

(2) The potential for such injury is substantiated.

(b) The burden of proof in such a case shall rest with the accuser. Failure of a ward or staff member to substantiate his accusations or statements against another shall not, by itself, be used as grounds to initiate disciplinary action.

(c) The superintendent shall use the following criteria when reviewing Disciplinary Decision Making System action involving allegations of slander or false accusations against staff, and approve further DDMS actions only when all the following elements are present:

(1) The statement is shown to be false, and

(2) It is shown that the ward knew it was false, and

- (3) It is shown that the ward intended to harm the person about whom the statement was made, and
- (4) It is shown that there was actual potential for substantial harm to the person about whom the statement was made.
- (d) During a review of potential DDMS actions referred to in subsection (1)-(4), staff shall consider the ward's entire statement or series of remarks, e.g.:
 - (1) Statements shall not be taken out of context.
 - (2) The ward's mistaken or inaccurate conclusions regarding matters of law and/or policy are not to be regarded as false statements or accusations.
 - (3) Only the statement of alleged facts which form the basis for such conclusions shall be considered.

This letter is a Symbolic way to address Jose Garcia (Me) for my eyes a Free Rider now. This is not a Posteriori nor is it a priori, I have a Fortiori and am seeking to Recover from the Tort, Defamation of Character, and monumental and Significant Emotional Distress caused by accusation from NCC. These actions are a Plain Error and will fail the 4-prong test. Statute of Repose, Official Misconduct in form of Malfeasance to which NCC denies on NOTICE in writing any and all allegations or assertions of wrongdoing, Res Judicata I have several certificates ESCO institute Section 608 & 609 of the Federal Clean Air Act and National CPR Foundation certificates cited above. I am a member of NTHS(National Technical Honor society) "The acknowledged leader in the recognition of outstanding student achievement in career and technical education. Jose Garcia Username: joselg602@gmail.com www.NTHS.org MEMBER PLEDGE As a member of the National Technical Honor Society, I pledge to maintain the highest standard of personal conduct. I will apply myself to continue a record of scholastic achievement, and I will strive for excellence in all aspects of my education. I will invest my talents, my skills and my knowledge in a career of my own choosing, and shall always endeavor to uphold my obligations as a citizen of my community and my country." "Success favors the prepared mind", Rule 103. Rulings of evidence, Rule 51. Preserving claimed error, and Rule 52. Harmless and Plain Error. Affects my substantive rights to be placed on the OFAC List as it is for terrorists and narcotics traffickers, that U.S. businesses are not allowed to do business with. I have a business's and do business with U.S. businesses personally and professionally.

Ariz. Admin. Code § R20-5-828 - Special Circumstances; Waiver of Rules

In special circumstances, or for good cause shown, the administrative law judge may, upon application by any interested party, or on sua sponte, waive any rule or make such orders as justice or the administration of the Act requires.

5. Wash. Admin. Code § 326-08-120 - Objections to initial order

- (1) Any party to a full adjudicative proceeding may file objections to an initial order pursuant to RCW 34.05.464.
- (2) The objections to the initial order shall be filed with the director within twenty days of the date of service of the initial order. Copies of the objections to the initial order shall be served upon all other parties.
- (3) The objections to the initial order shall specify the portions of the initial order to

which objection is taken and shall refer to the evidence of the record which is relied upon to support each objection.

(4) Any party may file a reply to the objections to the initial order. The reply shall be filed with the director within ten days of the date of service of the objections to the initial order and copies of the reply shall be served upon all other parties.

This is a form of Commercial Speech, will fail 4-part Test. Lawful and misleading. "As long as disclosure requirements are reasonably related to the State's interest in preventing deception of consumers." Commerce: Defendant (NCC) Sold a report to a 3rd party about my name. Was/is standard procedure and a policy to NCC on OFAC Screens to brake Commercial Speech, this is implied in the Notice. OFAC List is maintained by the U.S. Department of the Treasury and the OFAC was formed to ensure that money recovered through the statewide opioid settlement agreements is allocated fairly and spent to put an end to the opioid crisis in Texas. This search leads me to believe that the NCC is now in fact sanctioned to U.S. laws at Local, State, and Federal levels because an exchange was had, information was repeatedly sold according to the notice.

6. Commerce usually is used to mean economic activity broadly on a National or other large scale. One Federal Statute Defines commerce as: "the exchanging, buying, or selling of things having economic value between 2 or more entities. 15 U.S. Code section 1127.
7. Commerce Clause: Article 1, Section 8, Clause 3 of U.S. Constitution. Which gives congress the power "to Regulate Commerce with Foreign Nations, among States, and with the Indian tribes."
8. N.D. Admin Code 13-04-02-05 - Threats or coercion prohibited
No debt collector may collect or attempt to collect any debt by means of any threat, coercion, or attempt to coerce. Without limiting the general application of the foregoing, no debt collector may:
 1. Use, or expressly or implicitly threaten the use of violence or other criminal means, to cause harm to the person, reputation, or property of any person.
 2. Accuse or threaten to accuse any person of fraud or any other crime, or any conduct which, if true, would tend to disgrace such other person, or in any way subject the person to ridicule or any conduct which, if true, would tend to disgrace the person, or in any way subject the person to the ridicule or contempt of society.
 3. Make to another person, including any credit reporting agency, false accusations, or threats of false accusations, that a debtor is willfully refusing to pay a just debt.
 4. Threaten to sell or assign to another the obligation of the debtor with an attending representation or implication that the result of such sale or assignment would be that the debtor would lose any defense to the debt or would be subjected to harsh, vindictive, or abusive collection attempts.
 5. Represent that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person, unless such action is lawful and the debt collector or creditor intends and is

legally entitled to bring such action.

Wash. Admin. Code § 516-21-090 - False information

Providing or creating false information is a violation of the code. False information includes, but is not limited to:

- (1) Forging, altering, mutilating, or destroying any university document or record, or entering false information into such documents or records;
- (2) Possessing or presenting as authentic any falsified document, record, or identification;
- (3) Intentionally making false accusations or charges against another member of the university community; and
- (4) Knowingly providing false information or statements to any university official or other public official acting in performance of their duties..

9. after-discovered evidence

Primary tabs

After-discovered evidence, or newly discovered evidence, is evidence which existed at the time of the original trial but was only discovered after the conclusion of the trial. After-discovered evidence is an issue predominantly in criminal proceedings and may be used as the basis for a motion for a new trial.

Courts employ a four-part test in determining whether to grant a new trial on this basis. Namely, courts consider whether the new evidence: (1) could not have been have obtained prior to the conclusion of the trial by the exercise of reasonable diligence; (2) is not merely corroborative or cumulative; (3) will not be used solely to impeach the credibility of a witness; and (4) would likely result in a different verdict or lighter sentence if a new trial were granted. Under the third element, courts determine whether new evidence is corroborative based on the strength of the other evidence supporting the conviction; new evidence is less likely to be deemed cumulative if the conviction was largely based on circumstantial evidence. Lastly, the evidence must also be admissible.

For example, the Supreme Court of Florida has held that newly discovered DNA evidence and confessions of another suspect were sufficient to compel a new trial, because the evidence weakened the case against the defendant enough to give rise to a reasonable doubt as to their culpability.

Under Rule 59 of the Federal Rules of Civil Procedure, after-discovered evidence may be used to challenge judgments in civil proceedings as well, such as foreclosure actions. In such instances, courts employ a similar standard that considers whether the evidence could have been discovered during the proceeding and would have produced a different result. However, changes in law or interpretations of the law are generally not accepted as after-discovered evidence.

Lastly, under the model rules of professional responsibility, prosecutors who learn of "new, credible and material evidence creating a reasonable likelihood that a convicted defendant did not commit an offense of which the defendant was convicted" must

disclose the evidence or remedy the conviction.

advocacy of illegal action

Primary tabs

The advocacy of illegal action is a category of speech not protected by the First Amendment. It is also sometimes referred to as the advocacy of illegal conduct.

First addressed in *Whitney v. California* (1927), the Supreme Court held that speech advocating illegal conduct, or the advocacy of illegal conduct, was outside the protection of the First Amendment. In *Whitney*, the Court upheld the conviction of Whitney for her membership and involvement with the Communist Party, holding that Whitney could be punished for speech advocating the overthrow of the U.S. government via violent methods.

Then in *Brandenburg v. Ohio* (1969), the Supreme Court overturned *Whitney*, holding that it is unconstitutional under the First Amendment to criminally punish a speaker for an abstract advocacy of illegal conduct. Only speech that is intended to, and likely to incite imminent lawless action could be punished. In holding so, the Court produced the “*Brandenburg Test*,” which requires that in order to punish the speaker, the speech must be intended to incite or produce imminent lawless action, and likely to incite such action.

This test was subsequently affirmed by the Court numerous times in *Hess v. Indiana* (1973), *NAACP v. Claiborne Hardware Co.* (1982), and most recently in *Stewart v. McCoy* (2002). In *McCoy*, the Court overturned an Arizona trial court’s sentencing of the defendant after he was convicted of advising members of a street gang on how to organize themselves. Justice John Paul Stevens noted in *McCoy* that whether the defendant’s advice incited imminent lawless action was debatable, and that “while the requirement that the consequence be ‘imminent’ is justified with respect to mere advocacy, the same justification does not necessarily adhere to some speech that performs a teaching function.”

The “*Brandenburg Test*” is thus the controlling precedent regarding whether speech that can be construed as advocating illegal action is protected under the First Amendment.

10. This Objection pertains to the entire Class. I may want to call on myself as a witness at the Final Approval Hearing. The exhibits I wish to introduce into evidence are as follows: The NOTICE OF CLASS ACTION SETTLEMENT, MY Affidavit, and my certifications. I will evoke my right to a court appointed attorney at the Final Approval Hearing with counsel.

11. Amdt6.4.7 Notice of Accusation
Sixth Amendment:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be

informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

The Sixth Amendment right to be “informed of the nature and cause of the accusation” guarantees criminal defendants “adequate notice of the charges against [them].”¹ To satisfy the Sixth Amendment requirement, the notice that the government provides must be specific enough to enable the defendant to prepare a defense and to protect himself or herself after judgment against a subsequent prosecution on the same charge.² Thus, in the prosecution of a witness for the crime of refusing to answer the questions of a congressional subcommittee about a topic that the subcommittee was investigating, the government violated the Sixth Amendment right by failing to identify the topic of the investigation.³ Because criminal liability could attach only if the questions that the witness refused to answer related to the topic of the congressional investigation, the Court reasoned that the prosecution’s failure to identify the topic left the “chief issue undefined” and therefore violated the defendant’s right to know “the nature of the accusation against him.”⁴

The Court has cautioned, however, that its limited precedents interpreting this constitutional provision “stand for nothing more than the general proposition” that the government must notify the defendant of the nature of the charges.⁵ The Court has not established “specific rule[s]” about how this notice requirement applies in practice.⁶ For example, it has not resolved whether a prosecutorial decision to switch theories of liability towards the end of trial vitiates otherwise adequate notice provided in the pleadings.⁷ Federal and state rules of criminal procedure contain more detailed notice requirements.⁸ The Sixth Amendment right to notice of accusation applies to the states via the Due Process Clause of the Fourteenth Amendment.⁹

Footnotes¹

Lopez v. Smith, 574 U.S. 1, 5–6 (2014). Principles of procedural due process also guarantee the accused’s right to notice of the charges. *Id.* at 4 (referring to the accused’s “Sixth Amendment and due process right to notice”); see *Cole v. Arkansas*, 333 U.S. 196, 201 (1948) (“No principle of procedural due process is more clearly established than that notice of the specific charge, and a chance to be heard in a trial of the issues raised by that charge, if desired, are among the constitutional rights of every accused in a criminal proceeding in all courts, state or federal.”). back

²

Bartell v. United States, 227 U.S. 427, 431 (1913) (“It is elementary that an indictment, in order to be good under the Federal Constitution and laws, shall advise the accused of the nature and cause of the accusation against him, in order that he may meet the accusation and prepare for his trial, and that, after judgment, he may be able to plead the record and judgment in bar of further prosecution for the same offense.”); *Burton v. United States*, 202 U.S. 344, 372 (1906); *United States v. Simmons*, 96 U.S. 360, 362 (1878); *United States v. Cruikshank*, 92 U.S. 542, 544, 558 (1876); cf. *United States v. Van Duzee*, 140 U.S. 169, 173 (reasoning that the Sixth Amendment does not require the government to proactively give a copy of the indictment to the accused, because the accused may always request a copy from the court at government expense and often “the defendant does not desire a copy, or pleads guilty to the indictment upon its being

read to him; and in such cases there in no propriety in forcing a copy upon him and charging the government with the expense”). back

3

Russell v. United State, 369 U.S. 749, 766 (1962). back

4

Id. at 767–68. back

5

Lopez, 574 U.S. at 5–6. back

6

Id. at 6. back

7

Id. back

8

See Fed. R. Crim. P. 7(c) (governing the “nature and contents” of charging documents in federal criminal cases); 5 Wayne R. LaFave et al., Criminal Procedure § 19.2(c) (4th ed. 2020) (discussing notice requirements imposed by Rule 7 and counterpart state provisions that are more robust than Sixth Amendment requirements). back

9

See Gannett Company, Inc. v. DePasquale, 443 U.S. 368, 379 (1979) (“The Sixth Amendment, applicable to the States through the Fourteenth, surrounds a criminal trial with guarantees such as the rights to notice, confrontation, and compulsory process that have as their overriding purpose the protection of the accused from prosecutorial and judicial abuses.”); Lopez, 574 U.S. at 5–6 (analyzing Sixth Amendment notice claim on collateral review of state court conviction). back.

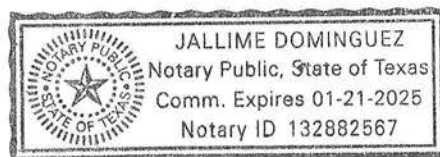
I hereby swear or affirm that the information above is true accurate and complete to the best of my knowledge, and that no relevant information has been omitted.

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09/18/2024

Signature of Individual:

Jose L. Se



Notary Public

[Signature]

Title And Rank

Notary

Date Of Commission
Expiry

01/21/2025



Certificate No.: 889703702110

Jose L. Garcia

has successfully passed a

UNIVERSAL

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December 28, 1993

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CERTIFICATION #: 889703999999

Jose L. Garcia

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C/O Settlement Administrator
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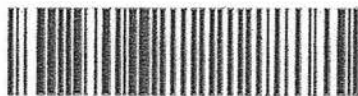
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EXHIBIT B

Rodriguez v. National Credit Center, LLC
- 13 Class Members

<u>ID#</u>	<u>First Name</u>	<u>Last Name</u>	<u>Received</u>
687797	Jose	Hernandez	9/30/2024
736319	Elena	Kostenko	9/24/2024
769854	Francisco	Lopez	9/24/2024
217164	Jesus	Molina	8/13/2024
252245	Maria Hernandez	Montiel	8/13/2024
60434	Maria	Montoya Rodriguez	8/20/2024
243441	Luis	Moreno	9/26/2024
1039431	Maria	Munoz Rodriguez	10/3/2024
1211405	Jose	Perez Garcia	8/20/2024
450611	Ramon	Reyes Zavalza	9/10/2024
1223417	Luis	Rodriguez	9/24/2024
927973	Ramon	Rodriguez	8/5/2024
1298860	Veronica	Solano Garcia	9/24/2024