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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

JULIUS BRIGGS, on behalf of himself  
 and all others similarly situated,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

No. CV-07-5760 WHA  
 CLASS ACTION

**JOINT PROPOSAL  
 FOR CLASS NOTICE**

1 Pursuant to this Court’s January 16, 2009 Order Granting Class Certification, the parties  
2 hereby jointly submit their agreed-upon forms of notice, a joint proposal for dissemination of  
3 notice, and a proposed timeline for opting in and out. For the Court’s convenience, a Proposed  
4 Order is attached.

5  
6 **Forms of Notice**

7 The notice that the parties propose be sent to class members with claims not exceeding  
8 \$10,000 is attached as Exhibit A (the “opt-out class members”). The notice that the parties  
9 propose be sent to class members with claims exceeding \$10,000 is attached as Exhibit B (the  
10 “opt-in class members”). The parties have attempted to draft the notices using clear design and  
11 plain language, based on the Federal Judicial Center’s model notices, *available at* [www.fjc.gov](http://www.fjc.gov).  
12

13 **Dissemination of Notice**

14 The United States will provide to Plaintiff’s counsel the full names and latest addresses of  
15 record for the potential class members within seven business days of entry of this Court’s  
16 approval of the forms of notice. The United States will have no further obligation to provide any  
17 other address information. Plaintiff, at his cost, will send the appropriate notice for opt-in class  
18 members and opt-out class members by first-class mail no later than seven business days after  
19 receiving the address information.  
20

21 **Timeline for Opting In or Out of the Action**

22 Potential class members will be required to opt in (for claims exceeding \$10,000) or to  
23 opt out (for claims not exceeding \$10,000) by sending forms that are postmarked within thirty  
24 dates after notice has been sent. Although the parties will file dispositive motions on or before  
25 January 29, 2009, the parties agree that the Court should reschedule its hearing on the dispositive  
26 motions until after the opt-in or opt-out deadline has passed to avoid the problem of class  
27  
28

1 members deciding whether to opt in or out after a hearing on the merits. Moreover, the parties  
2 agree that this Court should reschedule the pretrial conference and trial dates to accommodate the  
3 adjusted dispositive motion hearing date.

4  
5 Dated: January 26, 2009

Respectfully submitted,

6  
7 /s/ Beth Cook  
8 U.S. DEPARTMENT OF JUSTICE  
9 Ruth A. Harvey  
10 Assistant Director  
11 Michael J. Quinn (D.C. Bar 401376)  
12 Beth E. Cook (D.C. Bar 413828)  
13 Trial Attorneys  
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/s/ Deepak Gupta  
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Brian Wolfman (pro hac vice)  
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22 *Attorneys for Defendant United States*

Marie Noel Appel (State Bar No. 187483)  
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marie@consumerlaw.ws

*Attorneys for Plaintiff Julius Briggs*

23 I, Beth Cook, as the electronic filer, attest that Deepak Gupta, whose name appears above,  
24 has concurred in this filing.

25  
26 /s/ Beth Cook  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JULIUS BRIGGS, on behalf of himself  
and all others similarly situated,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

No. C 07-5760 WHA  
CLASS ACTION

**[PROPOSED] ORDER REGARDING  
DISSEMINATION OF CLASS NOTICE**

On January 16, 2009, this Court granted class certification in this action and requested that the parties jointly submit an agreed-upon form of notice, a joint proposal for dissemination of notice, and a timeline for opting out of the action. On January 26, 2009, the parties jointly submitted a notice proposal. Upon consideration of the parties' proposal, the Court hereby **ORDERS** as follows:

1. The Court hereby **APPROVES** the two forms of notice proposed by the parties for opt-in class members and opt-out class members, respectively. To the extent that the parties may need to make minor modifications to the forms of notice for the sake of proofreading or clarity, they may do so by mutual agreement without need for a further order from this Court.

2. The Court hereby **APPROVES** the parties' joint proposal for dissemination of notice. The United States shall provide to Plaintiff's counsel the full names and latest addresses of record for the potential class members within seven business days of the entry of this Order. The United States will have no further obligation to provide any other address information. Plaintiff, at his cost, shall send the appropriate notice for opt-in class members and opt-out class

1 members by first-class mail no later than seven business days after receiving the address  
2 information.

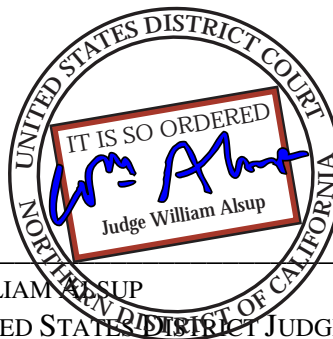
3 3. The Court hereby APPROVES the parties' joint proposed timeline for opting out.  
4 Potential class members will be required to opt in (for claims exceeding \$10,000) or to opt out  
5 (for claims not exceeding \$10,000) by sending forms that are postmarked within thirty days after  
6 notice has been sent.  
7

8 4. To avoid the problem of class members deciding whether to opt in or out after a  
9 hearing on the merits, the hearing on the parties' dispositive motions is hereby CONTINUED to  
10 April 9, 2009, at 8:00 a.m.

11 5. To accommodate the adjusted dispositive motion hearing date, the pretrial  
12 conference and trial dates are hereby CONTINUED to April 27, 2009, at 2:00 p.m. and  
13 May 11, 2009, at 7:30 a.m., respectively.  
14

15  
16 **IT IS SO ORDERED**

17  
18 Dated: February 11, 2009



19 WILLIAM ALSUP  
20 UNITED STATES DISTRICT JUDGE  
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27  
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**EXHIBIT A**

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TO: [Name of Class Member]

**If you had a credit account with the  
Army and Air Force Exchange Service (AAFES),  
this notice may affect your rights.**

*The Federal Court authorized this notice. This is not a solicitation from a lawyer.*

- A class action lawsuit that may benefit you has been filed in federal court. The Court has allowed the lawsuit to be a class action on behalf of people who were subjected to offset of their tax refunds and other federal benefits to pay debt to the Army & Air Force Exchange Service (AAFES) that was more than 10 years old.
- Unless you exclude yourself from the lawsuit, any money obtained in this lawsuit will be mailed to you at this address. If you have moved or plan to have a new address and wish to receive that money, you should contact the lawyer identified at the end of this notice and provide your new address.
- The Court has not yet decided whether AAFES did anything wrong. There is no money available now. If a refund is obtained on your behalf, you will be notified separately. This notice summarizes the lawsuit, your rights, and additional information you need to know. At this point, you have two options:

**YOUR LEGAL RIGHTS AND OPTIONS**

**DO NOTHING.**

**Stay in this Lawsuit. Await the Outcome. Recover Any Refunds Obtained.**

By doing nothing, you keep the possibility of getting money or benefits if the lawsuit is successful. But you give up the right to bring a lawsuit on your own.

**ASK TO BE EXCLUDED.**

**Get Out of this Lawsuit. Get No Refunds.**

If you ask to be excluded, you will keep your right to sue the government on your own. But if money or benefits are later awarded in this lawsuit, you won't share in them.

### Why Did I Get This Notice?

The Court has allowed a class action lawsuit on behalf of people whose tax refunds or other government benefits were offset to pay debt owed to the Army and Air Force Exchange Service (AAFES) that was more than 10 years old. You have been sent this notice because it has been determined, based on records from AAFES, that you may be a member of the Class. AAFES's records show that the total amount offset from you was \$\_\_\_\_\_.

The lawsuit, known as *Briggs v. United States*, No. CV-07-5760, is now before the United States District Court for the Northern District of California. The Court authorized this notice. The purpose of this notice is to provide you with information about the lawsuit to help you decide whether to participate in this class action. Your participation in this lawsuit is voluntary. You may decide whether to participate in this class action.

### What Is A Class Action and Who Is Involved?

In a class action lawsuit, one or more people called Class Representatives (in this case, Julius Briggs) sue on behalf of other people who have similar claims. The people together are called a "Class" or "Class Members." The people who sued—and all the Class Members like them—are called the Plaintiffs. The person they sue (in this case, the government of the United States) is called the Defendant. One court resolves the issues for everyone in the Class—except for those people who choose to exclude themselves from the Class.

### What Is This Lawsuit About?

This lawsuit is brought on behalf of a Class of people whose tax refunds or other federal benefits payments were offset by the Army and Air Force Exchange Service (AAFES) to collect debts arising from uniform or merchandise purchases. The lawsuit claims that some offsets occurred more than 10 years after the debt became outstanding and that the offsets made after that time violated the law. The lawsuit seeks a court order refunding the offsets to the Class Members.

The United States government denies that Class Members are entitled to any refund of offsets, and has also argued that it is entitled to a setoff of any refund. The Court has not yet decided whose positions are correct. The Court's order certifying the class does not mean that any money will be obtained for the Class because there are disputed issues that have not yet been decided. You will be notified separately if the lawsuit is successful or if there is a settlement.

### Who Is a Member of the Class?

The Court's Order defines the Class as including all people who purchased



merchandise or uniforms from AAFES and from whom the government offset tax refunds or other federal benefits payments to collect debt after November 13, 2001, where (1) the debt became delinquent more than 10 years before the offset, and (2) the amount of net offset payments was less than \$10,000, or who are willing to waive their claim with respect to offsets that would bring their refund claim above \$10,000. (Note: This is a summary of the Class definition as approved by the Court. For the exact definition, please contact Class Counsel.)

### What Do I Need To Do To Stay In The Class?

If you want to be included as a class member and keep the possibility of getting money or benefits from this suit, **you don't have to do anything**. You will automatically remain a Class member unless you fill out the enclosed "Exclusion Request." As a member of the Class, you will be bound by the Court's rulings regarding whether the offsets violated the law and whether you are entitled to a refund.

If you remain in the Class, you do not need to hire an attorney. The lawyer listed at the end of the notice will represent you. You have the right to hire your own attorney at your own expense, but you do not need to do so. You may also seek to intervene individually and may advise the Court if at any time you consider that you are not being fairly represented by the Plaintiff and his lawyer.

As a member of the Class, you will be entitled to notices concerning settlement or dismissal of the class action, as well as any request made by Class counsel for an award of attorney's fees and costs. You should notify the lawyer at the address and phone number listed at the end of this notice if you have any correction or change in your name or address.

### What Do I Need To Do If I Want To Be Excluded?

If you wish, you can exclude yourself from the Class. This process is also known as "opting out." To be excluded, you must fill out and sign the attached "Exclusion Request" and mail the completed form (with proper postage) no later than [INSERT DATE] to the address listed on the Exclusion Request form. The Exclusion Request must be signed by the person to whom this Notice is addressed.

### What Happens If I Exclude Myself From The Class?

If you exclude yourself from the Class by [INSERT DATE], you will lose the right to ask for a share of money or benefits recovered if this lawsuit is successful or if there is a settlement. You will also not be able to participate in hearings or object to the terms of any settlement. If you exclude yourself, you will have the right to bring an individual lawsuit, if you bring it within the time allowed by law. If you do not send the completed Exclusion

Request by the deadline, you will be a member of the Class and you will be bound by any judgment of the Court.

### If I Stay In The Class, Will I Have to Pay Any Legal Fees?

No. If you stay in the Class, the Class Counsel will represent you. You will **not** be required to pay any legal fees or costs. The Court may award attorney's fees and costs to Class counsel if the Class prevails in this action and the Court may allow fees to be paid from your recovery in this action, following notice to the Class. In no event, however, will you be required to pay any fees and costs except from your recovery. Class counsel will not ask the Court to award more than 25% of the recovery for the Class as attorney's fees.

### How Do I Get More Information About This Lawsuit?

This Notice provides only a summary of the litigation. You may discuss this with your own attorney or seek Court permission to appear in the litigation. For more detailed information, you may examine the court's file regarding this matter from the hours of 9:00 a.m. to 1:00 p.m. at the Office of the Clerk, United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102

The court file can also be obtained online or through a copy service. For more information on these options, see "Getting Docket Info" under the heading "Court Information" at <http://www.cand.uscourts.gov>. PLEASE DO NOT CALL OR WRITE TO THE CLERK OF THE COURT; ALL INQUIRIES SHOULD BE DIRECTED TO THE LAWYER FOR THE CLASS LISTED IN THE NEXT SECTION OF THIS NOTICE.

### How Do I Contact Class Counsel If I Have Questions?

If you have questions concerning this Notice, you may contact Class Counsel listed below by mail, telephone or e-mail:

S. Chandler Visher, attorney  
Law Offices of S. Chandler Visher  
44 Montgomery Street, Suite 3830  
San Francisco, California 94104  
chandler@visherlaw.com  
Telephone: (415) 901-0500 / Facsimile: (415) 901-0504

## EXCLUSION REQUEST

**Read the enclosed notice carefully before deciding whether to fill out this form.**

I have read the Notice of Class Action, and I do **NOT** wish to remain a member of the Class certified in the case of *Briggs v. United States*, No. CV-07-5760, in the United States District Court for the Northern District of California.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

**If you fill out and mail in this form, you will lose the right to ask for a share of any money or benefits recovered if this lawsuit is successful or if there is a settlement, but you will keep your right to bring your own lawsuit within the time allowed by law.**

To exclude yourself from the Class, you must complete and return this form by mail, postmarked on or before [INSERT DATE] to:

S. Chandler Visher, attorney  
Law Offices of S. Chandler Visher  
44 Montgomery Street, Suite 3830  
San Francisco, California 94104

**Call Mr. Visher at (415) 901-0500 if you have any questions.**

**EXHIBIT B**

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TO: [Name of Class Member]

## **If you had a credit account with the Army & Air Force Exchange Service, this notice may affect your rights.**

*The Federal Court authorized this notice. This is not a solicitation from a lawyer.*

- A class action lawsuit that may benefit you has been filed in federal court. The Court has allowed the lawsuit to be a class action on behalf of people who were subjected to offset of their tax refunds and other federal benefits to pay debt to the Army & Air Force Exchange Service (AAFES) that was more than 10 years old.
- **You must mail in the attached “Request to Participate and Waiver of Claim Over \$10,000” form before [DATE] if you want to join this lawsuit.** If you join the lawsuit, any money obtained in this lawsuit will be mailed to you at this address. If you have moved or plan to have a new address and wish to receive that money, you should list your new address on the attached form.
- The Court has not yet decided whether AAFES did anything wrong. No money is available now. If a refund is obtained on your behalf, you will be notified separately. This notice summarizes the lawsuit, your rights, and additional information you need to know. At this point, you have two options:

### **YOUR LEGAL RIGHTS AND OPTIONS**

#### **JOIN THE LAWSUIT BY MAILING IN THE ATTACHED FORM.**

**Mail in the Attached Form. Waive Any Claim Above \$10,000.  
Recover Money If the Suit Is Successful.**

If you mail in a form by [DATE], you will receive money or benefits if the lawsuit is successful. But you will waive your right to seek more than \$10,000 or bring your own lawsuit.

#### **DO NOTHING.**

**Do Nothing. Keep the Right to Sue on Your Own.**

If you do nothing, you will not be included in this lawsuit. You will keep your right to sue on your own. But if money or benefits are later awarded, you won't share in them.

### Why Did I Get This Notice?

The Court has allowed a class action lawsuit on behalf of people whose tax refunds or other government benefits were offset to pay debt owed to the Army and Air Force Exchange Service (AAFES) that was more than 10 years old. You have been sent this notice because it has been determined, based on records from AAFES, that you may be a member of the Class and that you have been subject to offsets that together total more than \$10,000. AAFES's records show that the total amount offset from you was \$\_\_\_\_\_.

The lawsuit, known as *Briggs v. United States*, No. CV-07-5760, is now before the United States District Court for the Northern District of California. The Court authorized this notice. The purpose of this notice is to provide you with information about the lawsuit to help you decide whether to participate in this class action. Your participation in this lawsuit is voluntary. You may decide whether to participate in this class action.

### What Is A Class Action and Who Is Involved?

In a class action lawsuit, one or more people called Class Representatives (in this case, Julius Briggs) sue on behalf of other people who have similar claims. The people together are called a "Class" or "Class Members." The people who sued—and all the Class Members like them—are called the Plaintiffs. The person they sue (in this case, the government of the United States) is called the Defendant. One court resolves the issues for everyone in the Class—except for those people who choose to exclude themselves from the Class.

### What Is This Lawsuit About?

This lawsuit is brought on behalf of a Class of people whose tax refunds or other federal benefits payments were offset by the Army and Air Force Exchange Service (AAFES) to collect debts arising from uniform or merchandise purchases. The lawsuit claims that some offsets occurred more than 10 years after the debt became outstanding and that the offsets made after that time violated the law. The lawsuit seeks a court order refunding the offsets to the Class Members.

The United States government denies that Class Members are entitled to any refund of offsets, and has also argued that it is entitled to a setoff of any refund. The Court has not yet decided whose positions are correct. The Court's order certifying the class does not mean that any money will be obtained for the Class because there are disputed issues that have not yet been decided. You will be notified separately if the lawsuit is successful or if there is a settlement.

### Who Is a Member of the Class?

The Court's Order defines the Class as including all people who purchased merchandise or uniforms from AAFES and from whom the government offset tax refund or other federal benefits payments to collect debt after November 13, 2001, where (1) the debt became delinquent more than 10 years before the offset, and (2) the amount of net offset payments was less than \$10,000, or who are willing to waive their claim with respect to offsets that would bring their refund claim above \$10,000. (Note: This is a summary of the Class definition as approved by the Court. For the exact definition, please contact Class Counsel.)

### What Is the Maximum Claim In This Lawsuit?

**The maximum claim in this lawsuit is \$10,000.** The Court's authority to award money in this case to any individual Class Member is limited to a maximum of \$10,000. A claim exceeding \$10,000 must be brought in the Court of Federal Claims located in Washington, D.C. If you choose to be a Class Member, you must be willing to forgo a claim to recover any dollar amount above \$10,000. If you decide to participate in this class action, you must waive your right to recover more than \$10,000.

**If you do not file the attached form, you will be excluded from the class and will not receive any moneys in this action, even the first \$10,000 of your claim. But you would be free to file your own lawsuit in the Court of Federal Claims.**

If you have any questions concerning the \$10,000 limit on an award in this class action, you should contact the lawyer for the Class listed at the end of this notice.

### What If I Want To Waive That Part Of My Claim Over \$10,000?

**If you wish to participate as a Class Member, you MUST SEND IN THE ATTACHED FORM.** If you mail in the form by the deadline, you will be a Class Member. As a member of the Class, you will be bound by the Court's rulings regarding whether the offsets violated the law and whether you are entitled to a refund of the amounts offset.

If you join the Class, you do not need to hire an attorney. The lawyer listed at the end of the notice will represent you. You have the right to hire your own attorney at your own expense, but you do not need to do so. You may also seek to intervene individually and may advise the Court if at any time you consider that you are not being fairly represented by the Plaintiff and his lawyer.

As a member of the Class, you will be entitled to notices concerning settlement or dismissal of the class action, as well as any request made by Class counsel for an award of attorney's fees and costs. You should notify the lawyer at the address and phone number listed at the end of this notice if you have any correction or change in your name or address.

**YOU MUST MAIL THE FORM NO LATER THAN [INSERT DATE]!**

### If I Stay In The Class, Will I Have to Pay Any Legal Fees?

No. If you stay in the Class, the Class Counsel will represent you. You will **not** be required to pay any legal fees or costs. The Court may award attorney's fees and costs to Class counsel if the Class prevails in this action and the Court may allow fees to be paid from your recovery in this action, following notice to the Class. In no event, however, will you be required to pay any fees and costs except from your recovery. Class counsel will not ask the Court to award more than 25% of your recovery as attorney's fees.

### How Do I Get More Information About This Lawsuit?

This Notice provides only a summary of the litigation. You may discuss this with your own attorney or seek Court permission to appear in the litigation. For more detailed information, you may examine the court's file regarding this matter from the hours of 9:00 a.m. to 1:00 p.m. at the Office of the Clerk, United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102

The court file can also be obtained online or through a copy service. For more information on these options, see "Getting Docket Info" under the heading "Court Information" at <http://www.cand.uscourts.gov>. PLEASE DO NOT CALL OR WRITE TO THE CLERK OF THE COURT; ALL INQUIRIES SHOULD BE DIRECTED TO THE LAWYER FOR THE CLASS LISTED IN THE NEXT SECTION OF THIS NOTICE.

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S. Chandler Visher, attorney  
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44 Montgomery Street, Suite 3830  
San Francisco, California 94104  
[chandler@visherlaw.com](mailto:chandler@visherlaw.com)  
Telephone: (415) 901-0500 / Facsimile: (415) 901-0504



**REQUEST TO PARTICIPATE AND WAIVER OF CLAIM OVER \$10,000**

**From:** [Name from Class list]  
[Address from Class list]  
Please strike out and correct your address as necessary.

**Read the enclosed notice carefully before deciding whether to fill out this form.**

**To the Court:**

I have read the class action notice in the case of *Briggs v. United States*. I wish to become a member of the Class and assert a claim in this case up to a maximum of \$10,000. I waive any claim I have over \$10,000 that is based on offsets, made against government payments that were due to me, to pay debt owed to the Army and Air Force Exchange Service (AAFES) where the offset was made more than 10 years after my AAFES debt became delinquent. I understand that my total claim for offsets made more than 10 years after the debt became delinquent is greater than \$10,000 and that I may have the right to file a separate lawsuit for recovery of the full amount of my claim in the Court of Federal Claims. I give up the right to bring a separate lawsuit so that I may participate in this class action and receive benefits of a judgment. I understand that I will be bound by the judgment in the class action, whether it is favorable or not.

Date: \_\_\_\_\_

\_\_\_\_\_  
[Name from Class list]

**THIS FORM MUST BE MAILED NO LATER THAN [INSERT DATE] TO:**

S. Chandler Visher, attorney  
Law Offices of S. Chandler Visher  
44 Montgomery Street, Suite 3830  
San Francisco, CA 94104

**Call Mr. Visher at (415) 901-0500 if you have any questions.**