

**Re: NOTICE OF DUTY TO PRESERVE EVIDENCE**

Dear \_\_\_\_\_:

John Doe/Member has filed or has threatened to file a lawsuit against the Credit Union. The preservation of all documents will benefit your defense of the claim.

Pursuant to the rules of civil procedure, every party to a lawsuit has a duty to preserve all evidence which could be relevant to the suit. This includes the duty to preserve all electronic evidence, such as emails discussing the incident or related to matters at issue in the suit.

This duty to preserve evidence is broad and extends to all documents, regardless of whether the document is stored electronically (such as email) or in hard-copy and regardless of the type of document. For example, reports, spreadsheets, photographs and videotapes are all considered documents that must be preserved. Furthermore, the duty to preserve this documentary evidence extends to all documents in existence as of the time you reasonably anticipated this litigation.

To ensure that all relevant documents are preserved, you should communicate directly with all employees who have possession or control of potentially relevant evidence, including but not limited to personnel who deal with email retention, deletion, and archiving. You should advise each of these employees to preserve any relevant documents in their custody. Furthermore, you should advise all such persons that any regularly scheduled and/or automatic deletion of email or other electronic documents must be discontinued with respect to any relevant data. In addition, any document destruction (such as shredding of documents) must cease with respect to any relevant documents. All relevant documents, both electronic and paper, must be preserved for the duration of this litigation.

I have attached a memo to be distributed to the relevant employees for your use to comply with the obligations set forth in this letter.

## TO BE TYPED ON CREDIT UNION LETTERHEAD

**TO:**

**FROM:** President/CEO

**DATE:**

**SUBJECT:** Retention of Records

You are receiving this Record Retention Notice because of a pending lawsuit with John Doe member. Because of the pending suit, the law requires that the Credit Union ("Credit Union") preserve all documents and records that may be relevant to the issues involved in the litigation. The guidelines in this Notice supersede all current document and record retention guidelines and policies under which you normally operate.

### 1. General Instructions

**You must preserve and protect each of the types of documents, records, and information (including when in electronic form) listed below from being discarded, written over, altered, deleted, damaged, or otherwise made unavailable or inaccessible because, at some point in the future, it may be determined that such documents, records, and information are needed in connection with a lawsuit.** Further, I ask that you take affirmative measures to retain, collect, and insure that no potentially relevant documents, records, or information (including electronic information) are inadvertently altered, lost, or destroyed. Failure to follow these guidelines could result in violation of various federal or state laws and rules of procedure as well as sanctions against the Credit Union by a Court.

Supervisors are responsible for retention of records created and/or held by other employees under the supervisor's supervision. Should an employee leave the Credit Union, his or her supervisor must assume responsibility for the retention of any records within the possession of or which are the responsibility of such employee. Likewise, supervisors are responsible for ensuring that all relevant incoming employees are made aware of this Notice and its requirements.

### 2. Documents to Be Retained

The Credit Union must retain all records relating to any communications or dealings with John Doe member. Such documents may include, but are not limited to, any files, memoranda, and emails referencing any aspect of this application. Retained documents should include handwritten notes, drafts, copies, computer documents, emails (in any file, including "sent," "deleted," and other computer storage locations), voicemail and text messages, and any other document or item which conveys information about the application. This Notice covers information retained on all computers, servers, server back-up systems, CDs, tapes, PDAs, cell phones, and any other device on which information may be stored electronically.

Thank you for your attention to this Notice. All information described in this Notice must be retained until further notice. If you have any questions, please contact me.