

SETTLEMENT AGREEMENT AND RELEASE

Lawson v. Ventura County Credit Union

Ventura County Superior Court Case No. 56-2018-00520827-CU-BT-VTA

This Settlement Agreement and Release ("Agreement") is entered into as of the date of the last signature on the Agreement, by and between BENJAMIN ROSCOE LAWSON, JR. (individually and on behalf of the Settlement Class as defined below), on the one hand, and VENTURA COUNTY CREDIT UNION ("VCCU"), on the other hand.

I. RECITALS

1.01. BENJAMIN ROSCOE LAWSON, JR. ("Class Representative") filed a complaint against VCCU in Ventura County Superior Court, Case No. 56-2018-00520827-CU-BT-VTA. The case seeks relief on behalf of Class Representative individually as well as proposed injunctive relief on behalf of other VCCU customers who were sent the same form of NOI (as defined below). The complaint asserts claims including, but not limited to, violations of the Rees-Levering Automobile Sales Financing Act, Civil Code § 2981, *et seq.*, violation of Rosenthal Fair Debt Collection Practices Act, Civil Code § 1788, *et seq.*, violation of the Consumer Credit Reporting Agencies Act, Civil Code § 1785.1, *et seq.*, violations of the Unfair Competition Law, Business and Professions Code § 17200, *et seq.*, and declaratory relief.

1.02. By Stipulation of the Parties, the Court previously ordered Class Representative to arbitrate his claims against VCCU on an individual, non-class basis. However, the Parties wish to settle the Action on a class-wide basis.

1.03. Class Counsel have fully analyzed and evaluated the merits of all Parties' contentions and this settlement as it impacts all Parties, including the individual members of the Settlement Class, and after taking into account the foregoing along with the risks of continued litigation and the likelihood that the Action, if not settled now, will be protracted and expensive,

are satisfied that the terms and conditions of this Agreement are fair, reasonable, adequate, and equitable, and that a settlement of the Action is in the best interests of the Class Representatives and the Settlement Class. Except as acknowledged in ¶5.03, by entering into this Agreement VCCU makes no admission or acknowledgment of liability, but is entering into this Agreement in order to avoid protracted and expensive litigation.

1.04. In consideration of the covenants and agreements set forth herein, the Class Representative, the Settlement Class, and VCCU, themselves and through their undersigned counsel, agree to the settlement of the Action, subject to Court approval, under the following terms and conditions.

II. DEFINED TERMS

As used in this Agreement, the following terms having the meanings set forth below:

2.01. "Account"

"Account" means each Settlement Class member's account with VCCU created in connection with each Settlement Class member's Conditional Sales Contract.

2.02. "Action"

"Action" means and includes the Complaint and all other proceedings in Ventura County Superior Court, Case No. 56-2018-00520827-CU-BT-VTA, including the arbitration Class Representative commenced at JAMS, Reference No. 11200055772.

2.03. "Agreement"

"Agreement" refers to this Settlement Agreement and Release.

2.04. "Class Counsel"

The phrase "Class Counsel" refers to:

Bryan Kemnitzer
Kristin Kemnitzer
Kemnitzer, Barron & Krieg, LLP
42 Miller Avenue, 3rd Floor
Mill Valley, CA 94941
Telephone: (415) 632-1900
Facsimile: (415) 632-1901
bryan@kbbklegal.com
kristin@kbbklegal.com

2.05. "Class Notice"

"Class Notice" refers to the Notice of Proposed Class Action Settlement to be sent to Settlement Class members by Settlement Administrator that discloses the terms of this settlement substantially in the form attached hereto as **Exhibit B**.

2.06. "Class Representative"

The phrase "Class Representative" refers to BENJAMIN ROSCOE LAWSON, JR.

2.07. "Conditional Sale Contract"

The phrase "Conditional Sale Contract" refers to a contract for the sale of a Motor Vehicle as defined in California Civil Code § 2981(a).

2.08. "Court"

"Court" refers to the Superior Court of the State of California in and for the County of Ventura.

2.09. "Credit Reporting Agencies"

The phrase "Credit Reporting Agencies" refers to Equifax, Experian, and TransUnion.

2.10. "Debt Assignee"

The phrase Debt Assignee refers to entities to which VCCU assigned its Accounts, including Fidelity Capital Holdings, Inc. dba Fidelity Creditor Service and The Best Service Company. VCCU has not sold any of its Accounts.

2.11. "Defense Counsel"

The phrase "Defense Counsel" refers to:

Mark Worthge
Litchfield Cavo, LLP
2 North Lake Ave. Suite 400
Pasadena, CA 91101
Telephone: (626) 683-1100
Facsimile: (626) 683-1113
worthge@lichfieldcavo.com

2.12. "Deficiency Balance"

The phrase "Deficiency Balance" refers to a Settlement Class member's outstanding account balance after sale of the Motor Vehicle collateral by VCCU and application of the sale proceeds to the Account as well as application of payments from ancillary products or other third-party sources as of the date of this Agreement.

2.13. "Distribution Date"

The phrase "Distribution Date" is defined as thirty (30) days after the date of Effective Date.

2.14. "Effective Date"

"Effective Date" means the later of the following:

- (a) Sixty-one (61) days after service of notice of entry of the Court's Order granting Final Approval of the Settlement Agreement and Judgment in this Action if no appeal is filed; or

(b) In the event that a motion for reconsideration, an appeal, or other effort to obtain review of the Final Approval Order and Judgment is filed, the Effective Date is the date on which such reconsideration, appeal, or review has been finally concluded and is no longer subject to review, whether by appeal, petitions for rehearing, petitions for rehearing *en banc*, or petitions for writ of certiorari, or otherwise (excluding any time period provided under the Code of Civil Procedure). Class Counsel will provide Defense Counsel a draft of any papers opposing any effort to obtain review of the Final Approval Order and Judgment five (5) business days before the filing deadline. VCCU may, but is not required, to file its own brief or statement regarding such appeal or motion.

2.15. "Final Approval Order and Judgment"

The phrase "Final Approval Order and Judgment" means the Court order substantially in the form of Exhibit C, hereto, granting final approval of the Settlement Agreement, and entering judgment with respect to the Action.

2.16. "BENJAMIN ROSCOE LAWSON, JR."

"BENJAMIN ROSCOE LAWSON, JR." refers the Benjamin Roscoe Lawson, JR., in his capacity as an individual and as Class Representative on behalf of the Settlement Class.

2.17. "VCCU"

"VCCU" refers to Ventura County Credit Union, non-profit credit union that funded automotive loans for Conditional Sale Contracts for all Settlement Class members.

2.18. "Motor Vehicle"

The phrase "Motor Vehicle" has the meaning set forth in California Civil Code § 2981(k).

2.19. "NOI"

"NOI" is defined as a written notice of intent to dispose of a repossessed or surrendered Motor Vehicle within the meaning of Civil Code §§ 2983.2 and 2983.3 and California Commercial Code § 9614.

2.20. "Parties"

The term "Parties" is defined as VCCU, the Class Representative, and the Settlement Class.

2.21. "Preliminary Approval"

The phrase "Preliminary Approval" of this Agreement means the Court order substantially in the form of Exhibit A hereto, certifying a Settlement Class and preliminarily approving the terms and conditions of this Agreement, including the manner of providing notice to the Settlement Class.

2.20. "Settlement Administrator"

"Settlement Administrator" refers to Kurtzman Carson Consultants.

2.21. "Settlement Class"

The phrase "Settlement Class" is defined as all California residents:

- (a) who purchased a Motor Vehicle in California pursuant to a Conditional Sales Contract and said contract was subsequently assigned to VCCU;
- (b) whose Motor Vehicle was repossessed or voluntarily surrendered to VCCU;

(c) who was issued an NOI by VCCU at any time from November 28, 2014 to December 31, 2019; and

(d) against whose Account a Deficiency Balance existed following the disposition of the Motor Vehicle.

Excluded from the class are any persons (i) who filed for bankruptcy; (ii) against whom a deficiency judgment was obtained or collected by VCCU, or its assigns; (iii) who reinstated their contracts or redeemed their vehicles; (iv) who are now deceased; or (v) who refinanced their Motor Vehicle loan with another lender to a new loan with VCCU.

2.22. "Settlement Class Period"

The phrase "Settlement Class Period" shall mean anytime between November 28, 2014 to December 31, 2019.

2.23. "Stipulation"

The phrase "Stipulation" refers to the proposed Stipulation for Leave to File Amended Class Action Complaint in the form attached hereto as **Exhibit D** that the parties will execute and that BENJAMIN ROSCOE LAWSON, JR. will file concurrently with his motion for Preliminary Approval of the parties' settlement.

2.24. Plural and Singular

As used herein, the plural of any of the above defined terms includes the singular thereof and the singular of any defined term includes the plural thereof.

III. Preliminary Approval

3.01. Class Certification. For the purposes of settlement and the proceedings contemplated herein, the Parties stipulate and agree that a class shall be certified in the Action in

accordance with the definition of the "Settlement Class" set forth herein, that Class Counsel shall be appointed as counsel for the Settlement Class, and that BENJAMIN ROSCOE LAWSON, JR. shall be appointed as the Class Representative. The certification of the Settlement Class shall be binding only with respect to the settlement set forth in this Agreement. In the event this Agreement shall terminate pursuant to its terms for any reason, the Court's order certifying the Settlement Class and amending the complaint pursuant to the stipulation shall be vacated by their terms, and this Action shall revert to its status with respect to arbitration and to class certification as existed prior to the date of the execution of this Agreement. Furthermore, any evidence relating to this Agreement, other than that obtained through ordinary discovery procedures or from third party sources by the litigants, which is offered in support of the settlement shall be deemed privileged pursuant to Evidence Code § 1152.

3.02. Preliminary Approval. Promptly upon execution of this Agreement, the Class Representative, through Class Counsel, shall lodge the Stipulation in the form attached hereto as **Exhibit D** with the Court and file a motion for Preliminary Approval. Class Counsel will provide Defense Counsel a draft of any papers in support of Preliminary Approval five (5) business days before the filing deadline. The motion shall request an order

- (a) granting Preliminary Approval to this settlement substantially in the form attached as **Exhibit A**;
- (b) conditionally certifying the Settlement Class in the Action for settlement purposes only;
- (c) appointing BENJAMIN ROSCOE LAWSON, JR. as Class Representative of the Settlement Class;
- (d) appointing Kemnitzer, Barron & Krieg, LLP as Class Counsel;

- (e) approving a Class Notice substantially in the form attached hereto as **Exhibit B** to be mailed to the Settlement Class members; and
 - (f) approving the Settlement Administrator and class settlement procedures.
- VCCU and its Counsel shall not oppose the motion.

3.03. Cessation of Collection. Immediately upon the Court granting Preliminary Approval, VCCU shall cease all attempts to collect Deficiency Balances from Settlement Class Members. VCCU shall recall the Accounts of Settlement Class Members from any internal collection departments; recall any Accounts of Settlement Class Members that have been assigned to legal counsel; and dismiss any pending legal action against any Settlement Class Member. VCCU has recalled all Class Members' Accounts assigned to Debt Assignees to effectuate this Settlement Agreement.

3.04. Identifying Settlement Class. Within ten (10) business days of entry of the Preliminary Approval Order, VCCU shall identify from its records, and provide to the Settlement Administrator in electronic form, a spreadsheet identifying each of the individual Settlement Class members, their last known addresses and electronic mail addresses, where available.

3.05. Obligation of Settlement Administration. VCCU shall retain the Settlement Administrator. VCCU shall pay for the costs and expenses of the Settlement Administrator. The Settlement Administrator shall be responsible for all of the following:

- i. preparing, printing, and disseminating via USPS first class mail, the Class Notice to the Settlement Class substantially in the form attached as **Exhibit B**;
- ii. promptly furnishing to Class Counsel and Defense Counsel copies of any requests for exclusion, objections, or other written or electronic communications from the Settlement Class;

- iii. keeping track of requests for exclusion and objections to the settlement, including maintaining the original mailing envelope in which they were mailed, and within five (5) business days after the close of the opt-out or objection period, informing Class Counsel and Defense Counsel in writing of the total number of such requests received in response to the Class Notice;
- iv. ascertaining current address and addressee information for each Class Notice returned as undeliverable and re-mailing the Class Notice in the manner and under the circumstances described herein;
- v. performing any tax reporting duties required by this Agreement and federal, state, or local law;
- vi. referring to Class Counsel all inquiries by the Settlement Class regarding matters not specified herein;
- vii. maintaining adequate records of all its activities, including the dates of each mailing of Class Notices, returned mail, and other communications and attempted written or electronic communications with the Settlement Class;
- viii. confirming in writing its completion of the administration of the settlement;
- ix. preparing a final declaration summarizing the number of claims, requests for exclusion, objections, and disputes filed;
- x. no less than ten (10) days prior to the Final Approval Hearing, filing a declaration with the Court informing the Court of Settlement Class members who requested exclusion, objected to the settlement and/or plan on attending the Final Approval Hearing, along with a copy of the requested exclusion, objection to the settlement, and/or plan to attend;

- xi. maintaining a 1-800 telephone number for Settlement Class members to call to ask questions; and
- xii. such other tasks as the Class Counsel and Defense Counsel mutually agree.

3.06. **VCCU Declaration.** Prior to the filing of the motion for Preliminary Approval by Class Counsel, VCCU shall provide Class Counsel, for filing with the Court, a declaration from a VCCU designated representative, stating:

- (a) the method utilized by VCCU to identify the Settlement Class;
- (b) the number of Accounts in the Settlement Class;
- (c) the total amount of Deficiency Balances outstanding against the Settlement Class; and
- (d) a statement that VCCU modified its NOI and the date of such modification;
- (e) the total number of Settlement Class Member Accounts assigned to Debt Purchasers;
- (f) the identity of each Debt Purchaser and the number of Class Member Accounts assigned to each Debt Purchaser; and,
- (g) VCCU has recalled all Settlement Class Member Accounts from Debt Assignees.

VCCU shall update this information with a supplemental declaration, if necessary, after entry of the Final Approval Order and Judgment, to reflect any new information.

3.07. **Notice.** Attached as **Exhibit B** to this Agreement is the English language version notice to be sent to Settlement Class members by Settlement Administrator (the "Class Notice") that discloses the terms of this settlement. Within twenty-one (21) days of the date of Preliminary Approval, the Settlement Administrator shall send the Class Notice, in English, by first-class mail.

Before mailing the Class Notice, Settlement Administrator shall obtain confirmation of addresses for the Settlement Class members through a national change of address search and shall update the addresses contained therein. If any Class Notices are returned by the Postal Service they will be re-mailed if additional address information is provided by the Postal Service.

3.08. Exclusion. Any Settlement Class member (other than the Class Representative) may elect to be excluded from the Settlement Class by submitting in writing a request for exclusion to the Settlement Administrator. Such request must be postmarked no later than sixty (60) days after the date the Class Notice is served on or mailed to the Settlement Class. To be effective, any request for exclusion must contain: the name of the case; the name, address, dated signature, and telephone number of the Settlement Class member; a written statement that the Settlement Class member wishes to be excluded from this settlement; and the Settlement Class member's VCCU account number. Any Settlement Class member who timely and properly requests exclusion in compliance with these requirements will not have any rights under this settlement, and will not be bound by this Agreement or the Final Approval Order and Judgment.

3.09. Objection. Any Settlement Class member (other than the Class Representative and other than those who request exclusion from the Settlement Class) may object to this Agreement by submitting in writing his or her objection to Class Counsel, Defense Counsel, and the Settlement Administrator. Where there are co-buyers on an Account, any objection filed by one will be effective as to both. Any such objection must be filed with the Court and postmarked no later than sixty (60) days after the date the Class Notice is served on or mailed to the Settlement Class. Any such objection must contain the name, address, dated signature, and telephone number of the Settlement Class member; a clear statement of each objection; a clear statement of all supporting evidence and briefing to be considered in support of the objection; and the Settlement Class

member's VCCU account number. The parties recognize that the Court in its discretion may hear objectors at the time of the Final Approval Hearing, whether or not a written objection was filed and served as provided for above.

IV. Final Approval

4.01. Motion for Final Approval. Class Counsel and Defense Counsel shall request a date for the Final Approval Hearing at the time of the hearing for Preliminary Approval. The motion for final approval and motion for attorneys' fees and costs shall be heard on regular notice as set forth in the Code of Civil Procedure, with Class Counsel's motion for final approval to be filed and served at least sixteen (16) court days before the Final Approval Hearing and any response by VCCU to be filed and served nine (9) court days before the Final Approval Hearing. The motion will request the Court to grant final approval of the settlement substantially in the form attached hereto as **Exhibit C** and to enter a Final Approval Order and Judgment in accordance with this Agreement, including approving this Agreement as final, fair, reasonable, adequate, and binding on the Settlement Class, awarding attorneys' fees and costs to be paid to Class Counsel, and approving a plan for distribution of residual funds, if any. The motion for attorneys' fees and costs shall be filed (10) days prior to the expiration of the deadline for Settlement Class members to object and shall be subject to the agreed upon limits set forth in Section 5.06 of this Agreement. Class Counsel will provide Defense Counsel a draft of any papers in support of the Final Approval Hearing five (5) business days before the filing deadline.

4.02. If for any reason this settlement is not approved or does not become final, this Agreement and the certification of the Settlement Class shall be void and anything said or done pursuant to this Agreement, or as part of negotiations leading hereto, shall not be used in any other proceeding for any purpose.

4.03. If more than five percent (5%) of the Class Members elect to be excluded from the Settlement Class, VCCU has the right to declare that the certification of the Settlement Class shall be void and anything said or done pursuant to this Agreement, or as part of negotiations leading hereto, shall not be used in any other proceeding for any purpose.

V. Relief to Settlement Class Members.

5.01. After diligent investigation of their records, VCCU affirms that there are approximately one thousand seventy-one (1,071) members of the Settlement Class, whose Deficiency Balances total approximately eight million six hundred and thirty-four million (\$8,634,000.00). Should the number of Settlement Class members or amount of outstanding Deficiency Balances change more than fifteen percent (15%) as of the date of VCCU's Declaration prior to Preliminary Approval, either Party has the right to declare that the certification of the Settlement Class shall be void and anything said or done pursuant to this Agreement, or as part of negotiations leading hereto, shall not be used in any other proceeding for any purpose.

5.02. Relief to Settlement Class Members. VCCU shall provide the following relief to Settlement Class members on or before the Distribution Date:

(a) VCCU shall identify the Accounts for Settlement Class members where a Deficiency Balance exists, and shall update its internal records for those Account records to reflect a zero balance for each such Account.

(b) VCCU agrees not to take any further steps, directly or indirectly, to collect any amounts purportedly owed by any member of the Settlement Class arising out of a Deficiency Balance following repossession during the Settlement Class Period. VCCU shall immediately cease and shall not resume any such collection efforts, and shall not accept voluntary payments related to Accounts for Settlement Class Members in the Settlement Class Period. VCCU shall

reacquire or otherwise recall all Accounts of Settlement Class Members within the Settlement Class Period that were assigned to the Debt Assignees.

(c) VCCU shall instruct the Credit Reporting Agencies to which it has reported to delete the trade lines for all Settlement Class members' Accounts within the Settlement Class Period. Thereafter, VCCU will cease any monthly transmissions of information about the Settlement Class members' Accounts to the Credit Reporting Agencies. VCCU'S only duties hereunder are to request this update. Settlement Class members acknowledge that VCCU is not responsible for actions taken by the Credit Reporting Agencies, or those Credit Reporting Agencies' failure to timely or accurately act on this request. Settlement Class members expressly acknowledge that VCCU does not own or control the Credit Reporting Agencies (which are separate legal entities unaffiliated with VCCU) and is not responsible for what actions or inactions the Credit Reporting Agencies take in response to the foregoing request. Settlement Class members agree that if, following 60 days after the Effective Date, Settlement Class members obtain a copy of his or her credit report and it shows information inconsistent with this Paragraph, he or she will notify Class Counsel and the applicable Credit Reporting Agency, in writing of this fact. Class Counsel will then be responsible for notifying Defense Counsel. Within thirty (30) days of Defense Counsel receiving notification, VCCU will make an additional request to the Credit Reporting Agencies to update the trade lines of the Settlement Class members in a manner consistent with this Paragraph. Settlement Class members' only remedy against VCCU for breach of this provision is specific performance; no damages shall be recoverable from VCCU for any breach of this provision.;

(d) VCCU shall instruct Debt Assignees to instruct the Credit Reporting Agencies to which it has reported to delete the trade lines for all Settlement Class members' Accounts within

the Settlement Class Period. Thereafter, the Debt Assignees will cease any monthly transmissions of information about the Settlement Class members' Accounts to the Credit Reporting Agencies. VCCU'S only duties hereunder are to make this request to the Debt Assignees. The Settlement Class members acknowledge that VCCU is not responsible for actions taken by the Debt Assignees, the Credit Reporting Agencies, or those Credit Reporting Agencies' failure to timely or accurately act on the requests by the Debt Assignees. Settlement Class members expressly acknowledge that VCCU does not own or control the Credit Reporting Agencies (which are separate legal entities unaffiliated with VCCU) and is not responsible for what actions or inactions the Credit Reporting Agencies take in response to the requests by the Debt Assignees. Settlement Class members agree that if, following 60 days after the Effective Date, Settlement Class members obtain a copy of his or her credit report and it shows information inconsistent with this Paragraph, he or she will notify Class Counsel and the applicable Credit Reporting Agency, in writing of this fact. Class Counsel will then be responsible for notifying Defense Counsel. Within thirty (30) days of Defense Counsel receiving notification, VCCU will make an additional request to the Debt Assignees to update the trade lines of the Settlement Class members in a manner consistent with this Paragraph. Settlement Class members' only remedy against VCCU for breach of this provision is specific performance; no damages shall be recoverable from VCCU for any breach of this provision.

5.03. 1099s. This settlement resolves Class Representative's and Settlement Class Members' claims that VCCU's NOIs sent to Settlement Class members did not comply with the requirement of Civil Code §2983.2 as interpreted by the California Court of Appeal in *Juarez v. Arcadia Fin., Ltd.*, 152 Cal. App. 4th 889 (2007), and that the collection of Deficiency Balances is barred by operation of state law. By this settlement, VCCU is relinquishing its right to contest

those allegations as to Settlement Class members in Court. Consequently, no "identifiable event" has occurred within the meaning of Treasury Regulations 1.605P-1(b)(2) as a result of this Agreement. Therefore, VCCU will not issue an IRS Form 1099 to any Settlement Class member at this time in connection with the discharge of Deficiency Balances as set forth herein.

5.04. Fees and Costs of Settlement Administrator. VCCU shall pay all fees, costs, and expenses concerning notice to the Settlement Class, and costs related to providing relief to the Settlement Class.

5.05. Service Award. On or before the Distribution Date, and subject to approval by the Court, VCCU shall pay BENJAMIN LAWSON, a service award of \$8,500.00 for his service to the Settlement Class in addition to any other relief to which he is entitled as a Settlement Class member. The payment of any service award to the Class Representative shall be for his service in the case and as full and final satisfaction of any and all of his individual claims that he brought or could have asserted against VCCU.

5.06. Class Counsel's Attorneys' Fees and Costs. Subject to approval by the Court, VCCU agrees to pay Class Counsel the sum not to exceed Two Hundred and Thirty-Five Thousand dollars (\$235,000) in reasonable attorneys' fees. Class Counsel shall also be entitled to all reasonable costs. Class Counsel agrees that they shall not be entitled to and will not seek attorneys' fees and costs or expenses in the Action which exceed \$235,000.00 plus reasonable costs. In the event that Class Counsel seeks a fee and cost award that does not exceed the amount stated herein, VCCU agrees not to negatively comment on, oppose, or appeal Class Counsel's application for fees and costs. Class Counsel agree that such an award shall compensate them for all legal work in the Action up to including the date of the Final Approval Order and Judgment, as well as for all legal work and costs that may be incurred in the Action after the date of the Final Approval Order

and Judgment, including the distribution and compliance proceedings as ordered by the Court. The award of attorneys' fees by the Court in a sum not to exceed Two Hundred and Thirty-Five Thousand dollars (\$235,000), and in addition reasonable court-awarded costs, will be paid by VCCU on or before the Distribution Date. Class Counsel shall file and serve their Motion for Attorneys' Fees ten (10) days prior to the expiration of the deadline for Settlement Class members to object.

5.07. Release of Settlement Class Claims. All Settlement Class members who do not request exclusion as set forth herein shall and hereby do release any and all claims, liens, demands, causes of action, obligations, damages, and liabilities, that they have or may have against VCCU, and any of VCCU's present and former parents, subsidiaries, "d/b/a names" and fictitious business names, its/their officers, directors, attorneys, accountants, agents, representatives, employees, heirs, insurance carriers, predecessors, affiliates, agents, or successors in interest, arising out of or relating to any allegations and/or claims asserted in the Action; including, without limitation, any claims arising out of or relating to VCCU's repossession of the collateral and/or Motor Vehicles, the Conditional Sale Contracts, the retail installment sales contracts, NOIs, Deficiency Balances, collection activity, and credit reporting of the Accounts.

5.08. Release by Class Representative. The Class Representative hereby does release any and all claims, demands, or causes of action of any nature which he has or may have against VCCU, and any of VCCU's present and former parents, subsidiaries, "d/b/a names" and fictitious business names, its/their officers, directors, attorneys, accountants, agents, representatives, employees, heirs, insurance carriers, predecessors, affiliates, agents, or successors in interest that arose before the Effective Date of this Agreement. The release is intended to be a general one covering all existing claims or demands of any nature whatsoever. The release includes, but is not

limited to, claims arising out of or relating to any facts asserted on their behalf in the Action, including, without limitation, any claims arising out of or relating to the Class Representative's Account, retail installment sale contracts, Conditional Sale Contracts, NOIs, Deficiency Balances, collection activity, and credit reporting of Class Representative's Accounts. The Class Representative expressly understands and acknowledges that it is possible that unknown losses or claims exist or that present losses may have been underestimated in amount or severity. The Parties to this Agreement explicitly took that possibility into account in entering into this Agreement. A portion of the consideration has been bargained for between the Parties to this Agreement with the knowledge of the possibility of such unknown losses or claims and was given in exchange for a full accord, satisfaction, and discharge of all such losses or claims. Consequently, the Class Representative for himself, expressly waives all rights under California Civil Code § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

5.09. VCCU Will Provide a Declaration Regarding Its Compliance With the Settlement Terms. On or around the Distribution Date, VCCU shall serve on Class Counsel a declaration under penalty of perjury pursuant to the laws of the State of California and of the United States of America expressly confirming without limitation as follows:

- (a) confirming no change to the information provided in its declaration described in ¶ 3.06, or provide updated information to the extent there has been any change;

- (b) VCCU has provided to the Settlement Administrator sufficient information to satisfy all obligations required to implement the terms of this agreement;
- (c) the Deficiency Balances of Settlement Class Members have been waived and account balances reduced to zero, as provided in ¶5.02(a) above;
- (d) VCCU ceased all attempts to collect Deficiency Balances from Settlement Class Members, as provided in ¶5.02(b) above;
- (e) VCCU has recalled all accounts assigned to Debt Assignees for collection purposes as provided in ¶3.03 above;
- (f) VCCU has requested that Debt Assignees who were assigned Settlement Class Members' accounts dismiss all pending lawsuits relating to Settlement Class Member Accounts and has filed acknowledgment of satisfaction of judgments for any small claims judgments that are already concluded, as provided in ¶5.02(b) and (d) above; and
- (g) VCCU has requested the credit reporting agencies to delete the trade lines relating to Settlement Class Members' Accounts, as provided in ¶5.02(c) above;
- (h) VCCU has instructed that Debt Assignees who were assigned Settlement Class Members' accounts request the credit reporting agencies to delete the trade lines relating to Settlement Class Members' Accounts, as provided in ¶5.02(d) above;
- (i) VCCU shall also affirm that Accounts within the Settlement Class Period have been adjudged to reflect a zero balance and that it has made requests to the Credit Reporting Agencies as provided in Section 5.02(c) above.

5.10. Termination of Discovery And Motion Practice. By signing this Agreement, the Parties agree promptly to withdraw all discovery pending in the Action and not to serve any discovery after the date of this Agreement, unless ordered by the Court or final approval is not granted and this Agreement becomes void.

5.11. Final Approval Must Be Entered Pursuant To the Terms of This Agreement.

If the Parties enter into this Agreement, they must do so by accepting all of the terms of this Agreement. The Parties may not accept some terms and reject others. Moreover, the Parties must personally sign the Agreement, on advice of counsel, for it to be valid and effective. If the Final Approval Order and Judgment is not entered pursuant to the terms of this Agreement for any reason, the Agreement will be void, and the Settlement Class shall automatically be decertified by Order of the Court, without prejudice to arbitration of the Class Representative's claims or later certification proceedings. In the event this Agreement becomes void, the Parties agree that no activities associated with or in furtherance of this settlement shall be construed as an express or implied waiver of VCCU's right to proceed with arbitration of the Class Representative's claims or move to compel arbitration with respect to those Settlement Class members who agreed to arbitration in their Conditional Sales Contract or otherwise.

5.12. Court Retains Jurisdiction After Entry of Judgment. Without affecting the finality of the judgment in any way, the Court shall retain jurisdiction pursuant to Code of Civil Procedure § 664.6, over:

- (a) any other action necessary to implement the terms of the Final Approval Order and Judgment and/or this Agreement, including any further amendments to the Final Approval Order and Judgment to provide relief to additional members of the Settlement Class who may be identified after entry of the Final Approval Order and Judgment;
- (b) the construction, interpretation, implementation, and enforcement of the Final Approval Order and Judgment, until each and every act agreed to be performed by the parties there under has in fact been fully performed.

IV. MISCELLANEOUS PROVISIONS

6.01. Each Party Is Represented by Counsel. The Parties acknowledge to each other that each has been advised and is represented by legal counsel of his or its own choice throughout all of the negotiations which preceded the execution of this Agreement and that they have executed this Agreement after being so advised and without reliance upon any promise or representation of any person or persons acting for or on behalf of the other, except as expressly set forth in this Agreement. The Parties further acknowledge that they and their counsel have had an adequate opportunity to make whatever investigation or inquiry they may deem necessary or desirable in connection with the subject matter of this Agreement prior to the execution of this Agreement. Each Party has read and approved the language of this Agreement, with the assistance of counsel.

6.02. Entire Agreement/Construction and Interpretation. This Agreement embodies the entire agreement and understanding between the Parties hereto and supersedes all prior agreements and understandings relating to the subject matter hereof. No course of prior dealing between the Parties, no usage of the trade, and no extrinsic evidence of any nature shall be used or be relevant to supplement, explain, or modify any term used herein. The Parties represent and warrant to each other that they are not relying on any other party for advice. This Agreement is a product of negotiation and preparation by and among each Party and his or its attorneys. Therefore, each Party expressly waives the provisions of Civil Code § 1654 and acknowledges and agrees that this Agreement should not be deemed prepared or drafted by one party or the other and shall be construed accordingly.

6.03. Counterpart Originals. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one agreement.

6.04. Modification Only In Writing. Neither this Agreement nor any provision hereof may be changed, waived, discharged, or terminated, save and except by an instrument in writing

signed by the party against whom enforcement of the change, waiver, discharge, or termination is sought.

6.05. Enforcement of Agreement. The prevailing party in any action or proceeding to enforce the terms of this Agreement shall not be entitled to his or its reasonable attorneys' fees and costs; provided, however, that as a prerequisite for any such action or proceeding, the party claiming breach shall first meet and confer in good faith with the other party in an effort to resolve the controversy. The meet and confer process shall, at a minimum, include an exchange of letters between the Parties. No action or proceeding shall be initiated with the Court until thirty (30) days after the initial letter is sent from one party to the other.

6.06. Headings. Captions, section headings and numbers have been set forth in this Agreement for convenience only and are not to be used in construing this Agreement.

6.07. Governing Law. This Agreement shall be governed and interpreted under California law.

6.08. Warranty Regarding Non-Assignment. VCCU represents and warrants that the Settlement Class Members' Accounts within the Settlement Class Period that were assigned to Debt Assignees have been reacquired or otherwise recalled and that all Settlement Class Member Accounts are now owned by VCCU and are not assigned to any other entity for collection. VCCU represents and warrants that it currently owns the Deficiency Balances on all Settlement Class members' Accounts within the Settlement Class Period and will not sell or assign them in the future.

IN WITNESS HEREOF the undersigned, being duly authorized, have caused this Agreement to be executed on the dates shown below.

SIGNATURES ON FOLLOWING PAGES

23 OF 25

SETTLEMENT AGREEMENT AND RELEASE

Lawson v. Ventura County Credit Union (Ventura County Superior Court, Case No. 56-2018-00520827-CU-BT-VTA)

DATED: <u>3/5/2020</u>	<u>Benjamin Roscoe Lawson Jr</u> BENJAMIN ROSCOE LAWSON, JR., as an Individual and as a Proposed Class Representative
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DATED: <u>7/27</u> , 2020	VENTURA COUNTY CREDIT UNION By: <u>[Signature]</u> Edmond R. Sahakian Title: <u>Chief Lending Officer</u>
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Approved as to Form:

DATED: <u>March 4</u> , 2020	KEMNITZER, BARRON, & KRIEG, LLP By: <u>[Signature]</u> KRISTIN KEMNITZER Attorney for Plaintiff Class Representative BENJAMIN ROSCOE LAWSON, JR and the Proposed Settlement Class
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DATED: <u>March 8</u> , 2020	LITCHFIELD CAVO, LLP By: <u>[Signature]</u> MARK WORTHGE Attorney for Defendant VENTURA COUNTY CREDIT UNION
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