

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF VENTURA

3  
4 BENJAMIN ROSCOE LAWSON, JR.,

Case No. 56-2018-00520827-CU-BT-VTA

5 Plaintiff,

CLASS ACTION

6 vs.

7 VENTURA COUNTY CREDIT UNION,  
and DOES 1 through 50, inclusive,

**[PROPOSED] ORDER CERTIFYING  
CLASS FOR SETTLEMENT PURPOSES,  
GRANTING PRELIMINARY  
APPROVAL OF CLASS SETTLEMENT**

8 Defendants.

9 Unlimited Civil Case

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11 \_\_\_\_\_ /

**Date:**  
**Time:**  
**Dept.:**

12  
13 **THIS MATTER HAVING** come before this Court for an Order preliminarily certifying  
14 a settlement class and preliminarily approving a settlement between Plaintiff BENJAMIN  
15 ROSCOE LAWSON, JR., individually and on behalf of the proposed Settlement Class, and  
16 Defendant VENTURA COUNTY CREDIT UNION (“VCCU”), and this Court having  
17 reviewed the Settlement Agreement and attachments thereto, executed by the parties, and  
18 submitted to the Court with the Motion for Preliminary Approval of Class Action Settlement,  
19 and the parties having consented to the entry of this Order;

20 **IT IS HEREBY ORDERED** as follows:

- 21 1. This Order of Preliminary Approval incorporates the Settlement Agreement, and the  
22 terms used in this Order shall have the meanings and/or definitions given to them in the  
23 Settlement Agreement, as submitted to the Court with the Motion for Preliminary Approval of  
24 Class Action Settlement.
- 25 2. For purposes of the Settlement, and conditioned upon the Settlement receiving final  
26 approval following the Final Approval Hearing, this Court hereby conditionally certifies a  
27 Settlement Class, defined as follows and subject to the stated exclusions below:  
28

1 3. The phrase “Settlement Class” is defined as all California residents:

2 (a) who purchased a Motor Vehicle in California pursuant to a Conditional  
3 Sales Contract and said contract was subsequently assigned to VCCU;

4 (b) whose Motor Vehicle was repossessed or voluntarily surrendered to  
5 VCCU;

6 (c) who was issued an NOI by VCCU at any time from November 28,  
7 2014 to December 31, 2019; and

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

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

14 4. Without prejudice to final approval of the proposed class settlement, the settlement, on  
15 the terms and conditions stated in the Settlement Agreement, is preliminarily approved by this  
16 Court as being fair, reasonable and adequate, free of collusion or indicia of unfairness, and  
17 within the range of possible final judicial approval. This Court specifically finds that the  
18 settlement resulted from extensive arm’s-length negotiation, the settlement is sufficient to  
19 warrant dissemination of notice of the settlement and of the Final Approval Hearing on said  
20 settlement to the Settlement Class. This Court further finds that the Plaintiff and Class Counsel  
21 provisionally will fairly and adequately represent the interests of the Settlement Class and satisfy  
22 the requirements to be representatives of and counsel to the Settlement Class, respectively.

23 5. The Court therefore appoints BENJAMIN ROSCOE LAWSON, JR., as Class  
24 Representative. Kemnitzer, Barron & Krieg, LLP, is appointed as Class Counsel.

25 6. A Final Approval Hearing and any hearing on motions for attorneys’ fees shall be held on  
26 \_\_\_\_\_, 2020 at \_\_\_\_\_ a.m./p.m. before the Honorable Vincent J. O’Neill in Courtroom 41 of  
27 the Superior Court of the State of California, County of Ventura, located at 800 S. Victoria Ave.  
28 Ventura, CA 93009, to consider: (a) the fairness, reasonableness and adequacy of the proposed

1 Settlement; (b) whether the settlement should be finally approved by this Court; (c) the  
2 application of Class Counsel for an award of Attorneys' Fees and Costs, subject to the limitations  
3 set forth in the Settlement Agreement; (e) the application of a service award to the Class  
4 Representative; and (g) such other matters as this Court may deem proper and necessary. Class  
5 Counsel's motion for Final Approval will be filed at least sixteen (16) court days before the Final  
6 Approval Hearing. Class Representative and Class Counsel will separately move for attorney's  
7 fees and costs and a service award. Any motion or motions for attorney's fees and costs and a  
8 service awarded shall be filed and served no later than 50 days after Class Notice is served (as set  
9 forth below). Any response by VCCU to the motion for Final Approval and/or the motions for  
10 attorney's fees and costs and service award is to be filed and served nine (9) court days before  
11 the Final Approval Hearing.

12 7. The Court approves of Kurtzman Carson Consultants as the Settlement Administrator, to  
13 perform the duties set forth in the proposed Settlement Agreement

14 8. The Class Notice is attached to the Settlement Agreement as Exhibit B and is hereby  
15 approved for the purpose of notifying the Settlement Class as to the proposed Settlement, the  
16 Final Approval Hearing, and the rights of members of the Settlement Class, and it shall be sent  
17 substantially in the form approved to the members of the Settlement Class. VCCU is responsible  
18 for the costs of giving notice to the Settlement Class pursuant to the terms of the Settlement  
19 Agreement.

20 9. As set forth in the Settlement Agreement, the Settlement Administrator shall provide  
21 Class Notice to the Settlement Class as defined above. The Class Notice shall be sent to the  
22 respective members of the Settlement Class, in English via first class postage pre-paid U.S. Mail  
23 within 21 days of the issuance of this Order of Preliminary Approval.

24 10. Ten days prior to the Final Approval Hearing, the Settlement Administrator shall provide  
25 a declaration to the Court, with a copy to Class Counsel and Defense Counsel, attesting to the  
26 measures undertaken to provide notice to the members of the Settlement Class and informing the  
27 Court of Settlement Class members who requested exclusion, objected to the settlement and/or  
28 plan on attending the Final Approval Hearing, along with a copy of the requested exclusion,

1 objection to the settlement, and/or plan to attend.

2 11. The Class Notice, as set forth in Exhibit B to the Settlement Agreement, and approved by  
3 this Order, is the best notice practicable, and is reasonably calculated, under the circumstances,  
4 to apprise the Settlement Class of the pendency of the Action and their right to participate in,  
5 object to, or exclude themselves from the settlement. This Court further finds that the Class  
6 Notice is due and sufficient notice of the Final Approval Hearing, the settlement, the application  
7 for attorneys' fees, and expenses, and service awards, and other matters set forth therein, and that  
8 the Class Notice fully satisfies California Rules of Court and due process of law, to all persons  
9 entitled thereto.

10 12. Any Settlement Class member who intends to object ("Objector") to the fairness,  
11 reasonableness and adequacy of the Settlement ("Objections") must file a written Objection with  
12 the Settlement Administrator, Class Counsel, and Defense Counsel, postmarked not later than  
13 sixty (60) days after the date the Class Notice is mailed to the Settlement Class. Any Objector  
14 must set forth his/her full name, current address, telephone number, and his/her VCCU account  
15 number. Objections must be served:

16 Upon Settlement Administrator at:

17  
18 Kurtzman Carson Consultants  
19 75 Rowland Way  
20 Novato, CA 94945

21 Upon Class Counsel at:

22 KEMNITZER, BARRON & KRIEG, LLP  
23 Bryan Kemnitzer  
24 Kristin Kemnitzer  
25 42 Miller Avenue, 3<sup>rd</sup> Floor  
26 Mill Valley, CA 94941  
27 Telephone: (415) 632-1900  
28 Facsimile: (415) 275-7895

Upon VCCU's Counsel at:

27 Mark Worthge  
28 Litchfield Cavo, LLP  
2 North Lake Ave. Ste. 400

1 Pasadena, CA 91101  
2 Telephone: (626) 683-1100  
3 Facsimile: (626) 683-1113  
4 worthge@litchfieldcavo.com

5 Objectors must state in writing all Objections and the reasons thereto, and a statement  
6 whether the Objector intends to appear at the Final Approval Hearing. No Objector shall be  
7 entitled to be heard at the Final Approval Hearing, and no written objections or briefs submitted  
8 by an Objector shall be received or considered by this Court at the Final Approval Hearing,  
9 unless the Objector has fully complied with all terms and conditions set forth in the Class Notice  
10 as approved herein, and as set forth in the Settlement Agreement. If an Objection is overruled,  
11 the Objector will be bound by the terms of the Settlement Agreement. Members of the  
12 Settlement Class who fail to file and serve timely written objections in the manner specified  
13 above shall be deemed to have waived any objections and shall be foreclosed from making any  
14 objection (whether by appeal or otherwise) to the Settlement Agreement.

15 13. Settlement Class members may elect to exclude themselves from the Settlement  
16 Agreement, relinquishing their rights to any and all benefits under the Settlement Agreement.  
17 Settlement Class members who exclude themselves from the settlement will not release their  
18 claims pursuant to the release set forth in the Settlement Agreement. A Settlement Class member  
19 wishing to exclude himself/herself from the settlement must mail a letter postmarked no later  
20 than sixty (60) days after the date the Class Notice is mailed to the Settlement Administrator at  
21 the addresses set forth in § 11, which in all respects complies with the terms and conditions for  
22 exclusion as set forth in the Class Notice, approved herein and Settlement Agreement. Settlement  
23 Class members who fail to submit a valid and timely request for exclusion shall be bound by all  
24 terms of the Settlement Agreement and the Final Approval Order and Judgment, regardless of  
25 whether they have requested exclusion from the settlement.

26 14. Any Settlement Class member who submits a timely request for exclusion may not file an  
27 Objection to the settlement and shall be deemed to have waived any rights or benefits under the  
28 Settlement Agreement.

15. All discovery and other pretrial proceedings in this Action are stayed and suspended until

1 further order of this Court, except such actions as may be necessary to implement the Settlement  
2 Agreement and this Order.

3 16. In the event that (a) this Court does not finally approve the settlement as provided in the  
4 Settlement Agreement; (b) this Court does not enter the Final Approval Order and Judgment as  
5 provided in all material respects and substantial form set forth in the Settlement Agreement; or  
6 (c) the settlement does not become final for any other reason, the Settlement Agreement shall be  
7 null and void and any order or judgment entered by this Court in furtherance of this settlement  
8 shall be vacated *nunc pro tunc*. In such a case, the Parties shall proceed in all respects as if the  
9 Settlement Agreement had not been executed and the Parties shall in no way be prejudiced in  
10 proceeding with or defending this litigation, the conditional class certification effected herein  
11 will be null and void, and VCCU shall have the right to object to certification of the Settlement  
12 Class or any other class at any future time.

13 17. In the event that (a) this Court does not finally approve the settlement as provided in the  
14 Settlement Agreement; (b) this Court does not enter the Final Approval Order and Judgment as  
15 provided in all material respects and substantial form set forth in the Settlement Agreement; or  
16 (c) the settlement does not become final for any other reason, the Stipulation to amend the  
17 Complaint shall be null and void and any order entered by this Court in furtherance of that  
18 stipulation shall be vacated *nunc pro tunc*. The stay pending arbitration of BENJAMIN  
19 ROSCOE LAWSON JR.'s individual claims shall be reinstated.

20 18. For the benefit of the Settlement Class and to protect this Court's jurisdiction, this Court  
21 retains continuing jurisdiction over the settlement proceedings to ensure the effectuation thereof  
22 in accordance with the settlement preliminarily approved herein and the related orders of this  
23 Court.

24 19. The Parties are directed to carry out their obligations under the Settlement Agreement.

25 20. Class Counsel shall serve a copy of this Order on all named parties or their counsel  
26 within seven (7) days of receipt.

27 Summary of Applicable Dates

28	1.	Preliminary Approval Order approved by the Court	
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2.	Class Notice to be Sent by Class Administrator (¶ 3.08) (Preliminary Approval Order + 21 days)	
3.	Motion for Attorneys' Fees and Costs (¶ 5.08) (10 days prior to the expiration of the deadline for class members to object)	
4.	Exclusion from the Settlement Class postmarked by (¶ 3.09) (Mailing of Class Notice + 60 days)	
5.	Objection from the Settlement Class postmarked by (¶ 3.10) (Mailing of Class Notice + 60 days)	
6.	Motion for Final Approval filed by (¶ 4.01) (CCP § 1005) (16 Court days prior to hearing date)	
7.	VCCU response, if any, regarding Final Approval (¶ 4.01) (9 Court days prior to hearing date)	
8.	Settlement Administrator Declaration (¶ 3.05(xi)) (10 days prior to hearing date)	
9.	Final Approval Hearing (¶ 4.01)	

**SO ORDERED**

Dated: \_\_\_\_\_, 2020

\_\_\_\_\_  
The Honorable