

**California Superior Court – County of Los Angeles**

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

IF YOUR VEHICLE WAS REPOSSESSED IN CALIFORNIA AND YOU RECEIVED A “NOTICE OF OUR PLAN TO SELL PROPERTY” FROM AUTOMOTIVE FUNDING GROUP, INC. d/b/a COUNTY FINANCIAL SERVICES INC., THIS CLASS NOTICE CONTAINS IMPORTANT INFORMATION THAT MAY AFFECT YOU.

-PLEASE READ IT CAREFULLY-

***The Court Ordered this Notice—It is Not from a Lawyer, and You are Not being Sued.***

This Notice summarizes the terms of a proposed Class Action settlement. This Notice also describes what you can do to object to the proposed settlement or to request exclusion from the class. If you are a class member and wish to remain in the class, be bound by the settlement and receive the benefits of the settlement, you are not required to take any action.

*Usted puede llamar a 1-866-817-6809 para solicitar un aviso de clase Settlement mandado en Español.* To the best of their knowledge, the parties have reason to believe that Spanish is the only other language in which Settlement Class Members may need a translated Notice.

**Basic Information—This Action**

A lawsuit entitled *Curtis Buckingham v. Automotive Funding Group d/b/a County Financial Services, et al.* (“AFG”) was filed in the Los Angeles County Superior Court, Case No. BC492394 (the “Action”). Plaintiff Curtis Buckingham (“Plaintiff”) alleges that the “Notice of Intention to Dispose of Motor Vehicle,” commonly referred to as an NOI, sent by AFG between October 2, 2010 to February 16, 2018 regarding repossessed vehicles did not comply with California’s Automobile Sales Finance Act, and that AFG is not entitled to collect the deficiency if a deficiency balance remained after a subsequent sale of the vehicle. Plaintiff brought claims for violations of the Rees-Levering Automobile Sales Financing Act, Civil Code § 2981, et seq.; conversion; violations of the Unfair Competition Law, Business and Professions Code § 17200, et seq.; Fraudulent Conveyance, Civil Code § 3439.04 and § 3439.05; and Resulting Trust.

On February 16, 2018, AFG filed for Chapter 7 bankruptcy protection, Case No. 8:18-bk-10516-CB (the “Bankruptcy Case”), with Karen Sue Naylor duly appointed as the Chapter 7 Trustee (the “Trustee”) of the Bankruptcy Estate (the “Estate”) of AFG.

On or about February 14, 2020, the Trustee on behalf of AFG, Mitchell Leyton, Nadine Leyton, Corey E. Leyton, and Lesley A. Leyton as Trustee of the Leyton Family Trust (collectively, the “Leyton Parties”), 3<sup>rd</sup> Generation, Inc. d/b/a California Auto Finance (“3<sup>rd</sup> Generation”), and Plaintiff Buckingham (collectively “the Parties”) agreed to enter into a Settlement Agreement and Release in the Bankruptcy Case. Simultaneously, the Parties agreed to enter into a Class Action Settlement Agreement and Release to settle the claims at issue in this Action. The Settlement Agreement and Release in the Bankruptcy Case was approved by the Bankruptcy Court on May 6, 2020, by way of order entered May 6, 2020.

The Action is called a “Class Action” because the Plaintiff is suing on behalf of other people with similar claims, called “Class Members.” The Parties have agreed to treat the Action as a Class Action for settlement purposes only.

**Who Is A Settlement Class Member?**

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

- (a) who purchased a motor vehicle and, as part of that transaction, entered into an agreement subject to California’s Rees-Levering Automobile Sales Finance Act, Civil Code § 2981, et seq.;
- (b) whose motor vehicle was repossessed or voluntarily surrendered;

(c) who were issued an NOI by Automotive Funding Group, Inc. d/b/a County Financial Services from October 2, 2010 to February 16, 2018; and

(d) against whose account a deficiency balance was assessed.

“Settlement Class” excludes persons (1) whose accounts were discharged in bankruptcy, and (2) against whom AFG or its agents or assignees obtained a Superior Court judgment.

If you are receiving this Notice, AFG CEO Corey Leyton has identified you as a Settlement Class Member from AFG’s records.

### **The Settlement Benefits—What You Will Get**

If the settlement is approved by the Court, all Settlement Class Members will receive benefits.

Class benefits. Approximately 3,378 persons are members of the Settlement Class, whose outstanding Deficiency Balances AFG contends total approximately \$12 million.

1. As part of the settlement, AFG and/or its assignees, including but not limited to any debt collector hired by or on behalf of AFG agree not to attempt to collect any outstanding alleged Deficiency Balance on Class Member’s Accounts, the Settlement Class do not owe any further money on their Accounts, and AFG and/or its assignees, including, but not limited to any debt collector hired by or on behalf of AFG has stopped all collection efforts on such Deficiency Balances.
2. Furthermore, Corey Leyton, on behalf of AFG, has requested that Equifax, Experian, and TransUnion delete the trade line referencing Settlement Class Members’ accounts.
3. Finally, if you are a Settlement Class Member who paid any amount toward a deficiency balance after repossession, you will receive the non-monetary benefits described above, **and in addition**, you will receive a check for 100% of the amount you actually paid AFG and/or its assignees toward your deficiency balance. The check will be made out to the first-named borrower on the account.

Any Settlement Class Member (other than the Settlement Class Representative, who approves of and entered into this Agreement, and other than those who request exclusion from the Settlement Class) may dispute the amount of payment by submitting in writing his or her dispute to the Settlement Class Administrator and also Settlement Class Counsel. Such dispute must be postmarked no later than forty-five (45) days after the Distribution Date. Any dispute must contain: the name, address, dated signature, and telephone number of the Settlement Class Member; a clear statement of the dispute; and copies of all supporting evidence. Settlement Class Counsel and the disputing Settlement Class Member or other party will first meet and confer in a good-faith attempt to resolve that dispute within ten (10) days of receipt of the dispute from the Settlement Class Member. In the event the dispute cannot be resolved informally between Settlement Class Counsel and the disputing Settlement Class Member or other party, the Settlement Class Administrator will resolve the dispute within ten (10) days of Settlement Class Counsel referring the dispute to the Settlement Class Member and such resolution shall be final and binding on the Settlement Class Member. In resolving such disputes, AFG’s records shall be presumed to be accurate and correct, and shall be final and binding, unless information provided by the Settlement Class Member proves otherwise.

Settlement Class Members will have one hundred eighty (180) days from issuance of the settlement check to cash said check. Pursuant to California Code of Civil Procedure § 384(a), checks that remain uncashed after 180 days will be distributed to an organization appointed by the Court at the time of final approval, designed either to further the purposes of the underlying class action or causes of action, or to promote justice for all Californians.

### **You do NOT need to do anything to receive these benefits.**

Attorneys’ Fees and Award to Class Representative. Class Counsel will seek attorneys’ fees and costs of \$655,000.00, subject to approval by the Court at the Final Approval Hearing referred to below. If the Court approves the fees and costs sought by Class Counsel, fees and costs will be paid with settlement funds specifically reserved for this purpose and will not diminish your benefits under the settlement. In addition, the Class Representative will request an award of \$15,000.00 to be approved by the Court at the Final Approval Hearing.

Any service award to the Class Representative will be paid from settlement funds specifically reserved for this purpose and will not diminish your benefits under the settlement.

### **Tax Consequences of Settlement**

Any benefits you receive may or may not be the subject of state or federal taxation, depending on your circumstances. Class Counsel are not tax attorneys, and you are advised to seek separate legal advice on matters of taxation.

### **The Settlement Release—What You Will Give Up**

The settlement is a compromise. In exchange for the benefits described herein, every Class Member who does not opt out will be bound by the terms of the settlement, once final, and all court orders in the Action and will give AFG, the Leyton Parties and 3<sup>rd</sup> Generation a Release. **A release means you can't sue or be part of any other lawsuit against AFG, the Leyton Parties or 3<sup>rd</sup> Generation about the claims or issues in *this* Action ever again, including the NOIs and the collection and reporting on your Accounts.** For more information about the terms of the Release, you may consult the Settlement Agreement on file with the Court, or visit the following website [www.afgsettlement.com](http://www.afgsettlement.com).

### **Your Rights—Exclusion**

As a Settlement Class Member, you are included in the settlement unless you request to be excluded. If you remain in the Settlement Class and this settlement is approved by the Court, you will receive the non-monetary benefits described above, and if you paid all or part of a deficiency balance, you will be entitled to receive monetary benefits. Alternatively, you can exclude yourself or “opt out.” If you exclude yourself, you will not receive any benefits of the settlement, but you will not be bound by any judgment or release in this Action and will keep your right to sue any defendant on your own if you want, other than AFG as to whom any claim would need to be pursued in the Bankruptcy Case, noting that the Bankruptcy Court has already approved the final settlement of the AFG Estate against the other defendants. If you seek to be excluded, you may not also object to the settlement.

To exclude yourself from the settlement, you must send a request for exclusion to the Settlement Class Administrator, *Buckingham v. Automotive Funding Group* Settlement Class Administrator, at the address provided below, by First Class Mail postmarked no later than November 5, 2020, and containing all of the following: (1) The name of the Action “*Buckingham v. Automotive Funding Group, Inc. d/b/a County Financial Services, et al.*, Los Angeles County Superior Court, Case No. BC492394,” (2) Your full name and current address, (3) A statement of your intent to exclude yourself, and (4) Your signature and the date you signed it. If you do not follow these procedures to exclude yourself, your rights will be determined in this Action if the settlement receives final judicial approval.

### **Your Rights—Objection to the Settlement**

If you do not request to be excluded, you may object to the settlement. You may not do both. To object to the settlement, you must send your objection to the Settlement Class Administrator, *Buckingham v. Automotive Funding Group* Settlement Class Administrator, at the address provided below, by First Class Mail postmarked no later than November 5, 2020, and containing all of the following: (1) The name of the Action “*Buckingham v. Automotive Funding Group, Inc. d/b/a County Financial Services, et al.*, Los Angeles County Superior Court, Case No. BC492394,” (2) Your full name, current address, and telephone number, (3) A clear statement of each objection, (4) All supporting evidence and briefing you wish to have considered in support of the objection, and (5) Your signature and the date of your signature. Objectors are not required to attend the Final Approval Hearing, but may do so.

### **The Final Approval Hearing**

The proposed settlement must be finally approved by the Court. The Court has set the Final Approval Hearing for December 17, 2020 at 10:00 A.M. (subject to change without further notice), in the Superior Court of Los Angeles in Department 9 to determine whether the settlement should be approved as fair, reasonable and adequate;

whether certification of the Settlement Class is proper; the amount of reasonable attorneys' fees and costs, and the amount of the service award; and whether the settlement should be finally approved. You may appear remotely at the Final Approval Hearing. Information on how to appear remotely at the Final Approval Hearing will appear on the settlement website [www.afgsettlement.com](http://www.afgsettlement.com) when such information becomes available. Notice of final judgment will be posted on the settlement website.

You do not need to hire a lawyer, but may if you want to do so. You and the Settlement Class are already represented by Class Counsel listed below, at no out-of-pocket cost to you.

The settlement will not take effect unless and until: (1) the Court approves the settlement at the Final Approval Hearing, and (2) the Final Approval Order and Judgment is entered by the Court and no longer subject to any appellate challenge. After the Court grants final approval and the time to appeal has expired or appeals are exhausted, the settlement will become final, and you will receive the class benefits set forth above. If the Court does not approve the settlement, Settlement Class Members will not receive any benefits described in this Notice and it will be as if no settlement had been reached.

### More Information

This Notice, which has been approved by the Court, is only a summary. You may call the Settlement Class Administrator directly for updates regarding the Court hearing dates at 1-866-817-6809. You may also visit the following website: [www.afgsettlement.com](http://www.afgsettlement.com). If you have additional questions concerning this Action, the Class Notice, or settlement, you may contact Class Counsel. The pleadings and other records in this litigation, including the Settlement Agreement, are on file with the Court and available to be inspected during regular business hours at the Clerk's Office. The Clerk of the Court is located at 312 North Spring St., Los Angeles, CA 90012. You must make an appointment to view documents at the Office of the Clerk. **Please do not contact the Judge.**

<b>Settlement Class Administrator:</b> <i>Buckingham v. Automotive Funding Group</i> Settlement Class Administrator P.O. Box 43434 Providence, RI 02940-3434 1-866-817-6809	<b>Class Counsel:</b> KEMNITZER, BARRON & KRIEG LLP Kristin Kemnitzer 42 Miller Avenue, 3 <sup>rd</sup> Floor Mill Valley, CA 94941 1-800-520-4525
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