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SUPERIOR COURT FOR THE STATE OF WASHINGTON
COUNTY OF YAKIMA

THEODORE STRONG,

Plaintiff,

v.

NUMERICA CREDIT UNION,

Defendant.

NO. 17-2-01406-39

**[PROPOSED] ORDER GRANTING
PLAINTIFF’S UNOPPOSED
MOTION FOR PRELIMINARY
APPROVAL OF THE CLASS
ACTION SETTLEMENT**

Plaintiff Theodore Strong has moved for preliminary approval of a class action Settlement with Defendant Numerica Credit Union (“Numerica”). The terms of the Settlement are set forth in the Settlement Agreement and Release attached as Exhibit A to the Declaration of Beth E. Terrell in Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement.

The Court has read and considered the Settlement Agreement and Release, the exhibit attached thereto, Numerica’s Corporate Statement, and the briefing submitted in support of preliminary approval of the Settlement and is fully advised.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The Court preliminarily approves the Settlement Agreement and Release between Mr. Strong and Numerica.

1 2. The Settlement appears to be the product of serious, informed, non-collusive
2 negotiations, has no obvious deficiencies and does not improperly grant preferential treatment
3 to any class members, and falls within the range of possible judicial approval. *See* William B.
4 Rubenstein, *Newberg on Class Actions* § 13:10 (5th ed. June 2019 update 5th).

5 3. For purposes of settlement only, the Court finds that the Class satisfies the
6 requirements of CR 23(a) and (b)(3) and grants preliminary certification of the following Class:

7 All persons who:

8 (a) resided in Washington state when they purchased or otherwise
9 financed a vehicle primarily for personal, family, or household use;

10 (b) whose contract was assigned to Defendant or financing was
11 provided by Defendant; and

12 (c) to whom Defendant issued or failed to issue a Notice of Intent to
13 Sell, pursuant to RCW 62A.9A-614 during the period April 14, 2015
14 through May 17, 2017 and/or to whom Defendant issued or failed to
15 issue a Notice of Deficiency, pursuant to RCW 62A.9A- 616, during
16 the period April 14, 2015 through July 31, 2018.

15 Excluded from the class are all persons who (a) filed for bankruptcy protection as to their
16 Numerica auto loan and whose bankruptcy case was not dismissed or otherwise closed as of the
17 date of this Settlement Agreement; or (b) against whom Defendant's assignee obtained a
18 judgment to collect on their Deficiency Balance before May 20, 2019, which judgments are
19 held by unrelated third party debt collectors.

20 4. The numerosity requirement is satisfied because the Class consists of
21 approximately 1,795 individuals. *See* CR 23(a)(1); *Miller v. Farmer Bros. Co.*, 115 Wn. App.
22 815, 821, 64 P.3d 49 (2003).

23 5. The commonality requirement is satisfied because there are overarching
24 questions of law and fact common to the class, including whether Numerica's form Notice of
25 Plan to Sell and form Notice of Deficiency failed to comply with the notice provisions of
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1 Article 9 of the Washington Uniform Commercial Code. *See* CR 23(a)(2); *Smith v. Behr*
2 *Process Corp.*, 113 Wn. App. 306, 320, 54 P.3d 665 (2002).

3 6. The typicality requirement is satisfied because Mr. Strong’s claim arises from
4 the same course of conduct that gives rise to the claims of other Class Members and is based on
5 the same legal theory. *See* CR 23(a)(3); *Pellino v. Brink’s Inc.*, 164 Wn. App. 668, 267 P.3d
6 383, 392 (2011).

7 7. The adequacy requirement is satisfied because Mr. Strong has no interests
8 antagonistic to the other Class Members and is represented by qualified counsel. *See Hansen v.*
9 *Ticket Track, Inc.*, 213 F.R.D. 412, 415 (W.D. Wash. 2003).

10 8. The predominance requirement is satisfied because there is a “common nucleus
11 of operative facts” to each Class Member’s claim, and all Class Members were subject to the
12 same conduct by Numerica. *See* CR 23(b)(3); *Chavez v. Our Lady of Lourdes Hosp. at Pasco*,
13 190 Wash. 2d 507, 516, 415 P.3d 224 (2018).

14 9. The superiority requirement is satisfied because the resolution of approximately
15 1,795 claims in one action is far superior to individual lawsuits and promotes consistency and
16 efficiency of adjudication, particularly in a case like this one with modest statutory damages.
17 *See* CR 23(b)(3); *Chavez*, 190 Wn.2d at 518-23.

18 10. For the purposes of settlement, the Court appoints Theodore Strong as the class
19 representative.

20 11. The Court appoints Alexander B. Trueblood of the Trueblood Law Firm and
21 Beth E. Terrell and Maria Hoisington-Bingham of the Terrell Marshall Law Group PLLC and
22 as Class Counsel.

23 12. The Court appoints Postlethwaite & Netterville (“P&N”) as the Class
24 Administrator. The Class Administrator shall disseminate notice to Class Members, by mail
25 and email, track responses, and mail Settlement Awards and tax forms.

1 13. The Court approves, as to form and content, the notice that is attached to the
2 Settlement Agreement as Exhibit A. The notice provides all of the information Class Members
3 need to evaluate and respond to the Settlement, including: the amount of each Class Member’s
4 Deficiency Balance, estimated statutory damages, and eligibility for a Settlement Award; the
5 nature of the litigation; the general terms of the proposed Settlement; their rights under the
6 Settlement; an explanation of how they can object to or exclude themselves from the
7 Settlement; the identity of Class Counsel and that Class Counsel will request attorneys’ fees
8 from the Settlement Fund; and the date and time of the Final Approval Hearing. The notices
9 also direct Class Members to a website established by Class Counsel that will provide
10 additional information about the Settlement, as well as a toll-free number that Class Members
11 can call with questions about the Settlement.

12 14. The Court also approves the parties’ plan for disseminating notice, which will
13 ensure that Class Members receive “the best notice practicable under the circumstances.” *See*
14 CR 23(c)(2). Issuance of notice substantially in the manner set forth in Part VII of the
15 Settlement Agreement satisfies the requirements of due process and applicable law and
16 constitutes due and sufficient notice to all members of the Class.

17 15. Within 14 calendar days of this order, Numerica will provide the Class
18 Administrator with a class list containing the names and contact information for the Class
19 Members, including social security numbers.

20 16. Within 30 days of this order, the Class Administrator shall distribute notice to all
21 Class Members as provided in the Settlement Agreement.

22 17. Any Class Member may exclude himself or herself from the Settlement by
23 submitting a written request to the Class Administrator no later than 60 days after distribution
24 of notice. The exclusion request must state the individual’s name and address, and state that the
25 individual wants to be excluded from the *Strong v. Numerica Credit Union* Settlement. Each
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1 Class Member who does not submit a timely, valid request for exclusion shall be bound by the
2 releases in the Settlement Agreement.

3 18. Any Class Member may object to the Settlement by submitting a written
4 statement to the Class Administrator by 60 days after the distribution of notice. The statement
5 must include the objector's name, address, and telephone number, and the reasons(s) for the
6 objection. Any objector or their attorney may appear at the Final Approval Hearing. In order to
7 do so, such objectors or their attorneys must file a notice of appearance with the Court no later
8 than 10 days before the Final Approval Hearing and send a copy of the notice of appearance to
9 Class Counsel and Defendant's Counsel.

10 19. The Class Administrator shall provide the parties with a declaration stating that
11 the notice required by the Settlement Agreement has been completed no later than 14 days after
12 the deadline for submitting requests for exclusions and objections. The parties shall provide the
13 declaration to the Court.

14 20. The parties shall file their response to any objections no later than 21 days after
15 the deadline for submitting requests for exclusion and objections.

16 21. Class Counsel shall file their motion for final approval of the Settlement, and
17 their motion for attorneys' fees and reimbursement of costs and for a service award to the class
18 representative no later than 30 days after the deadline for submitting requests for exclusion and
19 objections.

20 22. The Final Approval Hearing shall be held before this Court on
21 _____, at _____ a.m./p.m. in the courtroom of the Honorable Blaine
22 G. Gibson, Yakima County Superior Court, 128 N 2nd Street, Yakima, Washington, 98901. At
23 the hearing, the Court will consider whether the prerequisites for class certification and
24 treatment under CR 23(a) and (b)(3) are satisfied and whether the Settlement is fair, reasonable,
25 and adequate, and should be approved by the Court. The Court will also consider Class
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1 Counsel's motion for attorneys' fees and costs and for a service award to the class
2 representative, and rule on any other matters that the Court deems appropriate.

3 23. The Court retains jurisdiction over the action and all matters arising out of or
4 connected with the proposed Settlement. The Court reserves the right to adjourn or continue the
5 date of the Final Approval Hearing without further notice to Class Members and retains
6 jurisdiction to consider all further applications arising out of or connected with the Settlement.
7 The Court may approve or modify the Settlement without further notice to Class Members.

8 24. If the Court does not enter an order finally approving the Settlement, or if the
9 Settlement does not become final for any other reason, then the action shall proceed as if the
10 Settlement Agreement had not been executed.

11 IT IS HEREBY ORDERED.

12 DATED this _____ day of _____, 2019.

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16 _____
SUPERIOR COURT JUDGE

17 Presented by:

18 TERRELL MARSHALL LAW GROUP PLLC

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20 

21 By: _____

22 Beth E. Terrell, WSBA #26759
23 Email: bterrell@terrellmarshall.com
24 Maria Hoisington-Bingham, WSBA #51493
25 Email: mhoisington@terrellmarshall.com
26 936 North 34th Street, Suite 300
27 Seattle, Washington 98103-8869
Telephone: (206) 816-6603
Facsimile: (206) 319-5450

1 Alexander B. Trueblood, WSBA #50612
2 Email: alec@hush.com
3 TRUEBLOOD LAW FIRM
4 10940 Wilshire Boulevard, Suite 1600
5 Los Angeles, California 90024
6 Telephone: (310) 443-4139
7 Facsimile: (310) 943-2255

8 *Attorneys for Plaintiff*

9 Copy Received; Approved as to Form
10 Notice of Presentation Waived:

11 WITHERSPOON KELLEY

12 By: 

13 Michael D. Currin, WSBA #14603
14 E-Mail: mdc@witherspoonkelley.com
15 Timothy M. Lawlor, WSBA #16352
16 Email: tml@witherspoonkelley.com
17 Matthew A. Mensik, WSBA #44260
18 E-Mail: mam@witherspoonkelley.com
19 422 W. Riverside Avenue, Suite 1100
20 Spokane, Washington 99201
21 Telephone: (509) 624-5265

22 *Attorneys for Defendant*