

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

QUALITY ACCEPTANCE, LLC

Plaintiff/Counter-Defendant,

vs.

ELIJAH ZACHREY PARKS and
TENAYA FENNELL, individually,

Defendants/Counter-Plaintiffs

Case No.: A-18-781065-B

Dept. No: XI

**NOTICE OF PENDENCY OF CLASS ACTION,
PROPOSED SETTLEMENT AND HEARING**

TO: ALL PERSONS WHO (A) ENTERED INTO A FINANCE AGREEMENT THAT QUALITY ACCEPTANCE SERVICED WHICH WAS SECURED BY PERSONAL PROPERTY (E.G., AUTOMOBILE, BOAT, MOBILE HOME, ETC.), WHICH WAS REPOSSESSED IN NEVADA FOR THE PERIOD OF TIME FROM SEPTEMBER 11, 2014 THROUGH DATE OF FINAL APPROVAL (“CLASS PERIOD”); AND (B) WHO WERE SENT A UCC REPOSSESSION NOTICE WHICH ALLEGEDLY DID NOT COMPLY WITH NEVADA LAW BY: (1) FAILING TO PROVIDE THE BORROWERS WITH A DESCRIPTION OF ANY LIABILITY FOR A DEFICIENCY; (2) FAILING TO ADVISE THE BORROWERS THAT THEY ARE ENTITLED TO AN ACCOUNTING OF ANY UNPAID INDEBTEDNESS AND THE CHARGE (IF ANY) FOR SUCH AN ACCOUNTING; OR (3) FAILING TO DISCLOSE TO BORROWERS THE CORRECT TIME PERIOD FOR REDEMPTION OF THE COLLATERAL

**Please Read This Notice Carefully In Its Entirety
Your Rights May Be Affected By The Settlement
Of This Lawsuit Now Pending In This Court**

BASIC INFORMATION

1. Why was this notice issued?

A court authorized this notice because you have a right to know about a Proposed Settlement of this class action lawsuit against Quality Acceptance, LLC (“Quality Acceptance”) and about your options before the Court decides whether to give “final approval” to the Proposed Settlement. This notice explains the lawsuit, the Proposed Settlement, your legal rights, what benefits will be provided, and who will receive them.

This case is currently pending in the Eighth Judicial District Court of the State of Nevada in and for Clark County and is known as *Quality Acceptance, LLC v. Elijah Zachrey Parks et al.*; Case No. A-18-781065-B, Dept. No. XI (“the Action”).

2. What is this lawsuit about?

The lawsuit is about whether repossession notices and/or post-sale notices of Quality Acceptance contained all of the information and disclosures required by Nevada law. Specifically, the lawsuit seeks damages for (i) violations of NRS 104.9613, 104.9614, and NRS 482.56 of the Uniform Commercial Code; and (ii) declaratory and injunctive relief.

Quality Acceptance denies that its post-repossession notices are in violation of Nevada law and maintains that it did not act wrongfully or unlawfully. Quality Acceptance contends that the claims of Elijah Parks and Tenaya Fennell (hereinafter “Representative Plaintiffs”) has no merit and that, if the lawsuit proceeded, Quality Acceptance would prevail at trial.

3. Why is this a class action?

The parties have agreed, and the Court has ordered that, for settlement purposes only, this lawsuit may be maintained as a class action under Rule 23, Nevada Rules of Procedure, subject to final approval at the conclusion of the settlement process. If the Proposed Settlement is not finally approved, or if any party withdraws from the Proposed Settlement, the lawsuit will return to the same status as before the Settlement Agreement was signed, and the Court will later determine if the case may proceed as a class action.

4. How do I know if I am part of the Proposed Settlement?

The Proposed Settlement includes all persons who (a) entered into a Finance Agreement that Quality Acceptance serviced which was secured by personal property (e.g., automobile, boat, mobile home, etc.), which was repossessed in Nevada for the period of time from September 11, 2014 through date of final approval (“Class Period”); and (b) who were sent a UCC Repossession Notice which allegedly did not comply with Nevada law by: (1) failing to provide the borrowers with a description of any liability for a deficiency; (2) failing to advise the borrowers that they are entitled to an accounting of any unpaid indebtedness and the charge (if any) for such an accounting; or (3) failing to disclose to borrowers the correct time period for redemption of the collateral (hereinafter referred to as the “Settlement Class”).

You are receiving this Notice because it is believed that you meet the above criteria and that you are a member of the Class.

There are approximately 2,376 accounts in the class.

5. Why is there a Proposed Settlement?

The parties arrived at the Proposed Settlement as a result of arms-length negotiations, including face-to-face meetings between the lawyers for each side, and mediation before a certified mediator. The parties reached the Proposed Settlement before the Court determined whether class certification was appropriate. The Proposed Settlement is a compromise of disputed claims and does not mean that any law was violated or that Quality Acceptance did anything wrong.

THE PROPOSED SETTLEMENT BENEFITS

6. What benefits does the Proposed Settlement provide?

The Proposed Settlement provides both equitable and monetary benefits (“Settlement Benefits”):

- Quality Acceptance has declared that it no longer sends the form notices that allegedly did not comply with all of the UCC requirements and has represented that it will not use those notices in the future.
- Quality Acceptance will waive all outstanding balances and/or deficiency balances allegedly owed in connection with the Finance Agreement of the Class Members whose personal property was sold by Quality Acceptance following repossession. The aggregate of the outstanding balances and/or deficiency balances is estimated to total \$12,935,302.44. **The waiver of such balances may have significant adverse tax consequences to Class Members as discussed in Paragraph 10 below.**
- Quality Acceptance shall cease reporting any further adverse credit information on the consumer report of Class Members with respect to any Finance Agreement subject to the instant settlement.
- Through a Court order, any lawsuit against Class Members who have not had a judgment entered against such Class Members shall be dismissed or caused to be dismissed.
- Through a Court order, any judgment entered against Class in any lawsuit be vacated.
- Quality Acceptance shall establish a fund in the amount of \$450,000 (“Settlement Fund”) for the payment of settlement benefits. From the Settlement Fund, the Class Administrator shall pay to each Class Member a check (“Settlement Check”) as and for statutory damages, fines or any other liability pursuant to Section 9-625, UCC, less a proportionate share of allowed attorneys’ fees and costs (*see* Question 14). The Settlement Check will be sent to the address of the primary borrower.

Any payment due to you under the Settlement Agreement will be adjusted on a pro-rata basis to pay for court-approved attorneys’ fees and expenses of litigation (*see* Question 14).

Any monies from the Settlement Fund that remain unclaimed or undistributed after 90 days from the date of issuance of Settlement Checks will be given to a non-profit, to wit: the National Association of Consumer Advocates.

More details are in a document called the Settlement Agreement, which is available for your inspection at the Office of the Clerk of the Courts, Clark County, Eighth Judicial District Court of Clark County, State of Nevada, 200 Lewis Avenue, Las Vegas, Nevada 89101.

7. When will the Proposed Settlement go into effect?

The Court will hold a final approval hearing on December 16, 2019, to decide whether to approve the Proposed Settlement (see Question 17), including the request for attorneys' fees and litigation expenses (see Question 14). Even if the Court approves the Proposed Settlement, there could be appeals. The time for an appeal varies.

The Proposed Settlement becomes final and binding on the Effective Date. If no appeals are taken, the Effective Date is the date on which the Court approves the Proposed Settlement as final, subject to certain conditions. If an appeal is taken, the Effective Date is the date when all appeals are completed, and the Proposed Settlement becomes final.

The Proposed Settlement will go into effect on the Effective Date.

8. How does the Proposed Settlement affect my rights?

If the Proposed Settlement is finally approved, the Court will enter a judgment dismissing all claims against Quality Acceptance with prejudice. Under the terms of the Proposed Settlement, you will release Quality Acceptance with respect to the claims that were raised or could have been raised in the case. This means you cannot seek equitable relief or any type of monetary relief against Quality Acceptance based on any claim related to or arising out of the repossession of your personal property and your installment sales contract involved in this case. You will be giving up all such claims, whether or not you know about them.

Notwithstanding the above, the settlement shall not release or discharge any claims arising out the Servicemembers Civil Relief Act, for personal injuries or bodily injuries and for violation of the Telephone Consumer Protection Act.

Your interests as a member of the Class will be represented by the Representative Plaintiff and Class Counsel. You will not be billed for their services. Class Counsel will receive a fee only if the Court approves the Proposed Settlement, and the fee award will be set by the Court and paid from the Settlement Fund (see Question 14).

The Court's order will apply to you even if you objected or have any other claim, lawsuit, or proceeding pending against Quality Acceptance. If you have any questions about the release, you should consult with a lawyer.

9. If I do nothing, what am I giving up as part of the Proposed Settlement?

If you do nothing, you will be part of the Class. That means you cannot sue Quality Acceptance for the claims settled in this case. It also means that all of the Court's orders, including the release of claims and dismissal of the lawsuit with prejudice (see Question 8), will apply to you and legally bind you.

IMPORTANT INFORMATION CONCERNING TAX CONSEQUENCES OF PROPOSED SETTLEMENT

10. What are the tax consequences of the Settlement?

The waiver of deficiency balances of the respective Class Members involve disputed debts which the Class Representatives contend are discharged by operation of law and which Quality Acceptance contends are enforceable.

If required by law, Quality Acceptance may issue a Form 1099-C tax report which will report as income to you any deficiency balance waived as a result of the settlement. As a result, the settlement may have significant adverse tax consequences and you should seek the advice of a tax professional if you have any questions concerning the taxation of settlement benefits and whether you should remove yourself from the Proposed Settlement pursuant to Paragraph 12 below.

GETTING MONEY FROM THE PROPOSED SETTLEMENT

11. How do I obtain money from the Proposed Settlement?

You do not have to do anything to obtain a Settlement Check. If the Court grants final approval of the settlement, a Settlement Check will be distributed from the Settlement Fund to all participating Class Members by mail. The amount of each Settlement Check will be reduced on a pro rata basis by the amount the Court determines that Class Counsel shall receive as compensation for the prosecution of the instant action, the fee to the Representative Plaintiff, and certain expenses related to administering the Settlement (see Paragraph 14 below).

EXCLUDING YOURSELF FROM THE PROPOSED SETTLEMENT

If you want to keep your right to sue Quality Acceptance with respect to the notices you received relating to the repossession of your personal property or with respect to any other legal claim, you must take steps to remove yourself from the Proposed Settlement. This is called asking to be excluded from – or “opting out” of – the Class and the Proposed Settlement.

12. How do I remove myself from the Proposed Settlement?

If you choose to exclude yourself from the Class, you will not be bound by any order, judgment or settlement of the lawsuit. If you exclude yourself from the Class, you will not receive any benefits from this class action. You will retain and be free to pursue any claim against Quality Acceptance based on the notice(s) you received after repossession of your personal property or based on your installment sales contract.

If you exclude yourself from the Class, if required by law, Quality Acceptance may still issue a 1099-C tax report which will report as income any deficiency balance waived as a result of the settlement as described in paragraph 10 above.

To exclude yourself from the Proposed Settlement, you must mail a letter saying that you want to be excluded from the Class in *Fennell v. Quality Acceptance*. You must include your full name, current mailing address, and telephone number, and the letter must be signed by you personally. An exclusion form has been included with this notice for your use. Your letter or exclusion form requesting exclusion must be mailed or otherwise delivered to the following address such that it is **received by December 11, 2019**.

Fennell Class Action
c/o Settlement Administrator
PO Box 23369
Jacksonville, FL 32241-3369
E-Mail: info@qualityacceptancevparksclassaction.com
Website: www.qualityacceptancevparksclassaction.com

You cannot exclude yourself on the phone or by email.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in this case?

Yes. The Court has appointed Robert W. Murphy and Sophia Romero to represent you and the other Class Members in this case. Mr. Murphy and Ms. Romero are called Class Counsel and Mr. Murphy is the Lead Class Counsel.

You will not be charged for Mr. Murphy's or Ms. Romero's representation. Class Counsel's compensation will be paid from the Settlement Fund. If you want to be represented by another lawyer, you may hire one at your own expense.

14. How will the lawyers be paid? What will the Representative Plaintiff receive? What expenses will be paid?

Class Counsel will ask the Court to approve attorneys' fees and expenses to be paid from the Settlement Fund. As fees, Class Counsel will ask the Court to award attorneys' fees in an amount not to exceed \$200,000.00 plus litigation expenses not to exceed \$25,000 ("Attorney Fee Request"). The Attorney Fee Request represents less than 1.8% of the value of the total benefit to the Class. Class Counsel contends that the total benefit of the settlement to the Class includes approximately \$12,935,302.44 in waived deficiencies, the \$450,000.00 payment to the Settlement Fund, and the benefit of the deletion of adverse information from the Class Members' credit reports. The Court will decide the amount of the attorneys' fees based on a number of factors, including the risk associated with bringing the case, the amount of time spent on the case, the amount of costs incurred to prosecute the case, the quality of the work, and the outcome of the case.

Class Counsel will also ask the Court to approve an incentive award of \$7,500 to be paid from the Settlement Fund to the Representative Plaintiffs for the time and resources they have spent helping the lawyers on behalf of the whole Class, to be paid to the Representative Plaintiffs in addition to the Settlement Check. The Court may award less than the requested amount.

The cost of administering the Settlement, including the expense of sending this Notice and any settlement checks will also be paid from the Settlement Fund.

No Class Member will owe or pay anything directly for attorneys' fees and expenses or the incentive award. Any award of attorneys' fees and expenses as well as the incentive award will be paid from the Settlement Fund.

The Court must approve both the attorneys' fees and expenses for Class Counsel and the incentive award for the Representative Plaintiff. The Court will conduct a hearing on attorneys' fees and litigation expenses at the same time of the final approval hearing.

OBJECTING TO THE PROPOSED SETTLEMENT

15. How do I tell the Court I don't agree with the Proposed Settlement?

You may object to any part of the Proposed Settlement. To do so, you must file a written objection in the case. Any objection must set forth your full name, current mailing address and telephone number and must include: (a) a written statement explaining the reasons for your objection; (b) copies of any papers, briefs, or other documents you want to bring to the Court's attention; (c) any evidence you wish to introduce in support of your objection;

and (d) a statement of whether you or your lawyer will ask to appear at the final approval hearing to talk about your objections.

Your objection must be mailed or otherwise delivered to each of the following addresses so that it is **received by December 11, 2019**:

<u>Court</u>	<u>Settlement Administrator</u>
Clerk of the Court Eighth Judicial District Court of Clark County State of Nevada 200 Lewis Avenue Las Vegas, Nevada 89101	Fennell Class Action c/o Settlement Administrator PO Box 23369 Jacksonville, FL 32241-3369
<u>Class Counsel</u>	<u>Quality Acceptance's Counsel</u>
Robert W. Murphy, Esquire 1212 S.E. 2nd Avenue Fort Lauderdale, Florida 33316 Telephone: (954) 763-8660 Facsimile: (954) 763-8607 E-Mail: rwmurphy@lawfirmmurphy.com	Christian T. Balducci, Esquire Marquis Aurbach Coffing 10001 Park Run Drive Las Vegas, NV 89145 Telephone: (702) 382-0711 E-Mail: cbalducci@maclaw.com

If you or your lawyer asks to appear at the final approval hearing, in addition to providing the above information, you must include in your objection letter: (a) the points you wish to speak about at the hearing; (b) copies of documents you intend to rely upon at the hearing; (c) the amount of time you request for speaking at the hearing; and (d) whether you intend to have a lawyer speak on your behalf.

If you intend to have a lawyer present, your lawyer must file a written notice of appearance of counsel with the Clerk of the Court no later than **November 26, 2019**.

16. What is the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you do not like something about the Proposed Settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Class. If you exclude yourself from the Class, you have no basis to object because the case no longer affects you.

THE COURT'S FINAL APPROVAL HEARING

17. When and where will the Court decide whether to approve the Proposed Settlement?

The Court will hold a final approval hearing to decide whether the Proposed Settlement is fair, reasonable, and adequate and should be granted final approval. The Court will also consider whether to award attorneys' fees and other expenses to Class Counsel, whether to provide an incentive award to the Representative Plaintiff, and whether to enter a final judgment and dismiss the lawsuit. If there are objections, the Court will consider them. You may attend and you may ask to speak.

The final approval hearing will be on December 16, 2019 at 9:00 a.m., before the Honorable Judge Elizabeth Gonzalez at Courtroom 3E, Eighth Judicial District Court of Clark County, State of Nevada, 200 Lewis Avenue, Las Vegas, Nevada 89101.

The Proposed Settlement may be approved by the Court with modifications, and without further notice, if consented to by the Representative Plaintiff and Quality Acceptance and their respective attorneys in accordance with the terms of the Settlement Agreement.

18. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. If you send a written objection, you do not have to come to the final approval hearing to talk about it. As long as you mailed your written objection on time and according to the Court's rules, the Court will consider it. You may also pay your own lawyer to attend the final approval hearing, but it is not necessary.

IF YOU DO NOTHING

19. What happens if I do nothing?

You have the right to do nothing. If you do nothing, you will remain part of the Class and you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Quality Acceptance about the claims in this case, ever again. You will receive all the Settlement Benefits described in Paragraph 6 above. Further, the tax consequences of the Settlement described in Paragraph 10 above will apply.

GETTING MORE INFORMATION

20. How do I get more information?

If you have any questions concerning the matters dealt with in this notice, please direct your inquiries to the following Class Counsel:

Robert W. Murphy, Esquire
Law Office of Robert W. Murphy, Esq.
1212 S.E. 2nd Avenue
Fort Lauderdale, Florida 33316
rwmurphy@lawfirmmurphy.com

Sophia A. Romero, Esq.
725 E. Charleston Blvd.
Las Vegas, NV 89104
Telephone: (702) 386-1453
sromero@lacs.org

The pleadings and other records in this litigation are available and may be examined and copied during regular office hours at the Office of the Clerk of Court, Eighth Judicial District Court of Clark County, Regional Justice Center, 200 Lewis Avenue, Las Vegas, Nevada 89101. **PLEASE DO NOT TELEPHONE THE CLERK'S OFFICE OR THE JUDGE'S CHAMBERS CONCERNING THIS NOTICE OR THIS CASE.**