

JOHNNIE BENEFIELD, individually and on behalf of all others similarly situated
Plaintiff

vs.

ESSA BANCORP, INC., d/b/a
ESSA BANK & TRUST
Defendant.

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

SEPTEMBER TERM, 2016

NO. 001381

CLASS ACTION

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

You may be entitled to receive a settlement payment and cancellation of any Deficiency Balance in connection with a class action against ESSA Bancorp, Inc., d/b/a ESSA Bank & Trust

*A Pennsylvania Court has authorized this notice.
This is not a solicitation from a lawyer.
You are not being sued.*

- This settlement resolves a lawsuit over whether ESSA Bancorp, Inc., d/b/a ESSA Bank & Trust ("ESSA") sent borrowers proper notice of their rights after vehicle repossession.
- ESSA denies and disputes the claims asserted in the Litigation. The parties disagree about whether any money (and if so, how much) could have been awarded to you if the Plaintiff were to prevail at trial. The settlement avoids the cost and risks to members of the class (like you) from continuing with the lawsuit, and provides relief to the Class.
- This settlement will (a) provide a gross fund of \$1,320,000.00 to be distributed to Class Members after payment of administrative costs and Class Counsel fees and costs, (b) forgive post-repossession Deficiency Balances, and (c) require ESSA to adjust certain credit reporting in accordance with the proposed Class Action Settlement Agreement.
- Your rights are affected whether you act or not. Read this notice carefully.

Your Legal Rights and Options in this Settlement:

Do Nothing

You will be paid a *pro rata* share of the net settlement proceeds which will come to **approximately \$934.00 per loan**, have any post-auction sale deficiency balance forgiven, and have corrections made to your credit report in accordance with the proposed Class Action Settlement Agreement, if the settlement is approved by the Court as presented.

Exclude Yourself

Get no payment. This is the only option that allows you to ever be part of any other lawsuit against ESSA concerning repossession or financing of your vehicle. Act by **March 12, 2018**.

Object

Write to the Court about why you don't like the settlement and do not want it approved. Act by **March 12, 2018**.

Go to a Hearing

Ask to speak in Court about the fairness of the settlement on **April 2, 2018**.

- These rights and options – **and the deadlines to exercise them** – are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the settlement. Payments will be made if the Court approves the settlement and after any appeals are resolved. Please be patient.

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BASIC INFORMATION

1. Why did I get this notice package?

The Court approved this notice because you have a right to know about a proposed settlement of a class action lawsuit, and about all of your options, before the Court decides whether to approve the settlement. If the Court approves it and after objections and appeals, if any, are resolved, the Settlement Administrator will make the payments the settlement allows.

The Court in charge of the case is the Court of Common Pleas of Philadelphia County, Pennsylvania, and the case is known as *Johnnie Benefield, individually and on behalf of all others similarly situated v. ESSA Bancorp, Inc., d/b/a ESSA Bank & Trust*, September Term, 2016, No. 001381. The person suing is Johnnie Benefield, the Plaintiff (also called "Class Representative") and the company being sued, ESSA Bancorp, Inc., d/b/a ESSA Bank & Trust, is called the Defendant, or "ESSA."

This package explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible, and how to get them.

ESSA's records reflect that you and/or a co-borrower on your vehicle loan received one or more notices from ESSA following the repossession of your vehicle between September 13, 2010 and October 5, 2017. ESSA's conduct post-repossession, including its use of these notices, forms the basis for this lawsuit.

2. What is this lawsuit about?

The lawsuit claims that ESSA violated Pennsylvania's Uniform Commercial Code by failing to send its borrowers in Pennsylvania proper notice of their rights after repossession of a financed vehicle. Plaintiff says the notices failed to a) state whether the consumer had a right to redeem the vehicle at any time before sale; or b) state that the debtor is entitled to an accounting of the unpaid indebtedness and the charge, if any, for such an accounting; or c) ESSA sent no notice at all. ESSA denies that its disclosures violated any law, and ESSA asserts that it satisfied all of the legal requirements as to its notices. ESSA asserts other defenses. As well, ESSA further contends that many of the members of the Class owe ESSA money for balances still allegedly due on their accounts following the sale of their vehicle(s) at auction.

3. Why is this a class action?

In a class action, one or more people called Class Representatives (in this case Johnnie Benefield), sue on behalf of all people who have similar claims. All these people are "Class Members," and grouped together are a "Class." One court resolves the issues for all Class Members, except for those who exclude themselves from the Class. ESSA has challenged whether this case should proceed as a class action but has agreed not to oppose certification of a class for settlement purposes only.

4. Why is there a settlement?

Plaintiff believes the Class might have won more money than the settlement amount had the case gone to trial, but substantial delays and risks would have occurred, including the risk of the suit not being certified as a class. ESSA believes that the claims asserted in the case are without substantial merit, and that the Plaintiff may have recovered nothing if there had been a trial. But, there has been no trial. Instead, both sides agreed to a settlement. That way, they avoid the cost of a trial and appeal, and the people affected will get compensation and other settlement benefits promptly. The Class Representative and the class attorneys think the settlement is best for all Class Members.

WHO IS IN THE SETTLEMENT

5. How do I know that I am part of the settlement?

If you received this Notice in the mail, ESSA's records reflect that you are part of the Class. The Court has preliminarily certified the following group as a Class:

All persons who financed a motor vehicle as a consumer good through ESSA, or who financed a motor vehicle as a consumer good through a loan contract or installment sales contract which was thereafter assigned to ESSA; who had a Pennsylvania address as of the date of repossession; from whom ESSA, as secured party or authorized servicer, repossessed the financed vehicle, or ordered it repossessed; were not sent a Repossession Notice which: (1) stated the consumer has a right to redeem the vehicle at any time before sale; or (2) stated that the debtor is entitled to an accounting of the unpaid indebtedness and the charge, if any, for such an accounting; or, were sent no notice at all; from September 13, 2010 through October 5, 2017.

THE SETTLEMENT BENEFITS – WHAT YOU GET

6. What does the settlement provide for me?

- **Cash Component:** ESSA has agreed to create a Settlement Fund of \$1,320,000.00. Approved expenses and Class Counsel fees will be paid from that fund. You will receive a *pro rata* share of the total amount of Settlement Funds then available. There are approximately 810 Class claims and about 1,063 Class Members, including co-borrowers. If fees and expenses are allowed as requested, it is expected that your cash payment will be approximately \$934.00, unless there were multiple borrowers on your loan in which case you will receive a portion of this amount; plus:

- **Credit Report Correction:** If your repossessed vehicle was sold at auction or otherwise by ESSA, your credit report will be updated to remove any tradeline – that is, any reference to the ESSA auto loan contract. Details about how and when this will be done, and limits on ESSA’s obligation to correct are spelled out further in the Class Action Settlement Agreement.

- **Forgiveness of Deficiency Balance:** If you have been advised by ESSA that there is a shortfall after the auction proceeds were applied, that balance claimed due is called a “Deficiency Balance” claim. Unless you elect otherwise, ESSA will forgive and eliminate any Deficiency Balance on your vehicle loan. The average Deficiency Balance claimed due is around \$6,662.00. Yours could be more or less than this amount. NOTE: see Tax Implications in Section 8 below. You can choose not to receive debt forgiveness by submitting the enclosed Election Not to Accept Deficiency Balance Debt Forgiveness Form.

- Any settlement funds remaining from uncashed or undistributable checks or unapproved fees or costs will, subject to Court approval, be paid to *cy pres* beneficiaries for the benefit of the Settlement Class.

7. What is the debt forgiveness benefit?

As part of the Settlement, ESSA will forgive any outstanding debt related to your repossessed vehicle. This outstanding debt is called an “Auto Loan Deficiency.” It is the amount that ESSA says you still owe on your finance agreement after the sale of your repossessed car (plus any additional fees and less any payments you may have made after the repossession).

- Example: John owed \$10,000 on his repossessed vehicle and ESSA paid \$400 in repossession/towing fees. His vehicle sold for \$6,000 at auction. John’s Auto Loan Deficiency would be \$4,400.

Calculation = [(\$10,000 + \$400) – (\$6,000)]

\$10,400 – \$6,000 (amount from sale of vehicle) = \$4,400

Amount of John’s Auto Loan Deficiency Claimed Due by ESSA = \$4,400

If you do not want your debt waived, you will need to submit the attached Election Not to Accept Deficiency Balance Debt Forgiveness Form. (See Section #10 below). If you do nothing, ESSA will automatically forgive and eliminate your Auto Loan Deficiency. In addition, if you have already been sued and there is a legal judgment against you relating to your Auto Finance Deficiency, ESSA will inform the Court that you have resolved the

issue and release the judgment. If you do not know if you have any deficiency, you can call Class Counsel at 1-570-341-9000 to inquire or to find out the amount of your deficiency, if any.

TAX IMPLICATIONS

8. Tax Implications

This settlement has potential tax implications for you. The Settlement Administrator may issue IRS 1099-series forms for cash payments. You may be required to furnish your Social Security Number to the administrator as a condition of payment of settlement proceeds.

If you accept the Deficiency Balance Forgiveness, ESSA or the Administrator may issue to you and to the IRS a 1099C form for the amount of the Deficiency Balance forgiven. This could result in your having to declare income in that amount on your next tax return and pay tax on all or some of that amount! You should consult your tax advisor to help decide if accepting the Deficiency Forgiveness is right for you. ESSA also could – independent of this lawsuit – at some future date deem the Deficiency Balance uncollectable and issue a 1099C tax form, as well. Consult your tax advisor.

HOW YOU GET THE BENEFITS OF THE SETTLEMENT

9. Do I need to do anything to get a payment or the credit reporting benefit?

No. You do not need to do anything further to remain in the Class. You will get a payment and the credit reporting benefit automatically, after court approval of the Settlement.

10. Do I need to do anything to have my outstanding debt eliminated?

No. Unless you submit an Election Not to Accept Deficiency Balance Debt Forgiveness Form, any outstanding debt related to the financing of your repossessed vehicle will automatically be eliminated. If you **do not want** your outstanding debt to be forgiven, please read the instructions carefully, fill out the Election Not to Accept Deficiency Balance Debt Forgiveness Form, and mail it postmarked no later than **March 12, 2018** to:

Benefield/ESSA
Class Settlement
ATTN: Claims
P.O. Box 23648
Jacksonville, FL 32241

11. When would I get my payment?

The Court will hold a hearing on April 2, 2018 at 10:00 a.m. in Courtroom 446, City Hall, Philadelphia, PA to decide whether to approve the settlement. If the Court approves the settlement after that, there may be appeals. It is always uncertain whether there will be an appeal and if so, when it will be resolved. Resolving them can take time, often well more than a year. Please be patient.

12. What am I giving up to get a payment or stay in the Class?

Unless you exclude yourself, you will stay in the Class, and that means that you can't sue, continue to sue, or be part of any other lawsuit against ESSA for any claims, damages or any other amounts or relief of any kind, whether known or unknown, which were or could have been raised in the Litigation, which arise out of or relate to the Repossession Notices issued by ESSA, the sale of any repossessed motor vehicles, the conditions of reinstatement and/or redemption, the collection of deficiencies allegedly owed by Class Members, or the reporting of Deficiency Balances to any consumer reporting agencies. It also means that the Court's orders will apply to you and legally bind you. Unless you "opt-out" or exclude yourself from this case, you will automatically be deemed to have agreed to a "Release of Claims" which describes exactly the legal claims that you give up if you remain in the Class.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want a payment or other benefits from this settlement but you want to keep the right to sue or continue to sue ESSA on your own about any of the subjects or issues set forth in the paragraph above, then you must take steps to get out. This is called excluding yourself – sometimes referred to as "opting out" of the Class.

13. How do I get out of the settlement?

To exclude yourself from the settlement, you must send a letter to the Settlement Administrator, with copies to counsel, by mail (first class, postage pre-paid) saying that you, as well as any and all other person(s) who signed your retail installment contract, want to be excluded from *Johnnie Benefield, individually and on behalf of all others similarly situated v. ESSA Bancorp, Inc., d/b/a ESSA Bank & Trust*, September Term, 2016, No. 001381. Be sure to include your name, address, email (if available), telephone number and your signature. Mail your exclusion request postmarked no later than **March 12, 2018** to all of three different places below.

Settlement Administrator	Class Counsel	ESSA Counsel
Benefield/ESSA Class Settlement ATTN: Exclusions P.O. Box 23648 Jacksonville, FL 32241	Cary L. Flitter, Esq. FLITTER MILZ, P.C. 450 N. Narberth Avenue Suite 101 Narberth, PA 19072	Ryan T. Becker, Esq. FOX ROTHSCHILD, LLP 2000 Market Street 20 th Floor Philadelphia, PA 19103

14. If I don't exclude myself, can I sue ESSA for the same thing later?

No. Unless you exclude yourself, you give up any right to sue ESSA for the claims that this settlement resolves. If you have a pending lawsuit, speak to your lawyer in that case immediately. You must exclude yourself from this Class to continue your own lawsuit.

15. If I exclude myself, can I get money from this settlement?

No. If you exclude yourself, you will not receive any money from this lawsuit or settlement, credit report deletion, a release of any Deficiency Balance, or other relief that this Class Settlement provides.

THE LAWYERS REPRESENTING YOU

16. Do I have a lawyer in this case?

The Court has approved Cary L. Flitter, Andrew M. Milz, and Jody Thomas López-Jacobs of the law firm of Flitter Milz, P.C., in Narberth, PA and Carlo Sabatini of the Sabatini Law Firm, LLC of Dunmore, PA to represent you and other Class Members. These lawyers are called Class Counsel. You will not be charged individually for these lawyers. If you want to be represented by your own lawyer, you may hire a firm at your own expense.

17. How will the lawyers be paid?

Class Counsel will ask the Court to approve a payment out of the settlement fund in the amount of \$528,000 for Class Counsel fees and up to \$15,000 for reimbursement of expenses. The fees would pay Class Counsel for investigating the facts, litigating the case, negotiating the settlement, filing legal papers with the Court, and oversight of future implementation of the settlement, including fielding inquiries from Class Members. Class Counsel has not been paid for its time or services since this case was originally filed in September of 2016. The Court could award less than this amount.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you don't agree with the settlement or some part of it.

18. How do I tell the Court that I don't like the settlement?

If you are a Class Member, you can object to the settlement if you don't like any part of it. You should state why you object and why you think the Court should not approve the settlement. The Court will consider your views. To object, you must file an objection, or send a letter saying that you object to the settlement in *Johnnie Benefield, individually and on behalf of all others similarly situated v. ESSA Bancorp, Inc., d/b/a ESSA Bank & Trust*, September Term, 2016, No. 001381. Please be sure to include your name, address, email address (if available), telephone number, your signature, and the reasons you object to the settlement. Mail the objection to all of the three different places listed in Section 13 above, postmarked no later than March 12, 2018, and file electronically or by mail with the Office of Judicial Records - Civil, Court of Common Pleas of Philadelphia County, Room 284, City Hall, Philadelphia, PA 19107.

19. What's the difference between objecting and excluding?

Objecting is telling the Court that you don't like something about the settlement, and that you, for that reason, want the settlement not to be approved. You can object only if you stay in the Class. Excluding yourself is telling the Court that you don't want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the settlement. You may attend and you may ask to speak, but you don't have to.

20. When and where will the Court decide whether to approve the settlement?

The Court will hold a Fairness Hearing on April 2, 2018 at 10:00 a.m. in Courtroom 446 at City Hall, Philadelphia, Pennsylvania 19107. At this hearing, the Court will consider whether the settlement is fair, reasonable and adequate and meets the test for class action settlements. If there are objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing. The Court may also determine the Class Representative Incentive Award (\$5,000 paid separately by ESSA) and Class Counsel fees and expenses. Following the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

21. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. But you are welcome to come at your own expense. If you file an objection, you don't have to come to Court to talk about it, but you may. As long as you properly mailed (or electronically filed) your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, if you wish.

22. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter stating that it is your "Notice of Intention to Appear in *Johnnie Benefield, individually and on behalf of all others similarly situated v. ESSA Bancorp, Inc., d/b/a ESSA Bank & Trust*." Your Notice of Intention to Appear must be filed or mailed so as to be postmarked no later than March 12, 2018 and be sent to the Office of Judicial Records - Civil and the Administrator at the addresses in Section 24 below. You cannot speak at the hearing if you exclude yourself from the settlement.

IF YOU DO NOTHING

23. What happens if I do nothing at all?

If you do nothing, you will be a part of this settlement (if the Court approves it) and will receive a settlement payment, forgiveness of your Deficiency Balance (if any), and credit reporting relief as provided in the Class Action Settlement Agreement. If you do not want your Deficiency Balance forgiven you must elect in writing by returning the enclosed Election Not to Accept Deficiency Balance Debt Forgiveness Form. If you do not exclude yourself, you give up the right to bring your own lawsuit.

GETTING MORE INFORMATION

24. Are there more details about the settlement?

This notice summarizes the proposed settlement. The pleadings and other records in this litigation, including a copy of the Settlement Agreement, may be examined at any time during regular office hours at the Office of Judicial Records - Civil, Court of Common Pleas of Philadelphia County, Room 284, City Hall, Philadelphia, PA 19107.

You may also call or write to the following:

**Benefield/ESSA
Class Settlement
P.O. Box 23648
Jacksonville, FL 32241
1-877-206-6151**

www.americanlegal.com/essabankreposittlement

Or

**Class Counsel
Sabatini Law Firm, LLC
Carlo Sabatini, Esq.
216 North Blakely Street
Dunmore, PA 18512
1-570-341-9000**

Please **do not** call the Court, ESSA, or ESSA's counsel.

Dated January 29, 2018

BY THE COURT

/s/Prothonotary

PROTHONOTARY