

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

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CLERK OF COURTS
CUYAHOGA COUNTY

AVID ACCEPTANCE, LLC

Plaintiff,

v.

ARIA C. SMITH,

Defendant.

) CASE NO. CV 22 969939

)

) JUDGE ANTONIO S. NICHOLSON

)

)

) FINAL SETTLEMENT APPROVAL

) ORDER AND FINAL JUDGMENT

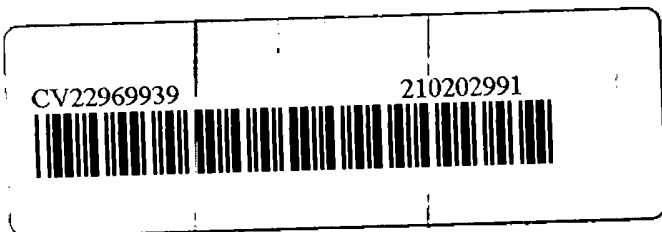
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This matter is before the Court on the Motion for Final Approval of Proposed Settlement and Final Certification of the Class filed by Plaintiff Aria Smith ("Class Representative" or "Ms. Smith") and Defendant Avid Acceptance, LLC ("Avid"), which seek approval of a class action settlement between Plaintiff and Avid under Ohio Rule of Civil Procedure 23(E), and the unopposed Motion for Order Awarding Attorneys' Fees and Expenses and Incentive Payment to the Class Representative filed by Plaintiff.

This Court recognizes that settlement of class actions is generally favored and encouraged. *Sutherland v. ITT Residential Capital Corp.*, 122 Ohio App.3d 526, 536 (6th Dist.1997) citing *State ex rel. Wright v. Weyandt*, 50 Ohio St.2d 194 (1977). However, it is the duty of the Court to assure that the settlement of a class action is reasonable and fair to absent class members and is not the subject of collusion between the Parties. Ohio Rule of Civil Procedure 23(E) provides important protections for class members and establishes requirements for the approval of a proposed class action settlement:

- A. Members of the class must be given notice in a reasonable manner of the proposed settlement;



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- B. The Parties seeking approval must file a statement identifying any agreement made in connection with the proposed settlement;
- C. Any class member may object to the proposed settlement; and
- D. A court may only approve a settlement after a fairness hearing and only upon a finding that the proposed settlement is fair, reasonable, and adequate.

The first three steps have already been satisfied. The Parties filed a Motion for Preliminary Approval of Class Action Settlement, which included a copy of the Settlement Agreement,¹ and the Court granted preliminarily approval of the proposed settlement by Order entered on December 15, 2025 (the "Preliminary Approval Order"). Pursuant to the terms of the Preliminary Approval Order and the Settlement Agreement, the Settlement Class Members were sent notices of the proposed settlement by First Class Mail. The Court finds that the notices were provided in a reasonable manner and were the best notices practicable under the circumstances. The Notices informed the Settlement Class Members of their opportunity to object to the proposed settlement or to exclude themselves from the Settlement Class and provided procedures for objection and exclusion.

This Court has received evidence, reviewed the papers filed in support of the Motion, including the Settlement Agreement and the exhibits thereto, memoranda, and supporting declarations, reviewed any written objections to the proposed settlement, and heard arguments of counsel for the Parties. In addition, the Court conducted a fairness hearing on March 18, 2026. The only remaining step is for this Court to decide whether the settlement is fair, reasonable, and adequate pursuant to Ohio Rule of Civil Procedure 23(E)(2).

¹ The Settlement Agreement between the Parties is attached hereto as **Exhibit A** and incorporated herein. All defined terms in the Settlement Agreement shall have the same meaning herein as in the Settlement Agreement itself.

I. SETTLEMENT APPROVAL

The determination of whether a proposed class settlement is fair, reasonable, and adequate requires the Court to consider and balance several factors, which include:

1. Plaintiff's likelihood of ultimate success on the merits balanced against the amount and form of relief offered in settlement;
2. The complexity, expense and likely duration of the litigation;
3. The stage of the proceedings and the amount of discovery completed;
4. The judgment of experienced trial counsel;
5. The nature of the negotiations;
6. The objections raised by the class members; and
7. The public interest.

In re Telectronics Pacing Sys. Inc., 137 F.Supp.2d 985, 1009 (S.D.Ohio 2001); *Enter. Energy Corp. v. Columbia Gas Transmission Corp.*, 137 F.R.D. 240, 245 (S.D.Ohio 1991) *see also Beder v Cleveland Browns, Inc.*, 114 Ohio Misc.2d 26, 28 (Cuyahoga C.C.P. 2001).

A. The Likelihood of Ultimate Success on the Merits

"The most important of the factors to be considered in reviewing a settlement is the probability of success on the merits." *In re General Tire & Rubber Co. Sec. Litig.*, 726 F.2d 1075, 1086 (6th Cir. 1984).² In this instance, Ms. Smith's counterclaims are premised on allegations that

² Ohio Civ.R. 23 "is nearly identical to Fed.R.Civ.P. 23." *Lucio v. Safe Auto Ins. Co.*, 2009-Ohio-4816, ¶ 14 (7th Dist.). Accordingly, Ohio courts may look to federal court precedent concerning Fed.R.Civ.P. 23 when presented with class action issues based upon Civ.R. 23. *See, e.g., Stammco, L.L.C. v. United Tel. Co. of Ohio*, 2013-Ohio-3019, ¶ 18 ("[F]ederal law interpreting a federal rule, while not controlling, is persuasive in interpreting a similar Ohio rule."); *Hupp v. Beck Energy Corp.*, 2014-Ohio-4255, ¶ 33 (7th Dist.), *cf. d sub nom. State ex rel. Claugus Family Farm, L.P. v. Seventh Dist. Court of Appeals*, 2016-Ohio-178, ¶ 33.

the standard forms Avid used in post-repossession notices for the six years preceding the filing of the instant action violated provisions of RISA and the Ohio UCC. Ms. Smith contends R.C. § 1317.12 specifically limits the amounts and types of expenses allowed to be included in the reinstatement; R.C. § 1317.16 requires notifying the debtor of the time and place of public sale; and R.C. § 1309.610/613/614 requires that that a debtor, for the public sale of collateral, be notified of the day, date, time and place of sale, and that the Sale be commercially reasonable. Ms. Smith asserts that alleged violations of RISA and the UCC provisions bar recovery of any Deficiency Balances.

In addition to damages, Ms. Smith's Class Action Counterclaim sought a declaration that Avid's acts and practices—namely, its alleged violations of the UCC and RISA—were unlawful. The counterclaim also sought an injunction prohibiting Avid from continuing to engage in these practices; requiring that Avid remove adverse credit information previously reported to credit reporting organizations; and requiring Avid refrain from collecting any deficiency balances of class members whose balances were overstated to the credit reporting agencies. The counterclaim also sought attorneys' fees, costs, and expenses.

Avid believes Ms. Smith's claims are without merit. And, even if the claims asserted by Ms. Smith had value, Avid alleges that it would be entitled to an offset for amounts owed by Ms. Smith and the Settlement Class Members. Therefore, due to the existence of uncertainties inherent in Ms. Smith's claims and the risk to the Settlement Class should Avid prevail, recovery by Ms. Smith and the Settlement Class is uncertain. This factor weighs in favor of approval of the proposed settlement.

B. The Amount and Form of Relief Offered in Settlement

The relief to the Settlement Class provided in the Agreement is the elimination of the Deficiency Balance for each of the Settlement Class Members, cash payments to members of the Deficiency Payment Subclass for a portion of payments made post-repossession, and the deletion of Avid's tradelines on Class Members credit reports with the three major credit reporting agencies.

Pursuant to the Settlement Agreement, the following relief shall be made to Settlement Class Members:

1. For the Deficiency Balance Subclass and the Deficiency Payment Subclass, Avid shall permanently abandon any claim it holds to a deficiency balance allegedly owed by class members. Ms. Smith asserts that Avid's agreement and decision to forgo collection of the alleged deficiency balances of Settlement Class Members is based upon the operation of state law. The value of this relief exceeds **\$8,377,613.73**.

2. For the Deficiency Payment Subclass, each class member will receive a portion of the Settlement Fund, representing a share based on the best estimate of the amount each member paid toward a deficiency balance up to a total of **\$35,000.00**.

3. Avid will pay an Incentive Award to the Class Representative, Ms. Smith, of **\$25,000.00**, payable from the Settlement Fund for Serving as Class Representative.

4. Avid will remove adverse credit information previously reported to the three major credit reporting organizations.

The Settlement Agreement further provides that Class Counsel may apply for attorneys' fees, costs, and expenses amount of the Settlement Fund (**\$325,000.00**) minus the amount of the

Incentive Payment (\$25,000.00) and the amount set aside for Deficiency Payment Subclass Members (\$35,000.00).

Thus, the settlement provides valuable relief to each Settlement Class Member. This is especially true because if Avid were to prevail, Ms. Smith and the class would receive nothing and could potentially still be obligated to Avid on the Deficiency Balances. Thus, balanced against the possibility that the Settlement Class Members could receive nothing by going forward on the merits of their claims, this factor weighs in favor of approving the proposed settlement.

C. Complexity, Expense, and Likely Duration of the Litigation

In general, “[m]ost class actions are inherently complex and settlement avoids the costs, delays, and multitude of other problems associated with them.” *Ganci v. MBF Inspection Servs., Inc.*, 2019 WL 6485159, at *3 (S.D. Ohio Dec. 3, 2019). Settlements provide a mechanism to avoid the substantial litigation expenses and delays associated with a class action trial, as well as the uncertainty of trial outcomes and potential appeals. *In re Kroger Co. Shareholders Litigation*, 70 Ohio App. 3d 52, 67. The value of immediate relief through settlement often outweighs the potential value of relief obtained in the future through trial and appeal. Courts have identified several factors to consider when determining the fairness of a settlement, including the likelihood of success at trial, the complexity and expense of litigation, and the reaction of the class to the settlement. These factors underscore the benefits of resolving disputes through settlement, as it provides substantial benefits to the class without the attendant expense, delay, and uncertainty of trial and appeal *Forsythe v. Std. Oil Co.*, 534 N.E.2d 119, 124; *West v. Califax, Inc.*, 2009-Ohio-6857, ¶ 25.

D. Stage of the Proceedings and the Amount of Discovery Completed

The proposed settlement was reached after three years of litigation and negotiation. Over that period, the Parties have engaged in both formal discovery and informal discovery. Ms. Smith and Avid have been afforded ample opportunity to conduct the discovery needed to become knowledgeable about the legal and factual issues involved in this matter and to ascertain both the strengths and weaknesses of their relative cases. The Parties' well-informed decision to settle, and the fact that the settlement was reached after a lengthy period of negotiation, weighs in favor of approving the settlement.

E. Judgment of Experienced Trial Counsel

In the instant case, both Ms. Smith's and Avid's counsel are highly experienced practitioners in the field of complex class actions. Counsel for both sides urge final approval of the proposed settlement based upon their experience, their knowledge of the strengths and weaknesses of the case, their analysis of the discovery reviewed to date, the likely recovery at trial and on appeal, and other factors considered in evaluating the proposed class action settlement. The Court is aware that the proposed settlement was negotiated vigorously at arm's length between Parties that were clearly adverse. It is therefore evident that this factor weighs heavily in favor of approving the proposed settlement.

F. Nature of the Negotiations

The Settlement Agreement was negotiated at arm's length by class counsel, Ronald Frederick, and Avid's counsel, Christopher Baxter. Mr. Frederick has substantial experience representing consumers in class actions and unfair business practices litigation. *See* Aff. of Ronald Frederick ("Frederick Aff."), attached as **Exhibit B**. Mr. Baxter has a national creditors rights and

commercial litigation practice and has a wealth of experience representing secured creditors in state and federal civil lawsuits as defense counsel, including but not limited to as defense counsel for class actions, bankruptcy proceedings, assignment for the benefit of creditors and receiverships. Class Counsel conducted sufficient investigation to evaluate the merits of the case, and the value of potential recovery. *Id.* ¶ 8. The Settlement Agreement was reached after hard-fought negotiations, a mediation conducted by experienced mediator David A. Schaefer, Esq. of McCarthy, Lebit, Crystal & Liffman Co. LPA, and numerous informal settlement discussions between counsel. *Id.* ¶ 9. The result is a fair and reasonable settlement that achieves significant monetary relief and will provide substantial benefits directly to class members. *Id.* ¶ 10.

G. Objections Raised by the Class Members

There are 1,028 Settlement Class Accounts included in this settlement. The Settlement Class Members obligated on those accounts were each mailed notice of the settlement at their last known address. None of the Settlement Class Members who received notice objected to the settlement. The proposed settlement is therefore supported by the Settlement Class Members who received notice. This factor weighs in favor of approving the proposed settlement.

H. Public Interest

While this case is not of general public interest, there is certainly a public interest in settlement of disputed cases that require substantial judicial resources to supervise and resolve. In the instant case, the proposed settlement ends potentially long and protracted litigation and frees the Court's valuable judicial resources. *In re Dun & Bradstreet Credit Servs. Customer Litig.*, 130 F.R.D. 366, 372 (S.D.Ohio 1990). The Court concludes that this factor weighs in favor of approving the proposed Settlement because the public interest is served by resolution of this action.

II. CLASS CERTIFICATION

The Court must now consider final certification of the class for settlement. Pursuant to Ohio Rule of Civil Procedure 23(B)(3), the Court granted conditional certification of the following class of Ohio consumers on December 15, 2025:

All persons who: (1) who purchased a motor vehicle primarily for personal, family and/or household use by entering into a Retail Installment Contract; (2) whose Retail Installment Contract was assigned to Avid; (3) whose motor vehicle securing the Retail Installment Contract was repossessed by or on behalf of Avid, or was voluntarily surrendered in the state of Ohio; (4) who were sent one or more Post-Repossession Notices by or on behalf of Avid between October 13, 2016 and April 30, 2025; and (5) whose motor vehicle was either disposed of by or on behalf of Avid or their Retail Installment Sales Contract was otherwise not reinstated. The following are excluded from the Settlement Class: (a) Resolved Account Obligors;³ (b) any Person who is a debtor in an active bankruptcy proceeding as of the date of entry of the Preliminary Approval Order or who was previously a debtor in a bankruptcy proceeding and received a discharge in bankruptcy after execution of a Retail Installment Sales Contract that was assigned to Avid; and (c) any person who submits a valid and timely request for exclusion.

The Settlement Class consists of two subclasses. Each Settlement Class Member is a member of only one subclass. The subclasses are:

³ Under the Agreement, "Resolved Account Obligor" means a Person obligated under a Retail Installment Sales Contract for which (1) an agreement was reached between the obligor(s) under the Retail Installment Sales Contract and Avid after repossession and disposition of the subject motor vehicle regarding the resolution of the obligor's account with Avid, including but not limited to the Deficiency Balance on the account, or (2) Avid has previously voluntarily waived the Deficiency Balance, or (3) Avid obtained a judgment relating to the Deficiency Balance prior to the Effective Date of the Settlement Agreement.

1. “Deficiency Balance Subclass” means a subclass, certified for settlement purposes only pursuant to Ohio Rule of Civil Procedure 23(B)(3), consisting of Settlement Class Members for which Avid’s records relating to the Settlement Class Account reflect the absence of any payment by the Settlement Class Member on the Deficiency Balance or reflect payment on a Deficiency Balance of \$25.00 or less. There are approximately 995 Settlement Class Accounts in the Deficiency Balance Subclass.

2. “Deficiency Payment Subclass” means a subclass, certified for settlement purposes only pursuant to Ohio Rule of Civil Procedure 23(B)(3), consisting of Settlement Class Members for which Avid’s records relating to the Settlement Class Member’s Settlement Class Account reflect a payment by the Settlement Class Member of greater than \$25.00 on a deficiency balance. There are approximately 33 Settlement Class Accounts in the Deficiency Payment Subclass.

In the Court’s order granting conditional class certification, it also approved Ms. Smith as the representative of the class and appointed Class Counsel.

The Court confirms its previous findings that that the prerequisites for a class action under Ohio Rule of Civil Procedure 23(B)(3) have been satisfied in that: (i) the class members are so numerous that joinder of all class members is impracticable; (ii) there are questions of law and fact common to the members of the class; (iii) the claims of Plaintiff are typical of the claims of the class members; (iv) Plaintiff will fairly and adequately represent the interests of the class; (v) the questions of law and fact common to the class members predominate over any questions affecting only individual class members; and (vi) certifying a class is superior to other available methods for the fair and efficient adjudication of the controversy.

III. ATTORNEYS' FEES, COSTS, AND INCENTIVE PAYMENTS

The Settlement Agreement provides that Class Counsel may seek from the Settlement Fund approximately \$265,000.00 in attorneys' fees, costs, and expenses. Class Counsel intends to apply for such an award and Avid has agreed not object to this request. The amount is approximately 3.0% of the total value of relief to the class and does not reduce the amounts payable to the class as described above. This award was negotiated only after a conditional agreement on relief to the class was reached.

The Settlement Agreement also provides that Avid will pay an incentive award to the Class Representative, Ms. Smith, of \$25,000.00, payable from the Settlement Fund, for serving as class representative. Ms. Smith asserts that this is a fair amount, considering her extensive patience, loyalty to the class, and extensive time spent fulfilling her duties, including having her deposition taken, reviewing filings, discussing the facts with counsel, staying abreast of developments, and numerous telephone conversations while this case has been pending. This award was negotiated only after a conditional agreement on relief to the class was reached.

IV. DISPOSITION

For the foregoing reasons, the Court GRANTS the Motion for Final Approval of Proposed Settlement and Final Certification of the Class and Plaintiff's Motion for Order Awarding Attorneys' Fees, Costs, and Incentive Payment to the Class Representative.

Accordingly, **IT IS HEREBY ORDERED AND DECREED—**

1. The Court has jurisdiction over the subject matter of this litigation and over all Parties to this Action, including all Settlement Class Members as such term is defined in the Settlement Agreement and below in paragraph 8.

2. The Court has determined that the Class Notice given to the Settlement Class Members fully and accurately informed them of all material elements of the proposed Settlement and constituted valid, due, and sufficient notice to all Settlement Class Members.

3. Persons who made timely and valid requests for exclusion would be excluded from the Settlement Class and not be bound by the Final Settlement Approval Order and Final Judgment. No settlement class members requested to be excluded from the Settlement Agreement.

4. The Court finally approves the Settlement of this Action in accordance with the terms of the Settlement Agreement and finds that the Settlement is fair, reasonable, and adequate in all respects.

5. The Court orders the Parties to the Settlement Agreement to perform their obligations pursuant to its terms.

6. The Court orders that this Action and all claims and causes of action asserted herein are dismissed with prejudice as to all Settlement Class Members.

7. The Court adjudges that the Class Representative and all Settlement Class Members who were mailed the Notice shall, to the extent provided by the Settlement Agreement, conclusively be deemed to have released and discharged Avid from liability as provided in Section III (“Releases”) of the Settlement Agreement.

8. With respect to the certification of the Settlement Class, this Order supersedes the Court’s December 15, 2025, Preliminary Approval Order. For purposes of this Settlement, the Settlement Class is defined as all Persons who: (1) who purchased a motor vehicle primarily for personal, family and/or household use by entering into a Retail Installment Contract; (2) whose Retail Installment Contract was assigned to Avid; (3) whose motor vehicle securing the Retail

Installment Contract was repossessed by or on behalf of Avid, or was voluntarily surrendered, in the state of Ohio; (4) who were sent one or more Post-Repossession Notices by or on behalf of Avid between October 13, 2016 and April 30, 2025; and (5) whose motor vehicle was either disposed of by or on behalf of Avid or their Retail Installment Sales Contract was otherwise not reinstated. The following are excluded from the Settlement Class: (a) Resolved Account Obligors; (b) any Person who is a debtor in an active bankruptcy proceeding as of the date of entry of the Preliminary Approval Order or who was previously a debtor in a bankruptcy proceeding and received a discharge in bankruptcy after execution of a Retail Installment Sales Contract that was assigned to Avid; and (c) any person who submitted a valid and timely request for exclusion.

9. Without affecting the finality of this Order and Final Judgment, the Court retains jurisdiction over (a) implementation and enforcement of the Settlement Agreement and Final Judgment, (b) any other action necessary to conclude this Settlement and implement the Settlement Agreement, and (c) the enforcement, construction, and interpretation of the Settlement Agreement.

10. The Court approves the Class Counsel's attorneys' fee and expenses in the amount of \$265,000.00.

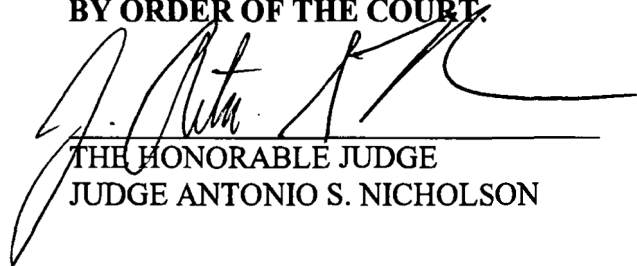
11. The Court approves the Class Representative Incentive Award in the amount of \$25,000.00 for Ms. Smith.

12. Neither this Order and Final Judgment nor the Settlement Agreement is an admission or concession by Avid of any fault, omission, liability, or wrongdoing. This Order and Final Judgment is not a finding of the validity or invalidity of any claims in this action or a determination of wrongdoing by Avid. The final approval of the Settlement Agreement does not

constitute any opinion, position, or determination of this Court, one way or the other, as to the merits of the claims and defenses of Plaintiff or the Settlement Class Members.

13. The Court finds that no just reason exists for delay in entering this Final Settlement Approval Order and Final Judgment. Accordingly, the Clerk of Court is hereby directed forthwith to enter this Final Settlement Approval Order and Final Judgment.

Dated: 3/18/2026

BY ORDER OF THE COURT:


THE HONORABLE JUDGE
JUDGE ANTONIO S. NICHOLSON