

California Superior Court – County of Orange

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

IF YOUR VEHICLE WAS REPOSSESSED IN CALIFORNIA AND YOU RECEIVED A “NOTICE OF OUR PLAN TO SELL VEHICLE” (“NOI”) FROM K STREET FINANCE, INC. dba MULLEN FINANCE PLAN (“MULLEN FINANCE”), THIS 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. If you wish to remain in the Settlement Class, be bound by the settlement and receive the benefits of the settlement, you do not need to do anything. **Please do not contact the Judge, the Court, or Mullen Finance about the settlement.**

Basic Information – This Action

A lawsuit entitled *Melendez et al. v. K Street Finance, Inc. dba Mullen Finance Plan* was filed in Orange County Superior Court, Case No. 30-2014-00722412-CU-BT-CXC. Plaintiffs Ricardo Melendez, Andres Orozco, Martha Lomeli, and Carlos Cruz (“Plaintiffs”) filed a class action complaint against Mullen Finance. Plaintiffs allege that some of the Notices of Intent to Dispose of Motor Vehicle (“NOI”) sent by Mullen Finance between May 5, 2010 and August 4, 2016 regarding repossessed vehicles did not comply with California law, and that Mullen Finance is not entitled to collect the deficiency if a deficiency balance remained after a subsequent sale of the vehicle. Plaintiffs brought claims for violation of Civil Code §2983.2, Business & Professions Code §17200, and Declaratory Relief. The Court certified this case as a class action on February 3, 2017.

The Court in charge of the lawsuit is the California Superior Court for the County of Orange. The Court has not decided who is right or wrong in this lawsuit. Mullen Finance is willing to enter into this settlement to end further litigation. The settlement resolves Class Representatives and Settlement Class Members’ claims. By this settlement, Mullen Finance is agreeing not to collect deficiency balances from Class Members.

The Action is called a “Class Action,” because Plaintiffs are the Settlement Class Representatives suing on behalf of other people with similar claims, called “Settlement Class Members.”

Who Is A Settlement Class Member?

Under the terms of the proposed settlement, you are a Settlement Class Member if all of the following apply to you, and the Court grants final approval of this Settlement.

The term “Settlement Class” is defined as all persons:

- (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 a Notice of Intent to Dispose of Motor Vehicle (“NOI”) by Mullen Finance from May 5, 2010 through August 4, 2016 that gave the consumer the right to reinstate the loan; and
- (d) against whose account a deficiency balance was assessed.

Excluded from the Class are persons (1) whose account were discharged in bankruptcy, (2) against whom Mullen Finance obtained a judgment in Superior Court; and (3) those consumers who appear on the Stipulation of Parties to Exclude Certain Class Members.

The Settlement Benefits – What You Will Get

If the Settlement is approved by the Court, all Settlement Class Members will receive debt relief and other non-cash monetary benefits. In addition, some Settlement Class Members will be eligible to receive monetary benefits, as described below. If the Settlement is not approved by the Court, Settlement Class Members will not get any benefits and the parties will go back to Court for a trial on the merits of the Action. The parties have made their best efforts to negotiate a settlement that is fair and reasonable under the circumstances.

After diligent investigation of their records, the Parties stipulate that there are 1,174 members of the Settlement Class. According to Mullen Finance's records, Settlement Class Members have a total outstanding deficiency balance of \$2,647,192.28, and a total outstanding Deficiency Balance on Small Claims Actions of \$1,691,058.24. The total Deficiency Balance collected is \$957,627.83, and the total collected from Small Claims Actions is \$811,718.17. The total collected from Settlement Class Members other than from Small Claims Actions is \$145,909.66.

Settlement Class Benefits:

- (1) For all Settlement Class Members, Mullen Finance agrees not to attempt to collect any remaining deficiency balance and will instruct the three credit reporting bureaus, TransUnion, Equifax, and Experian, to delete the trade line referencing Settlement Class Members' accounts.
- (2) Mullen Finance has agreed to refund a total of \$475,000.00, including the amount of Service Awards, discussed below. If you are a Settlement Class Member who paid any amount toward a deficiency balance after repossession, including but not limited to amounts you were ordered to pay after a small claims court judgment, you will receive the non-monetary benefits described above, **and in addition**, you will receive a check for the pro-rata portion of the \$475,000.00 in the amount you actually paid Mullen Finance toward your deficiency balance. The check will be made out to the first-named borrower on the account.
- (3) If Mullen Finance filed a small claims court action against you, and that small claims court action is still pending, Mullen Finance will dismiss that action with prejudice. If Mullen Finance filed a small claims court action against you and obtained a judgment against you, Mullen Finance will file an acknowledgement of satisfaction of judgment in that small claims action.

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

Resolution of Disputes: If you wish to dispute whether or not you are entitled to receive a refund, you must provide the following information, in writing, to both Class Counsel and the Settlement Class Administrator at the addresses listed below. Your notice of dispute must contain all of the following information: (1) The name of the Action "*Melendez v. K Street Finance, Inc. dba Mullen Finance Plan*, Orange County Superior Court, Case No. 30-2014-00722412-CU-BT-CXC"; (2) Your full name, current address, telephone number, and the last four digits of your Mullen Finance Account number; (3) A statement of why you believe the total payment towards deficiency and total anticipated refund is inaccurate; (4) Any and all written documentation and receipts to support your dispute; and (5) Your signature and the date you signed it. If you do not follow these procedures to dispute your refund, the parties will not be able to commence the dispute resolution procedures pursuant to Paragraph 3.08 of the Settlement Agreement and Release.

Pursuant to Paragraph 3.08 of the Settlement Agreement and Release, any disputes regarding payments to the Settlement Class – such as a dispute about a payment amount or the proper recipient of a payment – will be resolved in the following manner. Settlement Class Counsel and Mullen Finance’s Counsel will first meet and confer in a good faith attempt to resolve that dispute. In the event the dispute cannot be resolved informally between the Parties’ counsel, the Settlement Class Administrator will resolve the dispute, and such resolution shall be final and binding on the Settlement Class Member. In resolving such disputes, Mullen Finance’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. Any such disputes shall be resolved and all checks must be negotiated within ninety (90) days of the Distribution Date.

Attorneys’ Fees and Award to Settlement Class Representatives. Settlement Class Counsel may apply to the Court for an award of attorneys’ fees and costs in an amount of \$475,000.00. Plus, Settlement Class Counsel may request from the Court at the time of Final Approval that they be reimbursed up to \$75,000.00 for costs and expenses, including the costs of settlement administration, from any unclaimed settlement payments. Settlement Class Counsel’s fee application will be filed with the Court no later than September 6, 2019. Mullen Finance has agreed not to negatively comment on the attorneys’ fees and costs award, as long as it does not exceed \$475,000.00, plus the \$75,000.00 for costs and expenses from any unclaimed settlement payments, the residue at the time of Final Approval. If any unclaimed settlement payments remain after reimbursing Settlement Class Counsel’s costs and expenses, the balance will be paid to the Public Law Center of Santa Ana. In addition, the Settlement Class Representatives Andres Orozco, Martha Lomeli, and Carlos Cruz will request service awards of \$1,000.00 each and Ricardo Melendez will request a service award of \$5,000.00. Any award of attorneys’ fees and costs, and any service award, must be approved by the Court at the Final Approval Hearing referenced below. Any award of attorneys’ fees will be paid by Mullen Finance separate and apart from any benefits you may receive under the settlement, and any service award will be deducted from the total amount to be refunded before calculating your pro-rata refund share.

Tax Consequences of Settlement

Any benefits you receive may or may not be the subject of state or federal taxation, depending on your circumstances. Counsel for the Parties in this lawsuit 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

In exchange for the benefits described above, you must give up the right to sue or be part of any other lawsuit against Mullen Finance about claims based on the facts alleged in this lawsuit. In addition, you will be bound by all orders of the Court and any judgment in this case. The Settlement Agreement includes a “Release of Claims,” which describes exactly what you will give up to receive the settlement benefits.

Your Rights – Exclusion

If you are a Class Member, you are automatically included in the settlement, unless you request to be excluded. 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 Mullen Finance on your own if you want. If you exclude yourself, you may not object to the Settlement.

To exclude yourself from the settlement, you must send a request for exclusion to the Settlement Class Administrator at the address below postmarked no later than September 16, 2019, and containing all of the following: (1) The name of the Action “*Melendez v. K Street Finance, Inc. dba Mullen Finance Plan*, Orange County Superior Court, Case No. 30-2014-00722412-CU-BT-CXC”; (2) Your full name, current address, telephone number, and the last 4 digits of your Mullen Finance Account number; (3) A statement of your intent

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to exclude yourself; (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 this settlement receives final judicial approval.

Your Rights – Objection to the Settlement

You may object to the settlement. To object to the settlement, you must send your objection to the Settlement Class Administrator, *Melendez v. K Street Finance* Class Administrator at the address provided below, by First Class Mail postmarked no later than September 16, 2019, and provide all of the following: (1) The name of the Action “*Melendez v. K Street Finance, Inc. dba Mullen Finance Plan*, Orange County Superior Court, Case No. 30-2014-00722412-CU-BT-CXC”, (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 18, 2019 at 9:00 a.m. (subject to change by the Court without further notice), in Orange County Superior Court Courtroom CX104, 751 West Santa Ana Blvd., Santa Ana, CA 92701, to determine whether the proposed settlement should be approved as fair, reasonable and adequate, whether certification of the Settlement Class is proper, the amount of reasonable attorneys’ fees, costs and expenses, the amount of the Settlement Class Representatives’ service award, and whether the settlement should be finally approved.

You do not need to hire a lawyer but may do so if you want to. You and the Settlement Class are already represented by Settlement 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) a Final Order and Judgment is entered by the Court and no longer subject to appeal. After the Court rules on 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. 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 (*Melendez v. K Street Finance* Class Administrator) directly for updates regarding the Court hearing date, at 1-866-604-4087. If you have additional questions concerning this Action, Notice, or Settlement, you may contact Settlement Class Counsel. All documents that have been filed with the Court in this lawsuit can be downloaded from the Court’s official website: <http://www.occourts.org/online-services/case-access/>, under the link for “Case Index Search.” You will need to enter the case number (30-2014-00722412) to access this information. **Please do not contact the Judge, the Court, or Mullen Finance.**

Settlement Class Administrator: <i>Melendez v. K Street Finance</i> Class Administrator P.O. Box 43501 Providence, RI 02940-3501	Settlement Class Counsel: KEMNITZER, BARRON & KRIEG LLP Bryan Kemnitzer Nancy Barron Kristin Kemnitzer 354 Pine St., 5 th Floor San Francisco, CA 94104 (800) 520-4525	Counsel for Mullen Finance: CARROLL, KELLY, TROTTER, FRANZEN, MCBRIDE & PEABODY Michael Trotter David Pruett 111 W. Ocean Blvd., 14 th Floor Long Beach, CA 90801-5636
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