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18 *Attorneys for Defendant Orange County Credit Union*

19 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

20 **COUNTY OF ORANGE**

21 CINDY CASEY, individually, and on
behalf of all others similarly situated, and
on behalf of the general public,

22 Plaintiff,

23 v.
24

25 ORANGE COUNTY'S CREDIT UNION
and DOES 1-100,

26 Defendants.
27
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ELECTRONICALLY FILED
Superior Court of California,
County of Orange

01/13/2015 at 11:25:00 AM

Clerk of the Superior Court
By Irma Cook, Deputy Clerk

CASE NO: 30-2013-00658493-CU-BT-CXC

Assigned to the Honorable Gail A. Andler
Action filed: March 26, 2013

ORDER RE:

**(1) PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT; AND
(2) CLASS NOTICE**

Date: January 12, 2015
Time: 1:30 PM
Dept: CX-101

1 The Court, having considered Plaintiffs' Motion For Preliminary Approval of Class
2 Settlement, and all supplements thereto (collectively, the "Motion"), the Settlement Agreement and
3 Release dated as of December 5, 2014 (the "Settlement Agreement") lodged with the Motion, and
4 the arguments of counsel, rules as follows:

5 1. Defined terms in this Order shall have the same meaning given such terms in the
6 Settlement Agreement.

7 2. This Court finds on a preliminary basis that the class as defined in the Settlement
8 Agreement ("Settlement Class") meets all of the requirements for certification of a settlement class
9 under Section 382 of the Code of Civil Procedure and Rule 3.769 of the California Rules of Court
10 and applicable case Law. Accordingly, the Court provisionally certifies the Settlement Class, which
11 is composed of:

12 **All members of Orange County's Credit Union who were charged and**
13 **overdraft or "courtesy pay" fee, when, at the time the transaction was**
14 **paid that resulted in the fee, there was a positive actual balance in the**
member's account that was sufficient to pay that transaction.

15 3. The Court provisionally appoints Cynthia Casey as the representative of the
16 Settlement Class.

17 4. The Court appoints Kurtzman Carson Consultants, LLC as the Claims Administrator
18 under the terms of the Settlement Agreement.

19 5. For purposes of the Settlement Agreement, the Court further provisionally finds that
20 counsel for the Settlement Class, Richard McCune of McCuneWright LLP and Taras Kick of The
21 Kick Law Firm, APC, are qualified, experienced, and skilled attorneys capable of adequately
22 representing the Settlement Class, and they are provisionally approved as Class Counsel.

23 6. This certification of a preliminary Settlement Class under this Order is for settlement
24 purposes only and shall not constitute, nor be construed as, an admission on the part of the
25 Defendant in this Action that any other proposed or certified class action is appropriate for class
26 treatment pursuant to Section 382 of the California Code of Civil Procedure or any similar statute,
27 rule or common law. Entry of this Order is without prejudice to the rights of Defendant to: (a)
28

1 oppose class certification in this action should the settlement not be approved or not be
2 implemented for any reason; (b) oppose class certification in any other proposed class action; or (c)
3 terminate the Settlement Agreement as provided in the Settlement Agreement.

4 7. The Court provisionally, and solely for purposes of this settlement, finds that the
5 members of the Settlement Class are so numerous that joinder of all members would be
6 impracticable, that the litigation and proposed settlement raise issues of law and fact common to the
7 claims of the Class Members and these common issues predominate over any issues affecting only
8 individual members of the Settlement Class, that the claims of the Named Plaintiffs are typical of
9 the claims of the Settlement Class, that in prosecuting this Action and negotiating and entering into
10 the Settlement Agreement, the Named Plaintiff and her counsel have fairly and adequately protected
11 the interests of the Settlement Class and will adequately represent the Settlement Class in
12 connection with the settlement, and that a class action is superior to other methods available for
13 adjudicating the controversy.

14 8. The Court has reviewed the Settlement Agreement and finds that the settlement
15 memorialized therein falls within the range of reasonableness and potential final approval, thereby
16 meeting the requirements for preliminary approval, and that the Notice of the proposed settlement,
17 in the form attached hereto as Exhibit 1, should go out to the Settlement Class in the manner
18 described in the Settlement Agreement. The Court finds that the methods of giving notice
19 prescribed in the Settlement Agreement meet the requirements of Rule 3.769(f) of the California
20 Rules of Court and due process, are the best notice practicable under the circumstances, shall
21 constitute due and sufficient notice to all persons entitled thereto, and comply with the requirements
22 of the California Constitution, the Constitution of the United States, and all other applicable laws.

23 9. For the purposes stated and defined in the Settlement Agreement, the Court hereby
24 sets the following dates and deadlines:

- 25 a. The Notice Date, or the deadline for sending the Notice, as required under the terms
26 of the Settlement Agreement, shall be within 10 days of the date of entry of this
27 order.
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- 1 b. The Bar Date or the deadline for opting out of the Settlement Agreement or objecting
2 to the Settlement Agreement shall be at least 70 days after the date of entry of this
3 order.
- 4 c. No later than 7 days prior to the hearing on final approval, Class Counsel shall
5 provide the court with any response to any objections made by Class Members.
- 6 d. No later 7 days prior to the hearing on final approval, Class Counsel shall provide
7 the Court with the identity of all Class Members who have timely requested
8 exclusion from the Settlement Class.
- 9 e. The Motion for Final Approval and the Motion for Attorneys' fees shall be filed on
10 or before March 30, 2015.
- 11 f. The Final Approval Hearing date shall be April 27, 2015 at 1:30 PM in Department
12 CX101 of this Court.

13 10. The court hereby approves and adopts the procedures, deadlines, and manner
14 governing all requests to be excluded from the Class, or for objecting to the proposed settlement, as
15 provided for in the Settlement Agreement.

16 11. At the Final Approval Hearing, the Court shall determine whether any application by
17 Class Counsel for attorneys' fees, reimbursement of expenses, and for incentive compensation to
18 the Named Plaintiff, shall be approved and in what amounts.

19 12. All costs incurred in connection with providing notice and settlement administration
20 services to the Class Members shall be paid from the Settlement Fund.

21 13. If the settlement is not approved or consummated for any reason whatsoever, the
22 Settlement Agreement and all proceedings in connection therewith shall terminate without prejudice
23 to the status quo ante and rights of the parties to the action as they existed prior to the date of the
24 execution of the Settlement Agreement, except as otherwise provided in the Settlement Agreement.

25 Good cause appearing therefore, IT IS SO ORDERED.

26 **Date Judge Signed: January 13, 2015**


Honorable Gail Andler
Judge of the Superior Court