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 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF KERN
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SUPERIOR COURT OF CALIFORNIA
 COUNTY OF KERN - UNLIMITED

FREDERICK C. ANDERSON,
 INDIVIDUALLY AND ON
 BEHALF OF ALL OTHERS
 SIMILARLY SITUATED,

Plaintiff,

v.

PHOENIX FINANCIAL
 SERVICES, LLC; AND,
 PENDRICK CAPITAL
 PARTNERS II, LLC,

Defendants.

Case No.: BCV-16-101385

~~[PROPOSED]~~ ORDER GRANTING
 PLAINTIFF'S MOTION FOR
 PRELIMINARY APPROVAL OF
 CLASS ACTION SETTLEMENT

DATE: February 20, 2018

TIME: 8:30 a.m.

HON. STEPHEN D. SCHUETT

1 WHEREAS, a putative class action is pending in this Court entitled,
2 *Frederick C. Anderson, Individually and on Behalf of All Others Similarly Situated*
3 *v. Phoenix Financial Services, LLC and Pendrick Capital Partners II, LLC*, Court
4 case number: BCV-16-101385 (the "Action");

5 WHEREAS, the Parties to the Action have agreed, subject to Court approval
6 following notice to the proposed settlement class (as described in Paragraph 7
7 below) and a hearing, to settle the Action upon the terms and conditions set forth in
8 the Settlement Agreement, the Parties now request a preliminary certification of a
9 settlement class and preliminary approval of the proposed class action settlement;

10 WHEREAS, this Court has reviewed the Settlement Agreement, as well as
11 the files, records and proceedings to date in this matter;

12 WHEREAS, for purposes of this Order, capitalized terms used below have
13 the meaning ascribed to them in the Settlement Agreement, unless otherwise
14 defined; and

15 WHEREAS, for purposes of the Action, this Court has subject matter and
16 personal jurisdiction over the parties, including all Settlement Class Members.

17 NOW, THEREFORE, based on this Court's review of the Settlement
18 Agreement and all of the files, records, and proceedings herein, the Court
19 concludes, upon preliminary examination, that the Settlement Agreement and
20 settlement appear fair, reasonable, and adequate, and within the range of
21 reasonableness for preliminary settlement approval, and that a hearing should and
22 will be held after notice to the Settlement Class (as described in Paragraph 7
23 below) to confirm that the Settlement Agreement and settlement are fair,
24 reasonable and adequate and to determine whether the settlement should be
25 approved and final judgment entered in the Action based upon the Agreement.

26 The Court has read and considered the Agreement, Preliminary Approval
27 Motion and the record.

1 NOW, THEREFORE IT IS HEREBY ORDERED:

2 1. Jurisdiction. The Court has jurisdiction over the subject matter of the Action
3 and over all settling parties hereto.

4 2. Preliminary Approval of Proposed Settlement. The Agreement, including
5 all exhibits thereto, is preliminarily approved as fair, reasonable and adequate
6 and within the range of reasonableness for preliminary settlement approval.

7 The Court finds that:

8 (a) the Agreement resulted from arm's length negotiations; and

9 (b) the Agreement is sufficient to warrant notice of the settlement to persons
10 in the Settlement Class and a full hearing on the approval of the
11 Settlement.

12 3. Class Certification For Settlement Purposes Only. The Court conditionally
13 certifies, for settlement purposes only, the following Settlement Class:

14 All persons with addresses within the State of California who
15 received an initial debt collection letter from Phoenix Financial
16 Services, LLC relating to a Pendrick Capital Partners II, LLC
17 account between June 17, 2015; and, April 13, 2016

18 Defendants have identified, based on their records, 3,682 such class
19 members.

20 In connection with this conditional certification, the Court makes the
21 following preliminary findings:

22 a. The Settlement Class appears to be so numerous that joinder of all
23 members is impracticable;

24 b. There appear to be questions of law or fact common to the Settlement
25 Class for purposes of determining whether this settlement should be
26 approved;

27 c. Plaintiff's claims appear to be typical of the claims being resolved
28 through the proposed settlement;

- 1 d. Plaintiff appears to be capable of fairly and adequately protecting the
2 interests of the Settlement Class Members in connection with the
3 proposed settlement;
- 4 e. For purposes of determining whether the settlement is fair, reasonable
5 and adequate, common questions of law and fact appear to predominate
6 over questions affecting only individual Settlement Class Members.
7 Accordingly, the Settlement Class appears to be sufficiently cohesive to
8 warrant settlement by representation; and
- 9 f. For purposes of settlement, certification of the Settlement Class appears
10 to be superior to other available methods for the fair and efficient
11 settlement of the claims of the Settlement Class Members.
- 12 4. Class Representative. Plaintiff Frederick C. Anderson is designated as class
13 representative for the Settlement Class.
- 14 5. Class Counsel. The Court appoints Abbas Kazerounian and Mathew M.
15 Loker of Kazerouni Law Group, APC; and, Joshua B. Swigart as counsel for
16 the Settlement Class. The Court finds that counsel is competent and capable
17 of exercising all responsibilities as Class Counsel for the Settlement Class.
- 18 6. Settlement Hearing. A final approval hearing (the "Settlement Hearing")
19 will be held as set forth in the notice to the Settlement Class, to determine
20 whether the Agreement is fair, reasonable and adequate and should be
21 approved. Papers in support of final approval of the Agreement, the
22 incentive award to Plaintiff and Class Counsel's application for an award of
23 attorneys' fees, costs and expenses (the "Fee Application") shall be filed with
24 the Court according to the schedule set forth in Paragraph 10 below. The
25 Settlement Hearing may be postponed, adjourned, or continued by order of
26 the Court without further notice to the Settlement Class. After the Settlement
27 Hearing, the Court may enter a settlement order and final judgment in

1 accordance with the Agreement that will adjudicate the rights of the
2 Settlement Class Members with respect to the Released Claims being settled.

3 7. Class Notice. Class Notice shall be mailed within thirty (30) days following
4 entry of this Order.

5 (a) Direct Mailing. The Claims Administrator will send Notice to the Class
6 via first class mail thirty (30) days after entry of the Preliminary
7 Approval Order. The Claims Administrator shall obtain this contact
8 information from the Notice Database. In addition, the Claims
9 Administrator (1) may check each mailing address against the United
10 Stats Post Office National Change of Address Database before the initial
11 mailing; (2) may conduct a reasonable search to locate updated addresses
12 for any Class Member whose Settlement Notice is returned as
13 undeliverable; (3) shall update addresses based on any forwarding
14 information received from the United States Post Office; and, (4) shall
15 update addresses based on any requests received from Class Notice.

16 (b) Declaration to be Filed Regarding Notice. At least fourteen (14) days
17 prior to the Final Approval Hearing, the Claims Administrator shall file a
18 declaration of compliance with the notice procedures as set forth in the
19 Agreement.

20 (c) Findings Concerning Class Notice. The Court finds that the foregoing
21 program of Class Notice and the manner of its dissemination is the best
22 practicable notice under the circumstances and is reasonably calculated to
23 apprise Settlement Class Members of the pendency of this Action and
24 their right to object to or exclude themselves from the Settlement Class.
25 The Court further finds that the Class Notice program is reasonable, that
26 it constitutes due, adequate and sufficient notice to all persons entitled to
27 receive notice and that it meets the requirements of due process.

1 (d) Approval Of Opt-Out Process and Settlement Procedure. The opt-out
2 and objection processes described in the Settlement Agreement are
3 hereby approved. The Court preliminarily approves the process set forth
4 in the Settlement Agreement for submitting, reviewing, approving and
5 paying all claims as described in the Settlement Agreement. Opt-outs
6 and objections shall be received by sixty days (60) after the date of
7 preliminary approval.

8 (e) Costs of Administration, Incentive Payments, and Attorney Fees. The
9 Court also approves the process for paying the costs of notice and claims
10 administration, the incentive payment and the Class Counsel's attorneys'
11 fees and litigation costs. These attorneys' fees and litigation costs will be
12 paid outside of the Settlement Fund.

13 The costs of notice and claims administration will be paid by Defendants
14 outside of the Settlement Fund as well.

15 8. Exclusion From The Settlement Class.

16 (a) As stated above, Class Members have the right to opt out and exclude
17 themselves from the settlement by mailing an exclusion request
18 ("Exclusion Request") to the Claims Administrator. The Exclusion
19 Request must be postmarked on or before the date specified in the Notice,
20 which is 60 days from the date of providing Direct Mail Notice. The
21 Claims Administrator will provide copies of such exclusion requests to
22 Class Counsel and counsel for Defendant. All Settlement Class Members
23 who do not opt out in accordance with the terms set forth herein will be
24 bound by all determinations and judgments in the Action.

25 (b) Exclusion requests must: (i) include the full name, address and phone
26 number of the person(s) requesting exclusion; and (ii) include a statement
27 to the effect that they wish to be excluded from this Settlement. No

1 request for exclusion will be valid unless all of the information described
2 above is included. No Settlement Class Member, or any person acting on
3 behalf of or in concert or participation with that Settlement Class
4 Member, may exclude any other Settlement Class Member from the
5 Settlement Class.

6 (c) The Claims Administrator will retain a copy of all requests for exclusion.
7 Not later than fourteen days before the Final Approval Hearing, the
8 Claims Administrator shall file with the Court a declaration that lists all of
9 the opt-outs received.

10 9. Objections And Appearances.

11 (a) Any person in the Class who has not timely submitted a valid request for
12 exclusion from the Class, and thus is a Class Member who submitted an
13 opt-in, may appear at the Final Approval Hearing to argue that the
14 proposed Settlement should not be approved and/or to oppose the
15 application of Class Counsel for an award of attorneys' fees and the
16 incentive award to Plaintiff.

17 (b) In order to be heard at the hearing, the person must make any objection in
18 writing and file a notice of appearance with the Court no later than ninety
19 (90) days after the date of preliminary approval, or as the Court may
20 otherwise direct. The objection must also be mailed to the Class Counsel
21 and defense counsel.

22 (c) Any Objection filed with the Court and submitted to the Claims
23 Administrator must set forth the Class Member's full name, address, and
24 telephone number, the reasons for the objection, whether the objecting
25 Class Member intends to appear at the fairness hearing on his or her own
26 behalf or through counsel, set forth all arguments, citations and evidence
27 supporting the objection, and disclose every prior objection to a class

1 action settlement ever made by the Class Member or Class Member's
2 attorney including the case name, case number, and disposition of the
3 prior objection(s). Additionally, any documents supporting the objection
4 must also be attached to the objection. Any Class Member who fails to
5 comply with these provisions shall waive and forfeit any and all rights the
6 Class Member may have to appear separately and/or object, and shall be
7 bound by all the terms of this Stipulation of Settlement and the
8 Settlement, and by all proceedings, orders, and judgments in the Action.
9 Any objections that are not timely filed and mailed shall be forever
10 barred.

11 10. Further Papers In Support Of Settlement And Fee Application. Any
12 responses to objections to the Agreement shall be filed with the Court
13 within 120 days of the Preliminary Approval Order. Similarly, Class
14 Counsel's Motion for Attorneys' Fees; Costs; and, Incentive Award shall be
15 filed within thirty (30) days of Preliminary Approval Order while the
16 Motion for Final Approval shall be filed within one hundred and twenty
17 (120) days of Preliminary Approval.

18 11. Effect of Failure to Approve the Agreement. In the event the Agreement is
19 not approved by the Court, or for any reason the Parties fail to obtain a
20 Final Judgment as contemplated in the Agreement, or the Agreement is
21 terminated pursuant to its terms for any reason, then the following shall
22 apply:

23 (a) All orders and findings entered in connection with the Agreement shall
24 become null and void and have no further force and effect, shall not be
25 used or referred to for any purposes whatsoever, and shall not be
26 admissible or discoverable in any other proceeding;

1 (b) The conditional certification of the Settlement Class pursuant to this
2 Order shall be vacated automatically and void; no doctrine of waiver,
3 estoppel or preclusion shall be asserted in any litigated certification
4 proceedings in the Action; and the Agreement, its existence and any draft
5 thereof, and any discussion, negotiation, documentation, or other part or
6 aspect of the Parties' settlement discussions leading to the execution of
7 the Agreement shall have no effect and shall not be admissible evidence
8 for any purpose, including to establish any fact relevant to class
9 certification or any alleged liability of Defendants for the matters alleged
10 in the Action or for any other purpose;

11 (c) Nothing contained in this Order is, or may be construed as, any admission
12 or concession by or against Defendants or Plaintiff on any point of fact or
13 law; and

14 (d) Neither the settlement terms nor any publicly disseminated information
15 regarding the settlement, including, without limitation, the class notices,
16 court filings, orders and public statements, may be used as evidence for
17 any purpose whatsoever. In addition, neither the fact of, nor any
18 documents relating to, Defendants' withdrawal from the settlement, any
19 failure of the Court to approve the settlement and/or any objections or
20 interventions may be used as evidence for any purpose whatsoever.

21 12. Stay/Bar Of Other Proceedings. All proceedings in this Action are stayed
22 until further order of the Court, except as may be necessary to implement
23 the terms of the settlement. Pending final determination of whether the
24 settlement should be approved, Plaintiff, all persons in the Settlement Class
25 and persons purporting to act on their behalf are enjoined from commencing
26 or prosecuting (either directly, representatively or in any other capacity)
27 against any of the Released Parties any action, arbitration or proceeding in

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any court, arbitration forum or tribunal asserting any of the Released Claims.

13. Continuing Jurisdiction. The Court retains continuing and exclusive jurisdiction over the action to consider all further matters arising out of or connected with the settlement, including the administration and enforcement the Agreement.

1 14. Schedule. This case shall proceed pursuant to the following schedule:

EVENT	DAYS AFTER PRELIMINARY APPROVAL	DATE
Defendants to send addresses to Claims Administrator	5	February 26, 2018
Notice to be mailed by Claims Administrator	30	March 22, 2018
Filing re: Motion for Attorneys' Fees; Litigation Costs; and, Incentive Award	30	March 22, 2018
Deadline to Opt Out/Object/Notify Court of Intent to Appear at Final Approval	60	April 23, 2018
Filing re: Motion for Final Approval	120	June 20, 2018

16 **IT IS SO ORDERED.**

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18 Date: March 2, 2018



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20 HONORABLE STEPHEN D. SCHUETT
21 KERN SUPERIOR COURT JUDGE
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