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ELECTRONICALLY FILED
Superior Court of California,
County of Orange

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Clerk of the Superior Court
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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF ORANGE – CENTRAL JUSTICE CENTER

10 LINDA HOUSTON, an individual,
11 Plaintiff,

12 v.

13 JUNO EQUIPMENT RENTALS, INC., a
14 California corporation;
15 WELLS FARGO BANK, NATIONAL
ASSOCIATION, a national banking
16 association; and
DOES 1 through 75,

17 Defendants.
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Case No.: 30-2015-00780786-CU-BT-CJC

COMPLAINT FOR:

1. RESCISSION OF WRITTEN CONTRACT;
2. VIOLATION OF CONSUMERS LEGAL REMEDIES ACT (INJUNCTIVE RELIEF ONLY);
3. BREACH OF IMPLIED WARRANTY;
4. INTENTIONAL MISREPRESENTATION;
5. NEGLIGENT MISREPRESENTATION;
6. SELLING AUTOMOBILE ABOVE ADVERTISED PRICE; AND
7. UNFAIR COMPETITION (BUS. & PROF. CODE SECTION 17200)

Judge Andrew P. Banks

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SUMMARY

1. This lawsuit arises out of Plaintiff's purchase of a used 2008 Mercedes-Benz CLK from Defendant Juno Equipment Rentals, Inc. (a used car dealer that does business under the fictitious business name "Public Motors So Cal").

2. Public Motors So Cal violated California's Automobile Sales Finance Act (Civil Code § 2981 *et seq.*) (the "ASFA") by falsifying the amounts of Plaintiff's down payment and deferred down payment in the purchase contract. Public Motors So Cal did this in order to get Plaintiff's signature on a contract before she changed her mind, and to trick a lender into financing Plaintiff's purchase of the Mercedes-Benz CLK when Plaintiff would not otherwise have qualified for financing on the day she bought the vehicle. Public Motors So Cal's falsification of the down payment amounts in the purchase contract violates the ASFA, and amounts to unfair competition under Business & Professions Code Section 17200 *et seq.* (the "UCL").

3. Public Motors So Cal also committed common law fraud, violated the Consumers Legal Remedies Act (Civil Code § 1750 *et seq.*) (the "CLRA"), the UCL, and the Song-Beverly Consumer Warranty Act (Civil Code §1790 *et seq.*) (the "California lemon law") by selling the Mercedes-Benz CLK for more than its advertised price, misrepresenting the condition of the Mercedes-Benz CLK, and failing to disclose that it had previously been in an accident in which it suffered material damage.

4. Finally, Public Motors So Cal also violated the implied warranty of merchantability imposed by California's lemon law statute by selling the Mercedes-Benz CLK to Plaintiff while it suffered from material, repaired defects.

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PARTIES

5. Plaintiff Linda Houston is an individual residing in Perris, California.

6. Defendant Juno Equipment Rentals, Inc. is a California corporation that does business as a car dealership under the fictitious name "Public Motors So Cal" at 2114 East 1st

1 Street, Santa Ana, California. Hereafter, Defendant Juno Equipment Rentals, Inc. is referred
2 to as “Public Motors So Cal.”

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4 7. Defendant Wells Fargo Bank, National Association is a national banking
5 association that does business in Orange County, and throughout California, under the
6 fictitious name “Wells Fargo Dealer Services.”

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8 8. Plaintiff does not know the true names and capacities, whether corporate,
9 partnership, associate, individual, or otherwise, of defendants sued herein as Does 1 through
10 75, inclusive, and thus name them under the provisions of Section 474 of the California Code
11 of Civil Procedure. Defendants Does 1 through 75 are in some manner responsible for the
12 acts set forth herein, and are legally liable to Plaintiff. Plaintiff will set forth the true names of
13 the fictitiously-named defendants together with appropriate charging allegations when
14 ascertained.

14 FACTS

15 9. Plaintiff alleges as follows, on information and belief, formed after an inquiry
16 reasonable under the circumstances:

17 10. On or about February 4, 2015, Plaintiff visited Public Motors So Cal shopping
18 for a vehicle. While there she looked at that certain used 2008 Mercedes-Benz CLK with
19 vehicle identification number WDBTJ56H48F242253 (the “Mercedes-Benz CLK”). The
20 Mercedes-Benz CLK’s Buyer’s Guide stated that it came with a 3 month/3,000 miles express
21 warranty.

22 11. Prior to February 4, 2015, Public Motors So Cal advertised the Mercedes-Benz
23 CLK in various media, including but not limited to its Website, for an asking price of \$14,285.
24 Such advertisements did not list an expiration date for this asking price.

25 12. Plaintiff asked the Public Motors So Cal salesperson (who can be identified with
26 Public Motors So Cal’s business records) about the Mercedes-Benz CLK’s mechanical
27 condition, and the salesperson told her that it was in excellent condition.

1 13. Relying on the salesperson's representations regarding the Mercedes-Benz
2 CLK's condition, Plaintiff expressed an interest in buying the vehicle; however, Public Motors
3 So Cal soon discovered that Plaintiff was unable to and could not make an immediate cash
4 down payment in an amount that would have enabled Public Motors So Cal to find a lender
5 to finance Plaintiff's purchase of the Mercedes-Benz CLK. Accordingly, in order to trick a
6 lender into financing the Mercedes-Benz CLK's purchase, and in order to get Plaintiff to sign
7 a contract before she changed her mind, Public Motors So Cal told Plaintiff that she could
8 purchase the Mercedes-Benz CLK and immediately take delivery of that vehicle, if she agreed
9 to make a total down payment of \$2,000, with \$1,200 of such amount to be paid that day, and
10 the remaining \$800 to be paid by Plaintiff within two weeks. Plaintiff agreed. The effect of this
11 arrangement was that Plaintiff had agreed to make an immediate cash down payment of \$1,200
12 and a deferred down payment of \$800.
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14 14. In negotiating the purchase price of the Mercedes-Benz CLR, Public Motors So
15 Cal concealed and failed to inform Plaintiff that it had previously been advertising the
16 Mercedes-Benz CLK at an asking price of \$14,285. As a result, Plaintiff and Public Motors So
17 Cal eventually agreed to a purchase price of \$15,380, *i.e.*, \$1,095 more than the asking price
18 in Public Motors So Cal's prior advertisements for the Mercedes-Benz CLK.

19 15. Public Motors So Cal prepared the retail installment sale contract for the
20 Mercedes-Benz CLK. In preparing the purchase contract, Public Motors So Cal intentionally
21 and falsely stated therein that Plaintiff was making an immediate cash down payment of \$2,000
22 and not making any deferred down payments at all – when in reality Plaintiff had agreed to
23 make an immediate cash down payment of \$1,200 (which Plaintiff made) and to pay the
24 remaining \$800 of the down payment amount within two weeks.

25 16. Public Motors So Cal presented the retail installment sale contract to Plaintiff for
26 her to sign, telling Plaintiff that it accurately memorialized their agreement for the sale and
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1 purchase of the Mercedes-Benz CLK. Relying on these representations, Plaintiff signed the
2 contract.

3 17. The sale of the Mercedes-Benz CLK to Plaintiff was accompanied by Public
4 Motors So Cal's 3 month/3,000 miles express warranty.

5 18. Public Motors So Cal represented that the Mercedes-Benz CLK's retail
6 installment sale contract was a legally enforceable agreement, which required Plaintiff to make
7 the (undisclosed) deferred down payments and the monthly payments stated therein. Relying
8 on these representations, Plaintiff made the remaining \$800 deferred down payment within the
9 agreed-upon two-week timeframe.
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11 19. After Plaintiff had signed the contract, Public Motors So Cal submitted Plaintiff's
12 credit application, along with the signed purchase contract for the Mercedes-Benz CLK, to
13 potential lenders including, but not limited to, Wells Fargo Dealer Services.

14 20. Public Motors So Cal ultimately assigned the Mercedes-Benz CLK's purchase
15 contract to Defendant Wells Fargo Bank, National Association. As the assignee, Wells Fargo
16 Bank, National Association is jointly and severally liable for all of Public Motors So Cal's
17 conduct as alleged herein.

18 21. In March 2015, Plaintiff learned, for the first time, that the Mercedes-Benz CLK
19 was previously in a serious collision that caused material damages to the vehicle.

20 22. Public Motors So Cal knew about this pre-existing damage, but deliberately
21 concealed it from and did not disclose it to Plaintiff.

22 23. The prior accident damage was a material fact that a reasonable consumer
23 would consider in deciding whether or not to purchase the Mercedes-Benz CLK. The accident
24 damage materially decreases the utility, performance, safety, and fair market value of the
25 Mercedes-Benz CLK. Plaintiff would not have purchased the Mercedes-Benz CLK if Public
26 Motors So Cal had they know about its accident history.
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1 29. The purchase contract for the Mercedes-Benz CLK is a conditional sale contract
2 subject to the ASFA.

3 30. Public Motors So Cal is a “seller” under the ASFA.

4 31. Plaintiff is a “buyer” under the ASFA.

5 32. The Mercedes-Benz CLK is a “motor vehicle” under the ASFA.

6 33. Civil Code Section 2981.9 requires that all motor vehicle purchase contracts
7 subject to the ASFA contain in a single document all of the agreements between the buyer and
8 the seller with respect to the total cost and terms of payment for the motor vehicle, including
9 any promissory notes or other evidence of indebtedness (hereafter referred to as the "Single
10 Document Rule").
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12 34. Public Motors So Cal failed to comply with the Single Document Rule. Such
13 failures include, but are not limited to, the fact that the amount and due date for Plaintiff's
14 deferred down payment is not listed in the Mercedes-Benz CLK's purchase contract.

15 35. Civil Code Section 2982(a)(6) requires all motor vehicle purchase contracts that
16 are subject to the ASFA to separately and specifically itemize the amount that the buyer is
17 immediately paying as a cash down payment. Civil Code Section 2982(a)(6) also requires
18 purchase contracts to separately and specifically itemize the amount of any deferred down
19 payments.

20 36. Public Motors So Cal violated Civil Code Section 2982. Such failures include,
21 but are not limited to, the fact that Public Motors So Cal failed to correctly itemize in the
22 purchase contract the amount of Plaintiff's actual immediate cash down payment and the
23 amount of their agreed-upon deferred down payment.

24 37. Public Motors So Cal's violations of the Single Document Rule and Civil Code
25 Section 2982 were intentional.

26 38. Because of Public Motors So Cal's failure to comply with the Single Document
27 Rule and Civil Code Section 2982 the purchase contract for the Mercedes-Benz CLK is not
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1 enforceable, and Plaintiff is entitled to rescission of the contract and restitution of all amounts
2 paid towards the Mercedes-Benz CLK purchase.

3 39. Plaintiff is also entitled to incidental and consequential damages, and her
4 attorney's fees, costs, and out-of-pocket expenses.

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6 SECOND CAUSE OF ACTION

7 Consumers Legal Remedies Act - Injunctive Relief Only

8 (Against All Defendants)

9 40. Plaintiff hereby incorporates by reference the allegations in Paragraphs 1
10 through 39.

11 41. The Mercedes-Benz CLK is a “good” under the CLRA that was bought for use
12 primarily for personal, family or household purposes.

13 42. Plaintiff is a “consumer” under the CLRA.

14 43. The advertisement and the sale of the Mercedes-Benz CLK to Plaintiff are
15 “transactions” under the CLRA.

16 44. The CLRA prohibits numerous unlawful business acts, including: (i)
17 representing that goods or services have sponsorship, approval, characteristics, ingredients,
18 uses, benefits, or quantities which they do not have or that a person has sponsorship, approval,
19 status, affiliation, or connection which he or she does not have; (ii) representing that goods or
20 services are of a particular standard, quality, or grade, or that goods are of a particular style or
21 model, if they are another; (iii) misrepresenting the source, sponsorship, approval, or
22 certification of goods; (iv) advertising goods or services with intent not to sell them as
23 advertised; (v) representing that a transaction confers or involves rights, remedies, or
24 obligations which it does not have or involve, or which are prohibited by law; and (vi)
25 representing a motor vehicle if the vehicle has previously been in an accident where it sustained
26 frame damage. The CLRA also prohibits the omission of statements, where there exists a duty
27 to make a statement or disclosure.

1 45. Public Motors So Cal had a duty to disclose the Mercedes-Benz CLK's known
2 accident damage because (1) such disclosure was necessary in order to make its other
3 statements not misleading; (2) it was a known material fact; (3) Public Motors So Cal knew that
4 it had exclusive knowledge that was not accessible to Plaintiff; and (4) it was reasonable for
5 Plaintiff to expect disclosure of such facts.

6 46. Public Motors So Cal had a duty to disclose the prior advertised price of the
7 Mercedes-Benz CLK because (1) such disclosure was required by law and necessary in order
8 to make its other statements not misleading; (2) it was a known material fact; (3) Public Motors
9 So Cal knew that it had exclusive knowledge that was not accessible to Plaintiff; and (4) it was
10 reasonable for Plaintiff to expect disclosure of such facts.

11 47. Public Motors So Cal violated the CLRA by misrepresenting the mechanical
12 condition of the Mercedes-Benz CLK, concealing and failing to disclose that it had previously
13 been involved in an accident resulting in material damage, and concealing and misrepresenting
14 Public Motors So Cal's asking price for the Mercedes-Benz CLK.

15 48. Plaintiff is concurrently serving Public Motors So Cal with a CLRA notification
16 and demand letter via certified mail, return receipt requested. The notice letter sets forth the
17 relevant facts, notifies Public Motors So Cal of its CLRA violations, and requests that Public
18 Motors So Cal promptly remedy those violations.

19 49. Under the CLRA, a plaintiff may without prior notification file a complaint
20 alleging violations of the CLRA that seeks injunctive relief only. Then, if the defendant does
21 not remedy the CLRA violations within 30 days of notification, the plaintiff may amend her or
22 his CLRA causes of action without leave of court to add claims for damages. Plaintiff will
23 amend this complaint to add damages claims if Public Motors So Cal does not remedy its
24 violations within the statutory period.

25 50. Under the CLRA, Plaintiff is entitled to a permanent injunction prohibiting
26 practices that violate the CLRA.
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1 such goods are used, (3) was not adequately contained, packaged, and labeled, and (4) did not
2 conform to the promises or affirmations of fact made on the container or label.

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4 58. Plaintiff has rightfully rejected and/or justifiably revoked acceptance of the
5 Mercedes-Benz CLK, and are entitled to rescind the purchase contract and to restitution of all
6 money paid towards the purchase contract.

7 59. Plaintiff has been proximately damaged by Public Motors So Cal's failure to
8 comply with its obligations under the implied warranty.

9 60. Plaintiff is entitled to the remedies provided in California Civil Code section
10 1794, including her attorney's fees, costs, and expenses.

11 FOURTH CAUSE OF ACTION

12 Intentional Misrepresentation

13 (Against All Defendants)

14 61. Plaintiff incorporates by reference the allegations in Paragraphs 1 through 60.

15 62. At the time of purchase, and afterwards, Public Motors So Cal made the
16 misrepresentations as set forth above. These misrepresentations included, but are not limited
17 to, Public Motors So Cal's misrepresentations that the Mercedes-Benz CLK was in excellent
18 condition and that it was permitted to charge a price of \$15,380 for the vehicle.

19 63. Public Motors So Cal omitted from the statements it made material facts, the
20 disclosure of which was necessary, (1) in order to make its other statements not misleading; (2)
21 because they were known materials facts; (3) because Public Motors So Cal knew that it had
22 exclusive knowledge that was not accessible to Plaintiff; and (4) because it was reasonable for
23 Plaintiff to expect disclosure of such facts. These omissions include, but are not limited to the
24 following: (1) that the Mercedes-Benz CLK had previously been in a material accident; (2) that
25 the Mercedes-Benz CLK was not in excellent condition; and (3) that Public Motors So Cal had
26 previously advertised the Mercedes-Benz CLK at an asking price of \$14,285.
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1 California Civil Code Section 1709 et seq., the CLRA, the ASFA, Vehicle Code Section
2 11713.18, and the California lemon law.

3 89. Public Motors So Cal has also engaged in “fraudulent” business acts or practices
4 in that the representations and omissions of material fact described above have a tendency and
5 likelihood to deceive lessees of these vehicles and the general public.

6 90. Public Motors So Cal has also engaged in “unfair” business acts or practices in
7 that the justification for selling and leasing vehicles based on the misrepresentations and
8 omissions of material fact delineated above is outweighed by the gravity of the resulting harm,
9 particularly considering the available alternatives, and offends public policy, is immoral,
10 unscrupulous, unethical, and offensive, or causes substantial injury to consumers.

11 91. The above described unlawful, fraudulent, or unfair business acts and practices
12 conducted by Public Motors So Cal continue to this day and present a threat to Plaintiff and
13 the general public in that Public Motors So Cal has failed to publicly acknowledge the
14 wrongfulness of its actions and provide full equitable injunctive and monetary relief as required
15 by the statute.

16 92. Pursuant to California Business & Professions Code Section 17203, Plaintiffs seek
17 an order of this Court requiring Public Motors So Cal to immediately cease such acts of unfair
18 competition and enjoining Public Motors So Cal from continuing to conduct business via the
19 unlawful, fraudulent, and/or unfair business acts and practices set forth in this Complaint and
20 from failing to fully disclose the true nature of their misrepresentations, and ordering Public
21 Motors So Cal to engage in a corrective notice and advertising campaign.

22 PRAYER FOR RELIEF

23 Plaintiff prays for judgment as follows as appropriate for the particular causes of action:

- 24 1. For permanent injunctive relief as permitted under the ASFA, the
25 CLRA, and Business & Professions Code Section 17203;
26 2. For the declaratory, equitable, and/or injunctive relief as requested above;

