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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  
11 YEN NGUYEN, an individual, an  
12 individual;

13 Plaintiff,

14 v.

15 FLETCHER JONES MOTOR CARS,  
16 INC., a California corporation; and  
17 DOES 1 through 75,

18 Defendants.

Case No.: 30-2013-008664212-CU-BT-CJC

COMPLAINT FOR:

1. VIOLATION OF VEHICLE LEASING ACT
2. VIOLATION OF CONSUMERS LEGAL REMEDIES ACT (INJUNCTIVE RELIEF ONLY); AND
3. UNFAIR COMPETITION (BUS. & PROF. CODE SECTION 17200)

Judge Ronald L. Bauer

SUMMARY

1  
2           1.       This lawsuit arises out of a consumer's lease of a motor vehicle from  
3 Defendant Fletcher Jones Motor Cars, Inc. (the "Fletcher Jones Motor Cars").  
4 Specifically, Fletcher Jones Motor Cars falsified lease documents in order to get Plaintiff  
5 financed for a lease for which she otherwise would not have qualified. Based on the  
6 down payment that Plaintiff could afford and her income, Fletcher Jones Motor Cars's  
7 lender(s) would not have financed the loan needed for Plaintiff to lease such an  
8 expensive vehicle. Because Plaintiff could not obtain financing, Fletcher Jones Motor  
9 Cars falsely inflated the amount of Plaintiff's down payment on the lease contract,  
10 thereby committing a fraud on the lender in order to trick it into financing the lease, and  
11 resulting in Plaintiff being ensnared in a predatory loan. Fletcher Jones Motor Cars's  
12 intentional falsification of the down payment amount on the lease contract violates the  
13 financial disclosure requirements of California's Vehicle Leasing Act (the "VLA") (Civil  
14 Code Section 2985.7 *et seq.*)  
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16

17           2.       Fletcher Jones Motor Cars committed additional VLA violations by failing  
18 to disclose in the lease contract Plaintiff's obligations and the penalty she would be  
19 subject to if she violated Defendant's "Anti-Export Policy." Defendant's failure to  
20 disclose Plaintiff's obligations and the amount of the potential penalty payment on the  
21 face of the lease is a violation of Civil Code Section 2985.8(c)(1), and Fletcher Jones  
22 Motor Cars's memorialization of these obligations and the penalty amount in a separate  
23 document violated the "Single Document Rule" imposed by Civil Code Section  
24 2985.8(a).  
25

26           3.       Because Fletcher Jones Motor Cars's violations of the VLA's disclosure  
27 requirements were intentional, Plaintiff is entitled to rescind the lease contract and be  
28 reimbursed for all payments made towards the lease.

1 PARTIES

2 4. Plaintiff Yen Nguyen is an individual residing in Fountain Valley,  
3 California.

4 5. Defendant Fletcher Jones Motor Cars, Inc. is a California corporation that  
5 at all material times has been doing business as a car dealership at 3300 Jamboree  
6 Road, Newport Beach, California.

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

14 7. All acts of corporate employees were authorized or ratified by an officer,  
15 director, or managing agent of the corporate employer.

16 FACTS

17 8. Plaintiff alleges as follows, on information and belief, formed after an  
18 inquiry reasonable under the circumstances:

19 9. On or about July 23, 2010, Plaintiff agreed to lease that certain 2010  
20 Mercedes-Benz E350C with vehicle identification number WDDKJ5GB7AF048707 (the  
21 “Mercedes E350C”).

22 10. However, Fletcher Jones Motor Cars soon discovered that Plaintiff was  
23 unable to make an immediate down payment in an amount that would have enabled  
24 Fletcher Jones Motor Cars to find a lender to finance the transaction. Accordingly, in  
25 order to trick a lender into financing the Mercedes E350C’s lease, Fletcher Jones Motor  
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1 Cars told Plaintiff that she could lease the Mercedes E350C and immediately take  
2 delivery of that vehicle if, in addition to an immediate down payment of \$6,000, she  
3 agreed to make an additional \$7,734.35 down payment to Fletcher Jones Motor Cars  
4 several weeks later. Plaintiff agreed. The effect of this agreement was that Plaintiff was  
5 agreeing to make a deferred down payment towards the lease of the Mercedes E350C.  
6

7 11. Prior to the printing of Plaintiff's lease contract (*i.e.*, prior to the financial  
8 disclosure amounts and other information being printed onto the lease contract form),  
9 Fletcher Jones Motor Cars obtained Plaintiff's signature on a document (separate and  
10 apart from the lease contract) entitled "Acknowledgment of Anti-Export Policy." The  
11 Export Policy form states that Plaintiff made an "affirmative warranty and  
12 representation" that she will use the Mercedes E350C only in North America, and not  
13 export it. It further states that Plaintiff "agrees" that if she exports the Mercedes E350C  
14 out of North America within the first year of the lease she must pay Fletcher Jones  
15 Motor Cars \$10,000 in liquidated damages.  
16

17 12. Fletcher Jones Motor Cars has a pattern and practice of obtaining its lease  
18 customers' signatures on Export Policy forms that purport to be its lessees' (1)  
19 representations and warranties that they will not export their vehicles from North  
20 America, and (2) agreements to pay Fletcher Jones Motor Cars \$10,000 in liquidated  
21 damages if they export their vehicles. The Export Policy form's representations and  
22 warranties are not mentioned in Fletcher Jones Motor Cars's lease contracts. The  
23 Export Policy form's \$10,000 penalty payment for exporting a vehicle is not mentioned  
24 anywhere in Fletcher Jones Motor Cars's lease contracts.  
25

26 13. In Plaintiff's transaction, the Export Policy form was not physically  
27 attached to the lease contract when Plaintiff signed either of those documents. A copy of  
28 the Export Policy form that Plaintiff signed is attached hereto as Exhibit 1.

1           14. After signing the Export Policy form, Plaintiff gave it to Fletcher Jones  
2 Motor Cars's representative, and then was given additional forms that Plaintiff also  
3 reviewed and signed. Finally, Fletcher Jones Motor Cars's representative printed out  
4 Plaintiff's lease contract (*i.e.*, inserted a blank lease form contract into a printer, which  
5 printed the lease amounts, payment amounts, and other financial disclosures onto the  
6 blank form contract).

8           15. In preparing the lease contract for the Mercedes E350C, Fletcher Jones  
9 Motor Cars intentionally and falsely stated therein that Plaintiff was making an  
10 immediate down payment of \$13,734.35, and not making any deferred down payments  
11 – when in reality Plaintiff had made an immediate down payment of \$6,000 and had  
12 agreed to make a deferred down payment of \$7,734.35 several weeks later.

14           16. Fletcher Jones Motor Cars falsified the down payment and the deferred  
15 down payment amounts in the lease contract with the intention of tricking a lender into  
16 financing a vehicle lease that it otherwise would not finance, and in order to get Plaintiff  
17 financed for a predatory loan that she could not afford, and for which she otherwise  
18 would not have qualified.

19           17. When Fletcher Jones Motor Cars presented the lease contract to Plaintiff  
20 for her signature, its representative told her that it accurately memorialized their  
21 agreement for the lease of the Mercedes E350C. Relying on these representations,  
22 Plaintiff signed the contract.

24           18. But for Fletcher Jones Motor Cars's falsification of the lease documents,  
25 Plaintiff would not have leased the Mercedes E350C.

26           19. Fletcher Jones Motor Cars represented that the Mercedes E350C's lease  
27 contract was a legally enforceable agreement, which required Plaintiff to make the  
28 (undisclosed) deferred down payment and the monthly payments stated therein.

1           20.     Because Fletcher Jones Motor Cars had ensnared Plaintiff in a lease she  
2 could not afford, and because the date and amount of her deferred down payment is  
3 listed nowhere in the lease contract, Plaintiff incurred returned and dishonored check  
4 fees during Fletcher Jones Motor Cars's collection of the deferred down payment  
5 amount.

6  
7   FIRST CAUSE OF ACTION

8   Vehicle Leasing Act

9   (Against All Defendants)

10           21.     Plaintiff hereby incorporates by reference the allegations in Paragraphs 1  
11 through 20 of this Complaint.

12           22.     The Lease Contract for the Mercedes E350C is a "lease contract" under the  
13 VLA.

14           23.     Fletcher Jones Motor Cars is a "lessor" under the VLA.

15           24.     Plaintiff is a "lessee" under the VLA.

16           25.     The Mercedes E350C is a "motor vehicle" under the VLA.

17           26.     Civil Code Section 2985.8(c)(1) requires that all lease contracts contain all  
18 of the disclosures required by 12 C.F.R. § 213.4.

19           27.     12 C.F.R. § 213.4(q) requires that all lease contracts expressly disclose  
20 therein the amounts (or method of determining the amounts) for any penalties or other  
21 charges for defaults under the lease.  
22

23           28.     Plaintiff's lease contract for the Mercedes E350C states that a "default"  
24 includes Plaintiff breaching any agreement that Plaintiff has with Fletcher Jones Motor  
25 Cars, including, but not limited to, those set forth in the Export Policy form.  
26

27           29.     Fletcher Jones Motor Cars violated Civil Code Section 2985.8(c)(1) by  
28 failing to include in the written lease contract a disclosure that Plaintiff was agreeing to

1 pay a \$10,000 liquidated damages penalty if she exported the Mercedes E350C from  
2 North America.

3 30. Civil Code Section 2985.8(a) requires that all motor vehicle lease contracts  
4 subject to the VLA contain in a single document all of the agreements between the lessor  
5 and the lessee with respect to the obligations of each party (hereafter referred to as the  
6 "Single Document Rule").  
7

8 31. Fletcher Jones Motor Cars violated the Single Document Rule by failing to  
9 include in Plaintiff's written lease contract for the Mercedes E350C (1) Plaintiff's  
10 representation and warranty that she would not take the Mercedes E350C outside of  
11 North America, and (2) her agreement to pay \$10,000 in liquidated damages to Fletcher  
12 Jones Motor Cars if she did so.

13 32. Fletcher Jones Motor Cars's violations of the VLA were willful, and  
14 therefore the lease contract for the Mercedes E350C is not enforceable, and Plaintiff is  
15 entitled to rescission and/or statutory and actual damages. Plaintiff is also entitled to  
16 her attorney's fees, costs, and expenses.  
17

## 18 SECOND CAUSE OF ACTION

### 19 Consumers Legal Remedies Act - Injunctive Relief Only

20 33. Plaintiff hereby incorporates by reference the allegations in Paragraphs 1  
21 through 32.  
22

23 34. The Mercedes E350C constitutes "goods" leased for use primarily for  
24 personal, family or household purposes.

25 35. Plaintiff is a "consumer" under the CLRA.

26 36. The advertisement and the lease of the Mercedes E350C to Plaintiff, as  
27 well as the performance of that contract, are "transactions" under the CLRA.  
28

1           37. The CLRA prohibits numerous unlawful business acts, including: (i)  
2 representing that a transaction confers or involves rights, remedies, or obligations which  
3 it does not have or involve, or which are prohibited by law; (ii) representing that the  
4 subject of a transaction has been supplied in accordance with a previous representation  
5 when it has not; and (iii) inserting an unconscionable provision into a contract. The  
6 CLRA also prohibits omissions where there exists an independent legal requirement to  
7 make a statement or disclosure.  
8

9           38. Fletcher Jones Motor Cars violated the CLRA by: (1) misrepresenting the  
10 amount of Plaintiff's down payment and deferred down payment in the Mercedes E350C  
11 lease contract, and failing to set forth therein the amount and deadline for Plaintiff's  
12 deferred down payment; (2) violating the Single Document Rule; (3) misrepresenting  
13 that the Mercedes E350C's lease contract accurately memorialized their agreement,  
14 when it did not; (4) misrepresenting that the Mercedes E350C's lease contract was  
15 legally enforceable and that Plaintiff was required to keep the vehicle and make the  
16 payments to which Plaintiff and Fletcher Jones Motor Cars had previously agreed; (5)  
17 omitting and failing to disclose that the lease contract for the Mercedes E350C did not  
18 accurately memorialize Plaintiff's agreement to lease that vehicle; and (6) omitting and  
19 failing to disclose that the Mercedes E350C's lease contract was unenforceable and that  
20 Plaintiff was not required to make any payments thereunder.  
21

22           39. Plaintiff is concurrently serving Fletcher Jones Motor Cars with a CLRA  
23 notification and demand letter via regular mail and certified mail, return receipt  
24 requested. The notice letter sets forth the relevant facts, notifies Fletcher Jones Motor  
25 Cars of its CLRA violations, and requests that Fletcher Jones Motor Cars promptly  
26 remedy those violations.  
27  
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1           47. Fletcher Jones Motor Cars has engaged in “unlawful” business acts and  
2 practices by: (1) misrepresenting the amount and timing of down payments and  
3 deferred down payments; (2) failing to disclose the amount of all charges for default in  
4 its lease agreement, and (3) violating the Single Document Rule. These acts and  
5 practices were intended to and did violate the VLA, the CLRA, and 12 C.F.R. Part 213.

6           48. Fletcher Jones Motor Cars also engaged in “fraudulent” business acts or  
7 practices in that the representations and omissions of material fact described above  
8 have a tendency and likelihood to deceive the general public.

9           49. Fletcher Jones Motor Cars also engaged in “unfair” business acts or  
10 practices in that the justification for selling vehicles based on the misrepresentations  
11 and omissions of material fact delineated above is outweighed by the gravity of the  
12 resulting harm, particularly considering the available alternatives, and offends public  
13 policy, is immoral, unscrupulous, unethical, and offensive, or causes substantial injury  
14 to consumers.

15           50. Plaintiff lost property as a result of Fletcher Jones Motor Cars’s acts of  
16 unfair competition. Specifically, her property rights in her leased automobile were  
17 diminished by the representations and warranties in the Export Policy form (which  
18 limited, restricted, and diminished his otherwise unrestricted property right under the  
19 terms of the lease contract to terminate the lease within one year, purchase the  
20 Mercedes GL450, and sell it to a person outside of North America). She also incurred  
21 and paid returned and dishonored check charges as a result of Fletcher Jones Motor  
22 Cars (1) ensnaring her in a lease she could not afford, and (2) failing to disclose the  
23 amount and the due date of Plaintiff’s deferred down payment on her lease contract.

24           51. The above described unlawful, fraudulent, or unfair business acts and  
25 practices conducted by Fletcher Jones Motor Cars continue to this day and present a  
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1 threat to Plaintiff and the general public in that Fletcher Jones Motor Cars has failed to  
2 publicly acknowledge the wrongfulness of its actions and provide full equitable  
3 injunctive and monetary relief as required by law.

4           52. Pursuant to California Business & Professions Code Section 17203,  
5 Plaintiff is entitled to and seeks a permanent injunction from this Court requiring  
6 Fletcher Jones Motor Cars to immediately cease such acts of unfair competition and  
7 enjoining Fletcher Jones Motor Cars from continuing to conduct business via the  
8 unlawful, fraudulent, and/or unfair business acts and practices set forth in this  
9 Complaint and from failing to fully disclose the true nature of its misrepresentations,  
10 and ordering Fletcher Jones Motor Cars to engage in a corrective notice and advertising  
11 campaign.

12  
13   PRAYER FOR RELIEF

14  
15           Plaintiff prays for judgment as follows as appropriate for the particular causes of  
16 action:

- 17           1. For permanent injunctive relief as permitted under the VLA, the CLRA,  
18           and Business & Professions Code Section 17203;
- 19           2. For the declaratory and/or equitable relief under the VLA, the CLRA, and  
20           Business & Professions Code Section 17203;
- 21           3. For rescission of Plaintiff's lease contract for the Mercedes E350C, and  
22           restitution, of all amounts paid towards the lease;
- 23           4. For incidental, consequential, and actual damages in an amount to be  
24           determined at trial;
- 25           5. For pre judgment interest;
- 26           6. For attorney's fees, costs of suit, and out-of-pocket litigation expenses; and  
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7. For such other and further relief as the Court deems just and proper under the circumstances.

LAW OFFICE OF MICHAEL R. VACHON, ESQ.  
Attorney for Plaintiff Yen Nguyen

Date: July 24, 2013

/s/ Michael R. Vachon  
Michael R. Vachon, Esq.

# **EXHIBIT 1**

# ACKNOWLEDGMENT OF ANTI-EXPORT POLICY

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Fletcher Jones Motor Cars, Inc. ("FJM"), as a Mercedes-Benz of North America ("MBNA") authorized franchised dealer is subject to the export policies of MBNA. MBNA prohibits its authorized dealers from exporting new Mercedes-Benz vehicles outside the MBNA exclusive sales territory ("North America"). In the event MBNA determines that a new vehicle sold or leased by an MBNA authorized dealer has been exported from its sales territory, MBNA assesses charges and other related costs against the dealer which sold or leased that vehicle. As such, FJM, as an authorized dealer for MBNA requires that each Purchaser, or Lessee, of a new Mercedes-Benz vehicle to affirmatively warrant and represent in writing that the vehicle being purchased or leased is intended for use within the sales territory aforementioned, and that the vehicle will not be exported, directly or indirectly from the sales territory. Because it is difficult to ascertain the specific and total costs of all charges and assessments against FJM by MBNA in the event of the export of a vehicle sold or leased by FJM, FJM and the Purchaser or Lessee of said vehicle agree that the sum of US\$10,000.00 (ten thousand dollars) is a reasonable estimate of the costs which will be incurred by FJM as a direct and proximate result of said new Mercedes-Benz vehicle being exported from the MBNA sales territory. The Purchaser or Lessee of any new Mercedes-Benz vehicle from FJM agrees that, in the event the new Mercedes-Benz vehicle is exported from the MBNA sales territory within one year from the initial date of said vehicle, Purchaser or Lessee shall be obligated to pay to FJM as liquidated damages the sum of US\$10,000.00. Execution of the purchase/lease documents by Purchaser/Lessee shall constitute acceptance of these terms and conditions and agreement thereto.

FLETCHER JONES MOTOR CARS, INC.

By \_\_\_\_\_  
\_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

PURCHASER/LESSEE

By \_\_\_\_\_  
\_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_  
10/16/02