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Superior Court Of California,
Sacramento
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vvasquez
By _____, Deputy
Case Number:
34-2015-00177903

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SACRAMENTO – GORDON SCHABER COURTHOUSE

10
11 GLORIA MOJICA, an individual;
12 DANIEL ALEXANDER, an individual;

13 Plaintiffs,

14 v.

15 ELK GROVE AUTO GROUP, INC, a
16 California corporation; and
17 DOES 1 through 75,

18 Defendants.

Case No.:

COMPLAINT FOR:

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



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SUMMARY

1. This lawsuit arises out of Plaintiffs’ purchase of a 2013 Dodge Ram truck from Defendant Elk Grove Auto Group, Inc., which does business under the fictitious business name “Elk Grove Dodge Chrysler Jeep.” Elk Grove Dodge Chrysler Jeep violated California’s Automobile Sales Finance Act (Civil Code § 2981 *et seq.*) (the “ASFA”) by falsifying the amounts of Plaintiffs’ down payment and deferred down payments in the purchase contract. Elk Grove Dodge Chrysler Jeep did this in order to get Plaintiffs’ signature on a contract before they changed their mind, and to trick a lender into financing Plaintiffs’ purchase of the Dodge Ram. The dealership’s falsification of the down payment amounts in the purchase contract violates ASFA, the Consumers Legal Remedies Act (Civil Code §1750 *et seq.*) (the "CLRA"), and amounts to unfair competition under Business & Professions Code Section 17200 *et seq.* (the “UCL”).

2. Plaintiffs are entitled to rescind the purchase contract (which would not have occurred at all but for Elk Grove Dodge Chrysler Jeep’s illegal conduct), and to obtain restitution of all the money Plaintiffs paid. Because Elk Grove Dodge Chrysler Jeep has an illegal business practice of falsifying down payment and deferred down payment amounts in order to get consumers ensnared in predatory loans for which they otherwise would not qualify, Plaintiffs are also entitled to an injunction prohibiting Elk Grove Dodge Chrysler Jeep from engaging in this practice in the future.

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PARTIES

3. Plaintiffs Gloria Mojica and Daniel Alexander are individuals residing part time in Wilton, California.

1 Jeep knew that it would not be able to find a lender to finance Plaintiffs' purchase of the Dodge
2 Ram, unless Plaintiffs made a significant down payment. Accordingly, in order to trick a lender
3 into financing the Dodge Ram's purchase, Elk Grove Dodge Chrysler Jeep told Plaintiffs that
4 they could purchase the Dodge Ram and immediately take delivery of that vehicle, without
5 making any immediate down payment at all, if they agreed to make an \$8,000 down payment
6 to Elk Grove Dodge Chrysler Jeep within the next couple of days. Plaintiffs agreed. The effect
7 of this arrangement was that Plaintiffs had agreed to make no cash down payment and a
8 deferred down payment of \$8,000 towards the purchase of the Dodge Ram.
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11 10. Elk Grove Dodge Chrysler Jeep prepared the retail installment sale contract for
12 the Dodge Ram, and presented it to Plaintiffs for them to sign, telling Plaintiffs that it accurately
13 memorialized their agreement for the sale and purchase of the Dodge Ram. Relying on these
14 representations, Plaintiffs signed the contract.
15

16 11. Elk Grove Dodge Chrysler Jeep represented that the Dodge Ram's retail
17 installment sale contract was a legally enforceable agreement, which required Plaintiffs to make
18 the (undisclosed) deferred down payment and the monthly payments stated therein.
19

20 12. When it prepared the retail installment sale contract for the Dodge Ram, Elk
21 Grove Dodge Chrysler Jeep intentionally and falsely stated therein that Plaintiffs were making
22 an immediate cash down payment of \$8,000, and not making any deferred down payments –
23 when in reality Plaintiffs were not making any cash down payment at all and had agreed to
24 make an \$8,000 deferred down payment.
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27 13. Elk Grove Dodge Chrysler Jeep falsified the down payment and the deferred
28 down payment amounts in the purchase contract in order to obtain Plaintiffs' signatures on a

1 contract before they changed their mind, and to trick a lender into financing a vehicle purchase
2 that it otherwise would not finance. But for Elk Grove Dodge Chrysler Jeep's falsification of
3 the purchase documents, Plaintiffs would not have purchased the Dodge Ram.
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5 FIRST CAUSE OF ACTION

6 Violation of Automobile Sales Finance Act

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8 14. Plaintiffs hereby incorporate by reference the allegations in Paragraphs 1
9 through 13.

10 15. The purchase contract for the Dodge Ram is a conditional sale contract subject
11 to the ASFA.

12 16. Elk Grove Dodge Chrysler Jeep is a "seller" under the ASFA.

13 17. Plaintiffs are "buyers" under the ASFA.

14 18. The Dodge Ram is a "motor vehicle" under the ASFA.

15 19. Civil Code Section 2981.9 requires that all motor vehicle purchase contracts
16 subject to the ASFA contain in a single document all of the agreements between the buyer and
17 the seller with respect to the total cost and terms of payment for the motor vehicle, including
18 any promissory notes or other evidence of indebtedness (hereafter referred to as the "Single
19 Document Rule").
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22 20. Elk Grove Dodge Chrysler Jeep failed to comply with the Single Document
23 Rule. Such failures include, but are not limited to, the fact that neither the amount nor the
24 due date for Plaintiffs' deferred down payment are not listed in the Dodge Ram's purchase
25 contract.
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1 21. Civil Code Section 2982(a)(6) requires all motor vehicle purchase contracts that
2 are subject to the ASFA to separately and specifically itemize the amount that the buyer is
3 immediately paying as a cash down payment. Civil Code Section 2982(a)(6) also requires
4 purchase contracts to separately and specifically itemize the amount of any deferred down
5 payments.
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8 22. Elk Grove Dodge Chrysler Jeep violated Civil Code Section 2982. Such failures
9 include, but are not limited to, the fact that Elk Grove Dodge Chrysler Jeep failed to correctly
10 itemize in the purchase contract the amount of Plaintiffs' actual immediate cash down payment
11 and the amount of their agreed-upon deferred down payments.
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13 23. Elk Grove Dodge Chrysler Jeep's violations of the Single Document Rule and
14 Civil Code Section 2982 were intentional.
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16 24. Because of Elk Grove Dodge Chrysler Jeep's failure to comply with the Single
17 Document Rule and Civil Code Section 2982 the purchase contract for the Dodge Ram is not
18 enforceable, and Plaintiffs are entitled to rescission of the contract and restitution of all amounts
19 paid towards the Dodge Ram purchase.
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21 25. Plaintiffs are also entitled to incidental and consequential damages, and their
22 attorney's fees, costs, and out-of-pocket expenses.
23

24 **SECOND CAUSE OF ACTION**

25 **Consumers Legal Remedies Act - Injunctive Relief Only**

26 26. Plaintiffs hereby incorporate by reference the allegations in Paragraphs 1
27 through 25.
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1 27. The Dodge Ram constitutes “goods” bought for use primarily for personal,
2 family or household purposes.

3 28. Plaintiffs are “consumers” under the CLRA.

4 29. The advertisement and the sale of the Dodge Ram to Plaintiffs, as well as the
5 performance of that contract, are “transactions” under the CLRA.
6

7 30. The CLRA prohibits numerous unlawful business acts, including: (i)
8 representing that a transaction confers or involves rights, remedies, or obligations which it does
9 not have or involve, or which are prohibited by law; (ii) representing that the subject of a
10 transaction has been supplied in accordance with a previous representation when it has not;
11 and (iii) inserting an unconscionable provision into a contract. The CLRA also prohibits
12 omissions where there exists an independent legal requirement to make a statement or
13 disclosure.
14

15 31. Elk Grove Dodge Chrysler Jeep violated the CLRA by: (1) misrepresenting the
16 amount of Plaintiffs’ down payment and deferred down payment in the Dodge Ram purchase
17 contract, and failing to set forth therein the amounts and due dates for Plaintiffs’ deferred down
18 payments; (2) violating the Single Document Rule; (3) misrepresenting that the Dodge Ram’s
19 retail installment sale contract accurately memorialized their agreement, when it did not; (4)
20 misrepresenting that the Dodge Ram’s retail installment sale contract was legally enforceable
21 and that Plaintiffs were required to keep the vehicle and make the payments to which Plaintiffs
22 and Elk Grove Dodge Chrysler Jeep had previously agreed; (5) omitting and failing to disclose
23 that the retail installment sale contract for the Dodge Ram did not accurately memorialize
24 Plaintiffs’ agreement to purchase that vehicle; and (6) omitting and failing to disclose that the
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1 Dodge Ram's retail installment sale contract was unenforceable and that Plaintiffs were not
2 required to make any payments thereunder.

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4 32. Plaintiffs are concurrently serving Elk Grove Dodge Chrysler Jeep with a CLRA
5 notification and demand letter via regular mail and certified mail, return receipt requested.
6 The notice letter sets forth the relevant facts, notifies Elk Grove Dodge Chrysler Jeep of its
7 CLRA violations, and requests that Elk Grove Dodge Chrysler Jeep promptly remedy those
8 violations.
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10 33. Under the CLRA, a plaintiff may without prior notification file a complaint
11 alleging violations of the CLRA that seeks injunctive relief only. Then, if the defendant does
12 not remedy the CLRA violations within 30 days of notification, the plaintiff may amend her or
13 his CLRA causes of action without leave of court to add claims for damages. Plaintiffs will
14 amend this complaint to add damages claims if Elk Grove Dodge Chrysler Jeep does not
15 remedy its violations within the statutory period.
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18 34. Under the CLRA, Plaintiffs are entitled to a permanent injunction prohibiting
19 practices that violate the CLRA.

20 35. Elk Grove Dodge Chrysler Jeep has an illegal pattern and practice of: (1)
21 misrepresenting the amount and timing of down payments and deferred down payments; and
22 (2) violating the Single Document Rule.
23

24 36. Plaintiffs are entitled to a permanent injunction that compels Elk Grove Dodge
25 Chrysler Jeep to notify all consumers who have been victims of the above-described illegal
26 conduct, and enjoining Elk Grove Dodge Chrysler Jeep from such further acts of illegal
27 conduct.
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1 37. Plaintiffs are also entitled to recover their attorneys' fees, costs, and expenses.

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3 THIRD CAUSE OF ACTION

4 Unfair Competition

5 38. Plaintiffs hereby incorporate by reference the allegations in Paragraphs 1
6 through 37.

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8 39. Elk Grove Dodge Chrysler Jeep's acts, omissions, misrepresentations, practices,
9 and non-disclosures constituted unlawful, unfair, and fraudulent business acts and practices
10 within the meaning of California Business & Professions Code Sections 17200 *et seq.*

11 40. Elk Grove Dodge Chrysler Jeep has engaged in "unlawful" business acts and
12 practices by: (1) misrepresenting the amount and timing of down payments and deferred down
13 payments; and (2) violating the Single Document Rule. These acts and practices were intended
14 to and did violate the ASFA and the CLRA.
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16 41. Elk Grove Dodge Chrysler Jeep also engaged in "fraudulent" business acts or
17 practices in that the representations and omissions of material fact described above have a
18 tendency and likelihood to deceive the general public.
19

20 42. Elk Grove Dodge Chrysler Jeep also engaged in "unfair" business acts or
21 practices in that the justification for selling vehicles based on the misrepresentations and
22 omissions of material fact delineated above is outweighed by the gravity of the resulting harm,
23 particularly considering the available alternatives, and offends public policy, is immoral,
24 unscrupulous, unethical, and offensive, or causes substantial injury to consumers.
25

26 43. The above described unlawful, fraudulent, or unfair business acts and practices
27 conducted by Elk Grove Dodge Chrysler Jeep continue to this day and present a threat to
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1 Plaintiffs and the general public in that Elk Grove Dodge Chrysler Jeep has failed to publicly
2 acknowledge the wrongfulness of its actions and provide full equitable injunctive and monetary
3 relief as required by law.
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5 44. Pursuant to California Business & Professions Code Section 17203, Plaintiffs are
6 entitled to and seeks a permanent injunction from this Court requiring Elk Grove Dodge
7 Chrysler Jeep to immediately cease such acts of unfair competition and enjoining Elk Grove
8 Dodge Chrysler Jeep from continuing to conduct business via the unlawful, fraudulent, and/or
9 unfair business acts and practices set forth in this Complaint and from failing to fully disclose
10 the true nature of its misrepresentations.
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13 PRAYER FOR RELIEF

14 Plaintiffs pray for judgment as follows as appropriate for the particular causes of action:

- 15 1. For permanent injunctive relief as permitted under the ASFA the CLRA, and
16 Business & Professions Code Section 17203;
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18 2. For the declaratory and/or equitable relief under the ASFA, the CLRA, and
19 Business & Professions Code Section 17203;
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21 3. For rescission of Plaintiffs' \$54,022.48 purchase contract for the Dodge Ram,
22 and restitution of all amounts paid towards that contract;
23
24 4. For incidental, consequential, and actual damages in an amount to be
25 determined at trial,
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27 5. For pre judgment interest;
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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.

VACHON LAW FIRM

Date: April 9, 2015

Michael R. Vachon, Esq.
Attorney for Plaintiffs Gloria Mojica & Daniel Alexander