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NORTH COUNTY DIVISION  
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CLERK-SUPERIOR COURT  
SAN DIEGO COUNTY, CA

1 LAW OFFICE OF MICHAEL R. VACHON, ESQ.  
2 Michael R. Vachon, Esq. (SBN 206447)  
3 16935 West Bernardo Drive, Suite 175  
4 San Diego, California 92127  
5 Tel.: (858) 674-4100  
6 Fax: (858) 674-4222

7 Attorney for Plaintiff

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF SAN DIEGO – NORTH COUNTY REGIONAL CENTER

10 CHARLES MARTIN, an individual,  
11 Plaintiff,

12 v.

13 VINCE DIXON FORD, INC., a California  
14 corporation; and  
15 DOES 1 through 75,  
16 Defendants.

Case No.: **37-2011-00059905-CU-BT-NC**

COMPLAINT FOR:

1. VIOLATION OF CONSUMERS LEGAL REMEDIES ACT (INJUNCTIVE RELIEF ONLY);
2. INTENTIONAL MISREPRESENTATION;
3. NEGLIGENT MISREPRESENTATION;
4. BREACH OF IMPLIED WARRANTY;
5. UNFAIR COMPETITION (BUS. & PROF. CODE SECTION 17200)



1 through 75, inclusive, and thus name them under the provisions of Section 474 of the  
2 California Code of Civil Procedure. Defendants Does 1 through 75 are in some manner  
3 responsible for the acts set forth herein, and are legally liable to Plaintiff. Plaintiff will  
4 set forth the true names of the fictitiously-named defendants together with appropriate  
5 charging allegations when ascertained.  
6

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

9 8. Each defendant (whether actually or fictitiously-named herein) was the  
10 principal, agent, alter-ego, co-conspirator, or employee of each other defendant and in  
11 acting as such principal or within the course and scope of such employment, agency, or  
12 conspiracy, took some part in the acts and omissions hereinafter set forth by reason of  
13 which each defendant is liable to Plaintiff.  
14

#### 15 FACTS

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

18 10. On October 23, 2010, Plaintiff visiting the Dealership, and was shown that  
19 certain 2005 Jeep Grand Cherokee with vehicle identification number  
20 1J4GS48K75C612525 (hereafter the "Jeep Grand Cherokee"). The Dealership  
21 represented that the Jeep Grand Cherokee was in excellent mechanical condition, and  
22 would provide reliable transportation.  
23

24 11. The Dealership knew that the Jeep Grand Cherokee had previously been  
25 registered as a rental vehicle; however, the Dealership concealed and did not disclose  
26 this fact to Plaintiff.

27 12. Plaintiff agreed to purchase the Jeep Grand Cherokee, and did so, without  
28 knowing that it had previously been registered as a rental vehicle.

1           13.    The fact that the Jeep Grand Cherokee was previously registered as a  
2 rental vehicle was a material fact that a reasonable consumer would consider in deciding  
3 whether or not to purchase it.   The fact that the Jeep Grand Cherokee was previously  
4 registered as a rental vehicle materially decreases its fair market value.

5  
6           14.    Plaintiff would not have purchased the Jeep Grand Cherokee for the price  
7 he paid had he known that it was previously registered as a rental vehicle.

8           15.    Plaintiff's purchase of the Jeep Grand Cherokee was accompanied by the  
9 Dealership's implied warranty of merchantability.

10           16.    Within one week after Plaintiff's purchase of the Jeep Grand Cherokee, it  
11 manifested a pre-existing defect that causes the vehicle to stall, and renders the vehicle  
12 inoperable (the "Defect").   The Defect also causes the vehicle's "check engine" warning  
13 light to illuminate, which also effectively renders the vehicle inoperable and unsafe to  
14 drive.

15  
16           17.    Plaintiff delivered the Jeep Grand Cherokee to the Dealership on multiple  
17 occasions for repair of the Defect, but the Dealership either could not or was unwilling  
18 to diagnose and repair it.

19           18.    Because of the Dealership's inability or unwillingness to repair the Defect,  
20 Plaintiff requested that the Dealership rescind the transaction, and refund that Plaintiff  
21 paid for the Jeep Grand Cherokee, but the Dealership refused to do so, notwithstanding  
22 Plaintiff's right to cancel the transaction.

23  
24           19.    The Dealership's concealment and failure to disclose the Jeep Grand  
25 Cherokee's rental history, as well as its refusal either repair or repurchase the vehicle,  
26 were malicious, fraudulent, and oppressive.

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1 FIRST CAUSE OF ACTION

2 Consumers Legal Remedies Act - Injunctive Relief Only

3 20. Plaintiff hereby incorporates by reference the allegations in Paragraphs 1  
4 through 19.

5 21. The Jeep Grand Cherokee is a "good" under the CLRA, that was bought for  
6 use primarily for personal, family or household purposes.

7 22. Plaintiff is a "consumer" under the CLRA.

8 23. The advertisement and the sale of the Jeep Grand Cherokee to Plaintiff are  
9 "transactions" under the CLRA.

10 24. The CLRA prohibits numerous unlawful business acts, including: (i)  
11 representing that goods or services have sponsorship, approval, characteristics,  
12 ingredients, uses, benefits, or quantities which they do not have or that a person has  
13 sponsorship, approval, status, affiliation, or connection which he or she does not have;  
14 (ii) representing that goods or services are of a particular standard, quality, or grade, or  
15 that goods are of a particular style or model, if they are another; (iii) advertising goods  
16 or services with intent not to sell them as advertised; and (iv) inserting an  
17 unconscionable provision into a contract. The CLRA also prohibits the omission of  
18 statements, where there exists a duty to make a statement or disclosure.

19 25. The Dealership had a duty to disclose the known rental history of the Jeep  
20 Grand Cherokee under 13 California Code of Regulations Section 260.02.

21 26. The Dealership violated the CLRA by: (1) misrepresenting the mechanical  
22 condition of the Jeep Grand Cherokee; and (2) failing to disclose it had previously been  
23 registered as a rental vehicle.

24 27. Plaintiff is concurrently serving the Dealership with a CLRA notification  
25 and demand letter via certified mail, return receipt requested. The notice letter sets  
26  
27  
28



1 misleading; (2) because they were known material facts; (3) because the Dealership  
2 knew that it had exclusive knowledge that was not accessible to Plaintiff; and (4)  
3 because it was reasonable for Plaintiff to expect disclosure of such facts. These  
4 omissions include, but are not limited to the following: (1) that the Jeep Grand Cherokee  
5 was previously registered as a rental vehicle; and (2) that the Jeep Grand Cherokee was  
6 not in excellent condition, and the Dealership had no reason to believe it was.  
7

8 35. At all times the Dealership either had actual or constructive notice of the  
9 true facts but nonetheless intentionally or recklessly concealed these facts from Plaintiff.

10 36. The Dealership made these representations and omitted material facts  
11 with the intent to defraud Plaintiff and to induce Plaintiff to purchase the Jeep Grand  
12 Cherokee and pay an inflated sales price. At the time Plaintiff purchased the Jeep Grand  
13 Cherokee he did not know, or have reason to know, that the Dealership was making false  
14 and misleading representations and had omitted material facts. Plaintiff acted in  
15 justifiable reliance upon the truth of the representations which misled him as to the  
16 nature and extent of the facts concealed. Plaintiff was justified in his reliance, as the  
17 Dealership held itself out as professionals in the automotive sales industry, and Plaintiff  
18 had no reason to doubt such representations.  
19

20 37. As a direct and proximate result of the Dealer's fraudulent representations  
21 and omissions of material facts, Plaintiff suffered damages, including actual, general,  
22 consequential and incidental damages according to proof at trial.  
23

24 38. Plaintiff is also entitled to punitive damages.

25 39. The Dealership committed fraud in the inducement of the purchase  
26 contract for the Jeep Grand Cherokee, and Plaintiff is therefore entitled to rescission  
27 and restitution in an amount according to proof at trial.  
28

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1 THIRD CAUSE OF ACTION

2 Negligent Misrepresentation

3 40. Plaintiff incorporates by reference the allegations in paragraphs 1 through  
4 39.

5 41. As an alternative to Plaintiff's cause of action for Intentional  
6 Misrepresentation, Plaintiff alleges that the Dealer's misrepresentations were made  
7 negligently, if not intentionally.  
8

9 42. The representations made by the Dealership were not true.

10 43. Regardless of its actual belief, the Dealership made the representations  
11 without any reasonable grounds for believing them to be true.

12 44. The Dealership failed to exercise due care in ascertaining the accuracy of  
13 the representations made to Plaintiff.

14 45. The Dealership made the representations for the purpose of inducing  
15 Plaintiff to rely upon them, and to act or refrain from acting in reliance thereon.  
16

17 46. Plaintiff was unaware of the falsity of the representations and acted in  
18 reliance upon the truth of those representations, and was justified in relying upon those  
19 representations.

20 47. As a direct and proximate result of the Dealer's negligent  
21 misrepresentations of material fact, Plaintiff suffered damages, including actual,  
22 consequential, and incidental damages according to proof of trial.  
23

24 48. Plaintiff is also entitled to punitive damages.

25 49. Plaintiff hereby alleges fraud in the inducement to enter into the sales  
26 contract, and therefore is entitled to rescission and restitution in an amount according  
27 to proof at trial.  
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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 Charles Martin

Date: November 18, 2011

  
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Michael R. Vachon, Esq.