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FILED

JUL 27 2012

FRESNO COUNTY SUPERIOR COURT

By _____

-DEPUTY

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF FRESNO – B. F. SISK COURTHOUSE

10
11 TRISTIAN FORD, an individual; and
12 BARBARA FORD, an individual,

13 Plaintiffs

14 v.

15 FRESNO CHRYSLER JEEP, INC., a
16 Delaware corporation; and
17 DOES 1 through 75,

18 Defendants.

Case No.: 12 CE CG 02564 MWS

COMPLAINT FOR:

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

1 15. The Jeep Compass is a “good” under the CLRA, that was bought for use
2 primarily for personal, family or household purposes.

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

4 17. The advertisement and the sale of the Jeep Compass to Plaintiffs are
5 “transactions” under the CLRA.

6 18. The CLRA prohibits numerous unlawful business acts, including: (i)
7 misrepresenting the source, sponsorship, approval, or certification of goods or services;
8 (ii) representing that goods or services have sponsorship, approval, characteristics,
9 ingredients, uses, benefits, or quantities which they do not have or that a person has
10 sponsorship, approval, status, affiliation, or connection which he or she does not have;
11 (iii) representing that goods or services are of a particular standard, quality, or grade, or
12 that goods are of a particular style or model, if they are another; (iv) misrepresenting the
13 source, sponsorship, approval, or certification of goods; (v) advertising goods or services
14 with intent not to sell them as advertised; (vi) representing that a transaction confers or
15 involves rights, remedies, or obligations which it does not have or involve, or which are
16 prohibited by law; (vii) inserting an unconscionable provision into a contract; and (viii)
17 representing that a used vehicle is “certified” if a car dealer knows or should know that
18 the vehicle has sustained frame damage. The CLRA also prohibits the omission of
19 statements, where there exists a duty to make a statement or disclosure.
20
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22 19. The Dealership had a duty to disclose the known accident damage because
23 (1) such disclosure was necessary in order to make its other statements not misleading;
24 (2) it was a known material fact; (3) the Dealership knew that it had exclusive
25 knowledge that was not accessible to Plaintiff; and (4) it was reasonable for Plaintiff to
26 expect disclosure of such facts.
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1 20. The Dealership violated the CLRA by: (1) misrepresenting the mechanical
2 condition of the Jeep Compass; (2) concealing and failing to disclose that the Jeep
3 Compass had previously been in a material accident; and (3) concealing and failing to
4 disclose that the Jeep Compass had frame damage.

5 21. Plaintiffs are concurrently serving the Dealership with a CLRA notification
6 and demand letter via certified mail, return receipt requested. The notice letter sets
7 forth the relevant facts, notifies the Dealership of its CLRA violations, and requests that
8 the Dealership promptly remedy those violations.

9 22. Under the CLRA, a plaintiff may without prior notification file a complaint
10 alleging violations of the CLRA that seeks injunctive relief only. Then, if the defendant
11 does not remedy the CLRA violations within 30 days of notification, the plaintiff may
12 amend her or his CLRA causes of action without leave of court to add claims for
13 damages. Plaintiff will amend this complaint to add damages claims if the Dealership
14 does not remedy its violations within the statutory period.

15 23. Under the CLRA, Plaintiffs are entitled to a permanent injunction
16 prohibiting practices that violate the CLRA.

17 24. The Dealership has an illegal pattern and practice of: (1) misrepresenting
18 the mechanical condition of vehicles that it sells to the public; (2) concealing and failing
19 to disclose known accident damage; and (3) advertising and selling vehicles as
20 “certified” which the Dealer knows or should know to have sustained frame damage or
21 other material accident damage.

22 25. Plaintiffs are entitled to a permanent injunction that compels the
23 Dealership to notify all consumers who have been victims of the above-described illegal
24 conduct, and enjoining the Dealership from such further acts of illegal conduct.

1 Compass they did not know, or have reason to know, that the Dealership was making
2 false and misleading representations and had omitted material facts. Plaintiffs acted in
3 justifiable reliance upon the truth of the representations which misled them as to the
4 nature and extent of the facts concealed. Plaintiffs were justified in their reliance, as the
5 Dealership held itself out as professionals in the automotive sales industry, and
6 Plaintiffs had no reason to doubt such representations.
7

8 32. As a direct and proximate result of the Dealer's fraudulent representations
9 and omissions of material facts, Plaintiffs suffered damages, including actual, general,
10 consequential and incidental damages according to proof at trial.

11 33. Plaintiffs are also entitled to punitive damages.

12 34. The Dealership committed fraud in the inducement of the purchase
13 contract for the Jeep Compass, and Plaintiffs are therefore entitled to rescission and
14 restitution in an amount according to proof at trial.
15

16 THIRD CAUSE OF ACTION

17 Negligent Misrepresentation

18 35. Plaintiff incorporates by reference the allegations in paragraphs 1 through
19 34.

20 36. As an alternative to Plaintiffs' cause of action for Intentional
21 Misrepresentation, Plaintiffs allege that the Dealer's misrepresentations were made
22 negligently, if not intentionally.
23

24 37. The representations made by the Dealership were not true.

25 38. Regardless of its actual belief, the Dealership made the representations
26 without any reasonable grounds for believing them to be true.

27 39. The Dealership failed to exercise due care in ascertaining the accuracy of
28 the representations made to Plaintiffs.

1 intended to and did violate California Civil Code Section 1709 *et seq.*, the CLRA, and
2 Vehicle Code Section 11713.18.

3 48. The Dealership has also engaged in “fraudulent” business acts or practices
4 in that the representations and omissions of material fact described above have a
5 tendency and likelihood to deceive lessees of these vehicles and the general public.
6

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

13 50. The above described unlawful, fraudulent, or unfair business acts and
14 practices conducted by the Dealership continue to this day and present a threat to
15 Plaintiffs and the general public in that the Dealership has failed to publicly
16 acknowledge the wrongfulness of its actions and provide full equitable injunctive and
17 monetary relief as required by the statute.
18

19 51. Pursuant to California Business & Professions Code Section 17203,
20 Plaintiffs seek an order of this Court requiring the Dealership to immediately cease such
21 acts of unfair competition and enjoining the Dealership from continuing to conduct
22 business via the unlawful, fraudulent, and/or unfair business acts and practices set forth
23 in this Complaint and from failing to fully disclose the true nature of their
24 misrepresentations, and ordering the Dealership to engage in a corrective notice and
25 advertising campaign. Plaintiffs additionally request an order from the Court requiring
26 that the Dealership provide complete equitable monetary relief so as to prevent the
27 Dealership from benefitting from the practices that constitute unfair competition or the
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1 use or employment of any monies resulting from the lease of these vehicles, including
2 requiring the payment of restitution of any monies as may be necessary to restore to any
3 member of the general public any money or property which may have been acquired by
4 means of such acts of unfair competition.

5
6 PRAYER FOR RELIEF

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

- 9 1. For the declaratory, equitable, and/or injunctive relief as requested above;
- 10 2. For rescission and restitution of \$19,907.92;
- 11 3. For general damages of \$7,500;
- 12 4. For punitive damages;
- 13 5. For pre judgment interest at the legal rate;
- 14 6. For reasonable attorneys' fees, costs of suit, and out of pocket litigation
15 expenses; and
- 16 7. For such other and further relief as the Court deems just and proper under
17 the circumstances.
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20 LAW OFFICE OF MICHAEL R. VACHON, ESQ.
21 Attorney for Plaintiffs Tristian Ford & Barbara Ford

22 Date: July 26, 2012

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