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**ORIGINAL FILED**

MAR 27 2013

LOS ANGELES  
SUPERIOR COURT

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF LOS ANGELES – NORTH CENTRAL DISTRICT  
10 GLENDALE COURTHOUSE

11 SCOTT STAROST, an individual; and  
12 JENNIFER STAROST, an individual,

13 Plaintiffs,

14 v.

15 UNIVERSAL AUTO GROUP; a  
16 California corporation; and  
DOES 1 through 75,

17 Defendants.

Case No.:

**EC060357**

COMPLAINT FOR:

1. VIOLATION OF CONSUMERS LEGAL  
REMEDIES ACT (INJUNCTIVE  
RELIEF ONLY);
2. INTENTIONAL MISREPRESENTATION;
3. NEGLIGENT MISREPRESENTATION;
4. BREACH OF IMPLIED WARRANTY; AND
5. UNFAIR COMPETITION

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SUMMARY

1. This lawsuit arises out of Plaintiffs' purchase of an accident-damaged used automobile. Plaintiffs bought a 2010 Mitsubishi Outlander from Defendant Universal Auto Group (a Glendale, California car dealership that does business under the fictitious business name "Subaru of Glendale") in reliance upon the dealership's advertisements and representations that the vehicle was in excellent condition, had no accident or frame damage, and came with the remainder of the manufacturer's factory warranty. In reality however, the Mitsubishi Outlander had previously been in a severe collision that caused frame/unibody damage, the damage had never been properly repaired, and the accident damage effectively voided the remaining factory warranty with regard to the damaged components. Plaintiffs only found out about the prior accident when they went in to have a malfunctioning air conditioning unit repaired, and were told that the manufacturer's warranty would not cover the repairs because of the prior accident damage.

2. Subaru of Glendale's misrepresentations amount to common law fraud, violation of the Consumers Legal Remedies Act (Civil Code §1750 *et seq.*), are breaches of the implied warranty of merchantability under California's "lemon law," and amount to unfair competition under Business & Professions Code Section 17200 *et seq.* Plaintiffs are entitled to rescission of the purchase contract, restitution of the amounts they paid towards the Mitsubishi Outlander, compensatory and punitive damages, and their attorney's fees, costs, and out-of-pocket litigation expenses.

PARTIES

3. Plaintiff Scott Starost is an individual residing in Escondido, California.

4. Plaintiff Jennifer Starost is an individual residing in Escondido, California.



1           10. On or about April 16, 2012, Plaintiffs viewed advertisements for the  
2 Mitsubishi Outlander on the Internet, and then visited Subaru of Glendale at its  
3 dealership lot at 1308 South Brand Boulevard, Glendale, California. Consistent with  
4 Subaru of Glendale's advertisements, the Subaru of Glendale representative who dealt  
5 with Plaintiffs told them that the Mitsubishi Outlander was in excellent mechanical  
6 condition, had only one prior owner, had never been in any accidents, and had a clean  
7 history. Subaru of Glendale also told Plaintiffs that the Mitsubishi Outlander had less  
8 than 20,000 miles and accordingly came with the remainder of the manufacturer's  
9 bumper-to-bumper express warranty.  
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11           11. In reliance upon the above-stated representations by Subaru of Glendale,  
12 Plaintiffs purchased the Mitsubishi Outlander.  
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14           12. Plaintiffs subsequently learned that prior to their purchase of the  
15 Mitsubishi Outlander it had been in a serious collision that caused severe damage to the  
16 vehicle's suspension, body, and frame/unibody structure. Moreover, the accident  
17 damage (particularly the damage to the vehicle's frame/unibody structure) was never  
18 properly repaired.

19           13. Plaintiffs first discovered the damage when their air conditioning system  
20 failed, and they took the Mitsubishi Outlander in for repair. Although this repair  
21 typically would have (and should have) been covered by the manufacturer's express  
22 warranty, Plaintiffs were told that the malfunctioning and inoperable air conditioning  
23 unit could not be repaired under the warranty because of the prior accident damage, and  
24 therefore Plaintiffs would have to pay for the repair. The Mitsubishi Outlander's prior  
25 accident damage effectively voids the manufacturer's express warranty for all  
26 components affected by the accident damage.  
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1           21.    The advertisement and the sale of the Mitsubishi Outlander to Plaintiffs  
2 are “transactions” under the CLRA.

3           22.    The CLRA prohibits numerous unlawful business acts, including: (i)  
4 representing that goods or services have sponsorship, approval, characteristics,  
5 ingredients, uses, benefits, or quantities which they do not have or that a person has  
6 sponsorship, approval, status, affiliation, or connection which he or she does not have;  
7 (ii) representing that goods or services are of a particular standard, quality, or grade, or  
8 that goods are of a particular style or model, if they are another; (iii) misrepresenting  
9 the source, sponsorship, approval, or certification of goods; (iv) advertising goods or  
10 services with intent not to sell them as advertised; and (v) representing that a  
11 transaction confers or involves rights, remedies, or obligations which it does not have or  
12 involve, or which are prohibited by law. The CLRA also prohibits the omission of  
13 statements in situations where a party is otherwise obligated to make a statement or  
14 disclosure.

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17           23.    Subaru of Glendale had a duty to disclose the known accident damage  
18 because (1) such disclosure was necessary in order to make its other statements not  
19 misleading; (2) it was a known material fact; (3) Subaru of Glendale knew that it had  
20 exclusive knowledge that was not accessible to Plaintiffs; and (4) it was reasonable for  
21 Plaintiffs to expect disclosure of such facts.

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23           24.    Subaru of Glendale violated the CLRA by: (i) misrepresenting the  
24 mechanical condition of the Mitsubishi Outlander; (ii) concealing and failing to disclose  
25 that the Mitsubishi Outlander had previously been involved in an accident resulting in  
26 material damage, including frame/unibody damage; (iii) misrepresenting the Mitsubishi  
27 Outlander’s applicable warranty coverage; and (iv) concealing and failing to disclose the  
28 true warranty coverage available under Mitsubishi’s express warranty.

1           25. Plaintiffs are concurrently serving Subaru of Glendale with a CLRA  
2 notification and demand letter via certified mail, return receipt requested. The notice  
3 letter sets forth the relevant facts, notifies Subaru of Glendale of its CLRA violations,  
4 and requests that Subaru of Glendale promptly remedy those violations.

5           26. Under the CLRA, a plaintiff may without prior notification file a complaint  
6 alleging violations of the CLRA that seeks injunctive relief only. Then, if the defendant  
7 does not remedy the CLRA violations within 30 days of notification, the plaintiff may  
8 amend her or his CLRA causes of action without leave of court to add claims for  
9 damages. Plaintiffs will amend this complaint to add damages claims if Subaru of  
10 Glendale does not remedy its violations within the statutory period.

11           27. Under the CLRA, Plaintiffs are entitled to a permanent injunction  
12 prohibiting practices that violate the CLRA.

13           28. Subaru of Glendale has an illegal pattern and practice of: (i)  
14 misrepresenting the mechanical condition of automobiles that it sells to the public; (ii)  
15 concealing and failing to disclose material accident damage, including frame/unibody  
16 damage; (iii) misrepresenting the applicable warranty coverage of vehicles that it sells to  
17 the public; and (iv) concealing and failing to disclose the true warranty coverage  
18 available for automobiles that it sells.

19           29. Plaintiffs are entitled to a permanent injunction that compels Subaru of  
20 Glendale to notify all consumers who have been victims of the above-described illegal  
21 conduct, and enjoining Subaru of Glendale from such further acts of illegal conduct.

22           30. Plaintiffs are also entitled to recover their attorneys' fees, costs, and  
23 expenses.

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1 SECOND CAUSE OF ACTION

2 Intentional Misrepresentation

3 31. Plaintiffs incorporate by reference the allegations in Paragraphs 1 through  
4 30.

5 32. At the time of purchase, as well as before and afterwards, Subaru of  
6 Glendale made the misrepresentations as set forth above. These misrepresentations  
7 include, but are not limited to, Subaru of Glendale's statements that: (i) the Mitsubishi  
8 Outlander was in excellent condition; (ii) the Mitsubishi Outlander had under 20,000  
9 miles on its odometer, and came with the remainder of the manufacturer's express  
10 factory warranty; (iii) the Mitsubishi Outlander had not been in any accidents; and (iv)  
11 the Mitsubishi Outlander had not suffered any frame damage.  
12

13 33. Subaru of Glendale omitted from the statements that it made material  
14 facts, the disclosure of which were necessary: (1) in order to make its other statements  
15 not misleading; (2) because they were known materials facts; (3) because Subaru of  
16 Glendale knew that it had exclusive knowledge that was not accessible to Plaintiffs; and  
17 (4) because it was reasonable for Plaintiffs to expect disclosure of such facts. These  
18 omissions include, but are not limited to the following: (i) that the Mitsubishi Outlander  
19 had previously been in a severe accident; (ii) that the Mitsubishi Outlander was not in  
20 excellent condition; (iii) that the Mitsubishi Outlander had suffered frame/unibody  
21 damage; and (iv) that the factory warranty would not provide comprehensive coverage  
22 for the Mitsubishi Outlander because of the prior accident damage.  
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24 34. At all times Subaru of Glendale either had actual or constructive notice of  
25 the true facts, but nonetheless intentionally or recklessly concealed these facts from  
26 Plaintiffs.  
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1           51. Under the California Lemon Law, the implied warranty of merchantability  
2 means and includes that the goods will comply with each of the following requirements:  
3 (1) they would pass without objection in the trade under the contract description; (2)  
4 they are fit for the ordinary purposes for which such goods are used; (3) they are  
5 adequately contained, packaged, and labeled; and (4) they conform to the promises or  
6 affirmations of fact made on the container or label.  
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8           52. The facts that (1) the Mitsubishi Outlander was previously involved in a  
9 severe accident that caused massive structural damage, and (2) the Mitsubishi  
10 Outlander's otherwise applicable factory warranty coverage is partially voided by the  
11 prior accident damage, constitute breaches of the implied warranty of merchantability  
12 under the California Lemon Law because the Mitsubishi Outlander (i) would not pass  
13 without objection in the trade under the contract description, (ii) was not fit for the  
14 ordinary purposes for which such goods are used, (iii) was not adequately contained,  
15 packaged, and labeled, and (iv) did not conform to the promises or affirmations of fact  
16 made on the container or label.  
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18           53. Plaintiffs have rightfully rejected and/or justifiably revoked acceptance of  
19 the Mitsubishi Outlander, and are entitled under the California Lemon Law to rescind  
20 the purchase contract and to restitution of all money paid towards the purchase  
21 contract. This Complaint also, again, hereby rejects and revokes acceptance of the  
22 Mitsubishi Outlander.  
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24           54. Plaintiffs have been proximately damaged by Subaru of Glendale's  
25 violations of the California Lemon Law, including its failure to comply with its  
26 obligations under the implied warranty of merchantability.  
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- 3. For general damages of \$4,000;
- 4. For punitive damages;
- 5. For pre judgment interest at the legal rate;
- 6. For reasonable attorneys' fees, costs of suit, and out of pocket litigation expenses; and
- 7. For such other and further relief as the Court deems just and proper under the circumstances.

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Date: March 18, 2013