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ORIGINAL FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

JUL 26 2012

John A. Clarke, Executive Officer/Clerk  
BY Mary Flores, Deputy

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

BC 489207

12 GERI LEVESQUE, an individual,

13 Plaintiff,

14 v.

15 CARSON NISSAN, a business entity,  
form unknown; and  
16 DOES 1 through 75,

17 Defendants.

Case No.:

COMPLAINT FOR:

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

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SUMMARY

1. This lawsuit arises out of Plaintiff's purchase of a 2012 Nissan Versa from Defendant Carson Nissan (a Carson, California car dealership).

2. The Dealership violated California's Automobile Sales Finance Act (Civil Code § 2981 *et seq.*) (the "ASFA") by falsifying the amounts of Plaintiff's down payment and deferred down payments in the Nissan Versa's purchase contract. The Dealership did this in order to trick a lender into financing Plaintiff's purchase of that vehicle, and in order to ensnare Plaintiff in a predatory loan for which she otherwise would not have qualified. The Dealership's falsification of the down payment amounts in the purchase contract violates the ASFA, the Consumers Legal Remedies Act (Civil Code §1750 *et seq.*) (the "CLRA"), the Credit Services Act (the "CSA"), and amounts to unfair competition under Business & Professions Code Section 17200 *et seq.* (the "UCL").

3. Plaintiff is entitled to rescind the purchase of the Nissan Versa (which would not have occurred at all but for the Dealership's illegal conduct), and to obtain restitution of all the money Plaintiff paid towards the Nissan Versa. Because the Dealership has an illegal business practice of falsifying down payment amounts in order to get consumers ensnared in predatory loans for which they otherwise would not qualify, Plaintiff is also entitled to an injunction prohibiting the Dealership from engaging in this practice in the future.

PARTIES

4. Plaintiff Geri Levesque is an individual residing in Los Angeles, California.

5. Defendant Carson Nissan is a business entity, form unknown, that does business as the car dealership "Carson Nissan" at 1505 E. 223rd Street, Carson, California (hereafter referred to as the "Dealership" or the "Dealer").

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

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

11           8.       Each defendant (whether actually or fictitiously-named herein) was the  
12 principal, agent, alter-ego, co-conspirator, or employee of each other defendant and in  
13 acting as such principal or within the course and scope of such employment, agency, or  
14 conspiracy, took some part in the acts and omissions hereinafter set forth by reason of  
15 which each defendant is liable to Plaintiff.  
16

#### 17                           FACTS

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

20           10.       On or about July 2, 2012, Plaintiff agreed to purchase that certain 2012  
21 Nissan Versa with vehicle identification number 3N1CN7AP0CL917632 (the “Nissan  
22 Versa”) from the Dealership.  
23

24           11.       However, the Dealership soon discovered that Plaintiff was unable to and  
25 could not make an immediate down payment in an amount that would have enabled the  
26 Dealership to find a lender to finance the transaction. Accordingly, in order to trick a  
27 lender into financing the Nissan Versa’s purchase, the Dealership told Plaintiff that she  
28 could purchase the Nissan Versa and immediately take delivery of that vehicle if she

1 agreed to make a total cash down payment of \$2,000 (in addition to the \$1,000 credit  
2 for Plaintiff's trade-in vehicle) to the Dealership within approximately two weeks. In  
3 response, Plaintiff agreed that, in addition to her trade-in vehicle and her immediate  
4 cash down payment of \$1,000, she would pay an additional \$1,000 to the Dealership by  
5 July 18, 2012. The effect of this agreement was that Plaintiff was agreeing to make a  
6 deferred down payment (in addition to her immediate down payment) of \$1,000  
7 towards the purchase of the Nissan Versa. To accomplish this deferred down payment,  
8 Plaintiff gave the Dealership a \$1,000 check, which the Dealership agreed not to deposit  
9 until July 18, 2012.  
10

11 12. The Dealership prepared the retail installment sale contract for the sale of  
12 the Nissan Versa and presented it to Plaintiff for her to sign, telling Plaintiff that it  
13 accurately memorialized their agreement for the sale of the Nissan Versa.  
14

15 13. In preparing the Nissan Versa's purchase contract, the Dealership  
16 intentionally and falsely stated therein that Plaintiff was making an immediate cash  
17 down payment of \$2,000, and not making any deferred down payments.

18 14. The Dealership charged Plaintiff a fee for assisting in preparing her credit  
19 application and the Nissan Versa's purchase documents. Further, the Dealership  
20 received other consideration for the preparation of these documents in the form of the  
21 profit it earned from the Nissan Versa's sale.  
22

23 15. The Dealership represented that the Nissan Versa's retail installment sale  
24 contract was a legally enforceable agreement, which required Plaintiff to make the  
25 payments that Plaintiff and the Dealership had agreed upon.

26 16. Relying on the Dealership's above-stated representations, Plaintiff signed  
27 the contract.  
28

1           17.    The Dealership falsified the cash down payment and the deferred down  
2 payment amounts in the purchase contract with the intention of tricking a lender into  
3 financing a vehicle purchase that it otherwise would not finance, and in order to get  
4 Plaintiff financed for a predatory loan for which she otherwise would not have qualified.  
5 But for the Dealership's falsification of the purchase documents, Plaintiff would not  
6 have purchased the Nissan Versa.  
7

8           18.    The Dealership's standard vehicle purchase contract (which it used in  
9 Plaintiff's transaction) contains a clause permitting it to unilaterally cancel the contract  
10 (and demand return of the vehicle) if The Dealership is not able to assign the contract to  
11 an acceptable lender. The Dealership has a pattern and practice of never self-financing  
12 motor vehicle purchases, and always electing to cancel contracts that it is unable to  
13 assign to a lender.  
14

15           19.    The Dealership submitted Plaintiff's credit application and the Nissan  
16 Versa's purchase contract to potential lenders, one of whom agreed to finance the  
17 contract for Plaintiff's purchase of the Nissan Versa (the "Lender").  
18

19           20.    The Dealership's conduct was malicious, oppressive, and fraudulent.  
20 Accordingly, Plaintiff is also entitled to punitive damages.  
21

#### 22                                   FIRST CAUSE OF ACTION

#### 23                                   Violation of Automobile Sales Finance Act

24           21.    Plaintiff hereby incorporates by reference the allegations in Paragraphs 1  
25 through 20.  
26

27           22.    The purchase contract for the Nissan Versa is a conditional sale contract  
28 subject to the ASFA.

          23.    The Dealership is a "seller" under the ASFA.

          24.    Plaintiff is a "buyer" under the ASFA.

1           25.    The Nissan Versa is a “motor vehicle” under the ASFA.

2           26.    Civil Code Section 2981.9 requires that all motor vehicle purchase  
3 contracts subject to the ASFA contain in a single document all of the agreements  
4 between the buyer and the seller with respect to the total cost and terms of payment for  
5 the motor vehicle, including any promissory notes or other evidence of indebtedness  
6 (hereafter referred to as the "Single Document Rule").  
7

8           27.    The Dealership failed to comply with the Single Document Rule. Such  
9 failures include, but are not limited to, the fact that the amount and the due date for  
10 Plaintiff's deferred down payment is not listed in the Nissan Versa's purchase contract.

11           28.    Civil Code Section 2982(a)(6) requires all motor vehicle purchase  
12 contracts that are subject to the ASFA to separately and specifically itemize the amount  
13 that the buyer is immediately paying as a cash down payment. Civil Code Section  
14 2982(a)(6) also requires purchase contracts to separately and specifically itemize the  
15 amount of any deferred cash down payments.  
16

17           29.    The Dealership violated Civil Code Section 2982(a). Such failures include,  
18 but are not limited to, the fact that the Dealership failed to correctly itemize in the  
19 purchase contract the amount of Plaintiff's actual immediate cash down payment and  
20 the amount and the due date of her agreed-upon deferred cash down payment.

21           30.    The Dealership's violations of the Single Document Rule and Civil Code  
22 Section 2982(a) were intentional.  
23

24           31.    Because of the Dealership's failure to comply with the Single Document  
25 Rule and Civil Code Section 2982(a) the purchase contract for the Nissan Versa is not  
26 enforceable, and Plaintiff is entitled to rescission of the contract and restitution of all  
27 amounts paid towards the Nissan Versa purchase.  
28

1           32. Plaintiff is also entitled to incidental and consequential damages, and her  
2 attorney's fees, costs, and out-of-pocket expenses.

3   SECOND CAUSE OF ACTION

4   Consumers Legal Remedies Act - Injunctive Relief Only

5           33. Plaintiff hereby incorporates by reference the allegations in Paragraphs 1  
6 through 32.

7           34. The Nissan Versa constitutes "goods" bought for use primarily for  
8 personal, family or household purposes.

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

10           36. The advertisement and the sale of the Nissan Versa to Plaintiff, as well as  
11 the performance of that contract, are "transactions" under the CLRA.

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

19           38. The Dealership violated the CLRA by: (1) misrepresenting the amount of  
20 Plaintiff's down payment and deferred down payments in the Nissan Versa's purchase  
21 contract, and failing to set forth therein the amount and deadline for Plaintiff's deferred  
22 down payment; (2) violating the Single Document Rule; (3) misrepresenting that the  
23 Nissan Versa's retail installment sale contract accurately memorialized their agreement,  
24 when it did not; (4) misrepresenting that the Nissan Versa's retail installment sale  
25 contract was legally enforceable and that Plaintiff was required to make the payments to  
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1 which Plaintiff and the Dealership had previously agreed; (5) omitting and failing to  
2 disclose that the retail installment sale contract for the Nissan Versa did not accurately  
3 memorialize Plaintiff's agreement to purchase that vehicle; and (6) omitting and failing  
4 to disclose that the Nissan Versa's retail installment sale contract was unenforceable and  
5 that Plaintiff was not required to make any payments thereunder.

6  
7 39. Plaintiff is concurrently serving the Dealership with a CLRA notification  
8 and demand letter via regular mail and certified mail, return receipt requested. The  
9 notice letter sets forth the relevant facts, notifies the Dealership of its CLRA violations,  
10 and requests that the Dealership promptly remedy those violations.

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

17  
18 41. Under the CLRA, Plaintiff is entitled to a permanent injunction  
19 prohibiting practices that violate the CLRA.

20 42. The Dealership has an illegal pattern and practice of: (1) misrepresenting  
21 the amount and timing of down payments and deferred down payments; and (2)  
22 violating the Single Document Rule.

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

27 44. Plaintiff is also entitled to recover her attorneys' fees, costs, and expenses.  
28



1 THIRD CAUSE OF ACTION

2 Violation of Credit Services Act

3 45. Plaintiff hereby incorporates by reference paragraphs 1 through 44.

4 46. The Dealership is a credit service organization under the Credit Services  
5 Act of 1984 (Civil Code § 1789.10 *et seq.*) (the "CSA").

6 47. Plaintiff is a "buyer" under the CSA.

7 48. The Dealership and the Lender to whom the Dealership assigned Plaintiff's  
8 purchase contract are persons who have extended credit to Plaintiff and to whom  
9 Plaintiff applied for credit.  
10

11 49. The Dealership made untrue and misleading statements concerning  
12 Plaintiff's creditworthiness, credit standing, and/or credit capacity to the Lender that it  
13 knew and/or should have known to be untrue and misleading.

14 50. Plaintiff is entitled to damages, which shall not in any event be less than  
15 the amount paid to the Dealership, and her attorney's fees and costs.  
16

17 FOURTH CAUSE OF ACTION

18 Unfair Competition

19 51. Plaintiff hereby incorporates by reference the allegations in Paragraphs 1  
20 through 50.

21 52. The Dealership's acts, omissions, misrepresentations, practices, and non-  
22 disclosures constituted unlawful, unfair, and fraudulent business acts and practices  
23 within the meaning of California Business & Professions Code Sections 17200 *et seq.*  
24

25 53. The Dealership has engaged in "unlawful" business acts and practices by:  
26 (1) misrepresenting the amount and timing of down payments and deferred down  
27 payments; and (2) violating the Single Document Rule. These acts and practices were  
28 intended to and did violate the ASFA, the CSA, and the CLRA.

1           54.    The Dealership also engaged in “fraudulent” business acts or practices in  
2 that the representations and omissions of material fact described above have a tendency  
3 and likelihood to deceive the general public.

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

9           56.    The above described unlawful, fraudulent, or unfair business acts and  
10 practices conducted by the Dealership continue to this day and present a threat to  
11 Plaintiff and the general public in that the Dealership has failed to publicly acknowledge  
12 the wrongfulness of its actions and provide full equitable injunctive and monetary relief  
13 as required by law.

14           57.    Pursuant to California Business & Professions Code Section 17203,  
15 Plaintiff is entitled to and seeks a permanent injunction from this Court requiring the  
16 Dealership to immediately cease such acts of unfair competition and enjoining the  
17 Dealership from continuing to conduct business via the unlawful, fraudulent, and/or  
18 unfair business acts and practices set forth in this Complaint and from failing to fully  
19 disclose the true nature of its misrepresentations, and ordering the Dealership to engage  
20 in a corrective notice and advertising campaign. Plaintiff additionally requests an order  
21 from the Court requiring that the Dealership provide complete equitable monetary relief  
22 so as to prevent the Dealership from benefitting from the practices that constitute unfair  
23 competition, including requiring the payment of restitution of any monies as may be  
24 necessary to restore to any person any money or property which may have been  
25 acquired by means of such acts of unfair competition.


1 PRAYER FOR RELIEF

2 Plaintiff prays for judgment as follows as appropriate for the particular causes of  
3 action:

- 4 1. For permanent injunctive relief as permitted under the ASFA, the CLRA,  
5 and Business & Professions Code Section 17203;  
6  
7 2. For the declaratory and/or equitable relief under the ASFA, the CLRA, and  
8 Business & Professions Code Section 17203;  
9  
10 3. For rescission of Plaintiff's purchase contract for the Nissan Versa, and  
11 restitution, as requested above;  
12  
13 4. For incidental, consequential, and actual damages of \$24,763.20, or such  
14 other amount as determined at trial;  
15  
16 5. For pre judgment interest;  
17  
18 6. For attorney's fees, costs of suit, and out-of-pocket litigation expenses; and  
19  
20 7. For such other and further relief as the Court deems just and proper under  
21 the circumstances.  
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LAW OFFICE OF MICHAEL R. VACHON, ESQ.  
Attorney for Plaintiff Geri Levesque

Date: July 25, 2012

  
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Michael R. Vachon, Esq.