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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF SAN DIEGO

10 XAVIER and LILIANA AGUIRRE,
individually and on behalf of all
11 others similarly situated,

12 Plaintiffs,

13 v.

14 MOSSY NISSAN, INC., a California
Corporation, d.b.a. MOSSY NISSAN
15 NATIONAL CITY;
NISSAN NORTH AMERICA, INC., a
16 California Corporation;
and DOES 1 through 10, inclusive,
17

18 Defendants.
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CASE NO. 37-2009-00089796-CU-BT-
CTL

CLASS ACTION

FIRST AMENDED COMPLAINT FOR
INJUNCTIVE RELIEF, RESTITUTION,
AND DAMAGES:

1. VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT- CLASS CLAIM;
2. VIOLATION OF THE AUTOMOBILE SALES FINANCE ACT - INDIVIDUAL AND CLASS CLAIM;
3. UNLAWFUL, UNFAIR, FRAUDULENT BUSINESS ACTS & PRACTICES - INDIVIDUAL AND CLASS CLAIM;
4. VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT - INDIVIDUAL CLAIM;
5. VIOLATION OF THE SONG-BEVERLY CONSUMER WARRANTY ACT

24
25 Plaintiffs Xavier and Liliana Aguirre, individually as to all causes of action, and on
26 behalf of all others similarly-situated as to the First through Third Causes of Action,
27 allege as follows on information and belief, formed after an inquiry reasonable under
28 the circumstances:

INTRODUCTION

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1. Plaintiffs are two of many customers who, during the past several years, purchased a vehicle from Defendant Mossy Nissan, Inc., a California Corporation, d.b.a. Mossy Nissan National City ("Mossy Nissan"), a large automobile Dealer in San Diego County, California. After Plaintiffs and other consumers signed purchase contracts for vehicles, Mossy Nissan contacted them and told them that the deal needed to be changed in one way or another. Mossy Nissan then had these customers sign a subsequent purchase contract that was backdated to the date of the original purchase contract.

2. Mossy Nissan violated state and federal financial disclosure laws by backdating the subsequent purchase contracts, thereby charging interest before the consummation date, misstating the annual percentage rate, misstating the finance charge, charging compound interest, and/or causing the holder of the contract to collect a higher finance charge than permitted. Mossy Nissan also violated the "single document" rule because the subsequent purchase contracts do not state all of the agreements between the buyer and seller with respect to the total cost of the vehicle and the terms of payment including, but not limited to, the actual date of consummation, the correct annual percentage rates, the correct finance charges, and/or the correct amounts financed.

3. The conduct herein described violates, *inter alia*, the Automobile Sales Finance Act ("ASFA") (Civil Code §2981, *et seq.*), the Consumers Legal Remedies Act ("CLRA") (Civil Code §1750, *et seq.*), and the Unfair Competition Law ("UCL") (Bus. & Prof. Code §17200, *et seq.*). Further, the illegal practice of backdating contracts is a policy, procedure, or practice followed by Mossy Nissan. Thus, class relief and an action on behalf of the general public are appropriate to remedy such practices.

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1 **A. NUMEROSITY OF THE CLASS**

2 17. The proposed Class is so numerous that the individual joinder of the Class
3 Members in one action is impracticable. The exact number and the identities of the
4 Members of the Class are unknown at this time and can only be ascertained through
5 appropriate investigation and discovery of Defendants' records.

6 **B. EXISTENCE AND PREDOMINANCE OF COMMON QUESTIONS**
7 **OF LAW AND FACT**

8 18. Common questions of law and fact arising out of the claims here at issue
9 exist as to all members of the Class and predominate over any individual issue. These
10 common legal and factual questions include, but are not limited to, the following:

- 11 a. whether Mossy Nissan's practice of backdating subsequent
12 purchase contracts violates California's consumer protection
13 statutes including, *inter alia*, the CLRA, the ASFA, and/or the
14 UCL;
- 15 b. the amount of revenues and profits Mossy Nissan received, and/or
16 the amount of monies or other obligations imposed on, or lost by,
17 Class Members as a result of such wrongdoing;
- 18 c. whether Class Members are threatened with irreparable harm and
19 are entitled to injunctive and other equitable relief and, if so, what
20 is the nature of such relief;
- 21 d. whether Class Members are entitled to rescission, payment of
22 actual, incidental, consequential, exemplary, punitive, and/or
23 statutory damages plus interest thereon, and, if so, what is the
24 nature of such relief.

25 **C. TYPICALITY OF CLAIMS**

26 19. In regard to members of the Class, Mossy Nissan engaged in the standard
27 practice of having customers sign subsequent Retail Installment Sale Contracts and
28 backdating the subsequent contract to the date of the original purchase contract.

1 20. Plaintiffs and each Class Member signed a second Retail Installment Sale
2 Contract that was backdated to the date of their original contract.

3 21. Plaintiffs' claims are typical of the claims of members of the Class.

4 **D. ADEQUATE REPRESENTATION**

5 22. Plaintiffs will fairly and adequately protect the interests of the members
6 of the Class in that they do not have irreconcilable conflicts with or interests materially
7 antagonistic to those of other Class members.

8 23. Plaintiffs have retained attorneys experienced in the prosecution of class
9 actions, including consumer class actions.

10 **E. SUPERIORITY AND SUBSTANTIAL BENEFITS OF CLASS**
11 **LITIGATION**

12 24. To the extent it is an element for establishing class certification for
13 certain causes of action, a class action is superior to other available methods for the
14 fair and efficient group-wide adjudication of this controversy and, as applicable,
15 possesses substantial benefits. Individual joinder of all Class Members is
16 impracticable, and no other group method of adjudication of all claims asserted herein
17 is more efficient and manageable while at the same time provides all the remedies
18 available to ensure the full purpose of this State's consumer protection laws are
19 effectuated. Furthermore, as the damages suffered by each individual Class Member
20 may be relatively small and the relief sought discrete, the expense and burden of
21 individual Class Members to redress the wrongs done to them, and the cost to the court
22 system of adjudicating such litigation on an individual basis, would be substantial. To
23 counsel's knowledge there has not been any substantial litigation concerning this
24 controversy commenced against the parties. It is not anticipated that there will be any
25 difficulties in the management of this litigation due to the focus of the wrongdoing on
26 Mossy Nissan's conduct and its knowledge of the true facts. Individualized litigation
27 would also present the potential for varying, inconsistent, or contradictory judgments
28 and would magnify the delay and expenses of all parties and the court system

1 resulting from multiple trials asserting the same factual and legal issues. The conduct
2 of this action as a class action presents fewer management difficulties, conserves the
3 resources of the parties and the court system, and protects the rights of each Class
4 member as compared to other methods for the group-wide adjudication of this
5 controversy. Thus, both the Class and the court system achieve substantial benefits by
6 the prosecution of this action on a class-wide basis by avoiding the burden of multiple
7 litigation involving identical claims, as well as by aiding legitimate business
8 enterprises in curtailing illegitimate competition and ensuring a therapeutic effect on
9 those companies such as Defendants that indulge in fraudulent practices.

10 25. Notice of the pendency of any resolution of this action can be provided to
11 the Class Members by publication and/or individual mailed notice, as appropriate
12 under California law, and the costs of such notice are properly imposed on Defendants.

13 26. This action is also properly certified to proceed on a class-wide basis
14 because:

- 15 a. the prosecution of separate actions by the individual Class
16 Members would create a risk of inconsistent or varying
17 adjudications with respect to individual Class Members, thus
18 establishing incompatible standards of conduct for Defendants;
- 19 b. because of the nature of the relief sought, the prosecution of
20 separate actions by individual Class Members would create a risk
21 of adjudication with respect to them that would, as a practical
22 matter, be dispositive of the interests of the other Class Members
23 not parties to such adjudications or could substantially impair or
24 impede the ability of such Class Members to protect their interests;
- 25 c. Defendants have acted or refuses to act in respects generally
26 applicable to the Class, thereby making appropriate final
27 injunctive relief with regard to the Class Members as a whole in
28 terms of the equitable relief sought.

1 Mr. Aguirre did not take delivery of the vehicle that day. Nor did Mr. Aguirre trade
2 in the Nissan Xterra listed on RISC #1 that day.

3 34. A couple days later, Liliana Aguirre went to Mossy Nissan. Mrs. Aguirre
4 then signed RISC #1 and gave Mossy Nissan the trade-in vehicle. Mrs. Aguirre took
5 possession of the Quest that day.

6 35. A few days later, Mossy Nissan called Plaintiffs and asked them to return
7 to Mossy Nissan to sign a new contract because there had been a mistake with RISC
8 #1.

9 36. Plaintiffs returned to Mossy Nissan on June 29, 2006. Plaintiffs were told
10 they needed to make a \$1,100 down payment. Plaintiffs were not told they could get
11 their trade-in back and get out of the deal. Instead, they were told they needed to
12 make the down payment and sign the new contract.

13 37. Based on Mossy Nissan's representations, Plaintiffs signed an
14 Acknowledgement of Rewritten Contract rescinding RISC #1. A true and correct copy
15 of the Acknowledgement of Rewritten Contract is attached hereto as Exhibit 2.

16 38. Plaintiffs and Mossy Nissan executed a new Retail Installment Sale
17 Contract for the sale of the vehicle on June 29, 2006 ("RISC #2"). RISC #2 was
18 prepared by Mossy Nissan, and dated June 29, 2006. RISC #2 was with a different
19 Finance Manager than the one who had prepared RISC #1. A true and correct copy of
20 RISC #2 is attached hereto as Exhibit 3.

21 39. On or after June 29, 2006, Mossy Nissan assigned RISC #2 to Nissan
22 Finance.

23 40. Plaintiffs have made the monthly payments under RISC #2 to Nissan
24 Finance.

25 41. The vehicle was covered by an express warranty from Nissan.

26 42. On March 19, 2008, Plaintiffs brought the vehicle to Mossy Nissan,
27 complaining about problems with the windows, transmission, vents, a door sticking,
28 and engine noise.

1 43. Mossy Nissan returned the vehicle to Plaintiffs on March 25, 2008,
2 claiming it corrected the window problems and that it could not duplicate any of the
3 other complaints.

4 44. On March 27, 2008, Plaintiffs brought the vehicle to Mossy Nissan,
5 complaining about the windows sticking and the transmission.

6 45. On May 14, 2008, Plaintiffs brought the vehicle to Mossy Nissan,
7 complaining about an oil leak and clunking.

8 46. On May 19, 2008, Mossy Nissan returned the vehicle to Plaintiffs,
9 claiming it corrected the problems.

10 47. On September 12, 2008, Plaintiffs brought the vehicle to Mossy Nissan,
11 complaining about the transmission, a door sticking, the fuel gauge, clunking noise,
12 and vibrations. Mossy Nissan returned the vehicle to Plaintiffs the same day, claiming
13 it corrected the clunking noise and vibrations, but could not duplicate the other
14 complaints.

15 48. On November 17, 2008, Plaintiffs brought the vehicle to Pacific Nissan,
16 an authorized Nissan repair facility, complaining about the transmission. Plaintiffs
17 explained the vehicle needed to be driven to experience the problem with the
18 transmission. The mileage on the odometer when Plaintiffs delivered the vehicle to
19 Pacific Nissan was 27,514.

20 49. On November 18, 2008, Pacific Nissan returned the vehicle to Plaintiffs
21 indicating they could not duplicate the problem. The mileage when the vehicle was
22 returned to Plaintiffs was 27,514.

23 50. The vehicle continues to shake and make noise when Plaintiffs drive the
24 vehicle. Additionally, the door locks continue to get stuck. Plaintiffs have been forced
25 to rent alternative transportation due to safety fears about the Vehicle.

26 51. Plaintiffs have made multiple calls to Nissan's customer service number,
27 without the ability to get their problems with the vehicle resolved.

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1 58. Defendant Mossy Nissan and Does 1-5 are “persons” pursuant to Civil
2 Code Section 1761(c).

3 59. The advertisement and sale of the vehicles to Plaintiffs and each Class
4 Member are “transactions” pursuant to Civil Code Section 1761(e).

5 60. The policies, acts, and practices engaged in by Mossy Nissan and alleged
6 herein were intended to, and did, result in the sale of the vehicles at issue to Plaintiffs
7 and the Class Members primarily for personal, family, or household purposes, and
8 violated and continue to violate the Consumers Legal Remedies Act (“CLRA”), in at
9 least the following respects: (1) representing that a transaction confers or involves
10 rights, remedies, or obligations which it does not have or involve, or which are
11 prohibited by law; and (2) representing that the subject of a transaction has been
12 supplied in accordance with a previous representation when it has not.

13 61. Mossy Nissan and Does 1-5 have employed the following unfair methods
14 of competition and unfair or deceptive acts or practices prohibited under the CLRA,
15 Civil Code §1770(a)(1)-(23): (5) representing that goods or services have sponsorship,
16 approval, characteristics, ingredients, uses, benefits, or quantities which they do not
17 have or that a person has a sponsorship, approval, status, affiliation, or connection
18 which he or she does not have; (6) representing that goods are original or new if they
19 have deteriorated unreasonably or are altered, reconditioned, reclaimed, used or
20 secondhand; (7) representing that goods or services are of a particular standard,
21 quality, or grade, or that goods are of a particular style or model, if they are of another;
22 (14) representing that a transaction confers or involves rights, remedies, or obligations
23 which it does not have or involve, or which are prohibited by law; and (19) inserting an
24 unconscionable provision in the contract.

25 62. The statutory thirty-day period expired without cure of Defendant’s
26 violations as to Plaintiffs or the Class, and therefore Plaintiffs and the Class seek
27 actual damages, rescission and restitution, and punitive damages under the
28 Consumers Legal Remedies Act for Defendant’s fraudulent, malicious, and oppressive

1 68. Plaintiffs and each member of the Class are “buyers” pursuant to
2 Civil Code §2981(c).

3 69. The vehicles purchased by Plaintiffs and each member of the Class are
4 “motor vehicles” pursuant to Civil Code §2981(k).

5 70. Vehicle Code Section 5901(c) states that consummation of a sale occurs
6 when the purchaser has signed a purchase contract and taken physical possession of
7 the vehicle.

8 71. Mossy Nissan and Plaintiffs, and each Class Member, consummated their
9 original purchases upon signature of their original purchase contracts and taking
10 delivery of their respective vehicles. Those transactions were rescinded when Plaintiffs
11 and each Class Member returned to Mossy Nissan with their vehicles and signed an
12 “Acknowledgement of Rewritten Contract” or similar form which explicitly stated the
13 contract between the parties for the purchase of the Vehicle had been rescinded.

14 72. Mossy Nissan and Plaintiffs, and each Class Member, consummated their
15 final purchase on the date the subsequent purchase contract was signed by Plaintiffs
16 and each Class Member, respectively, and Plaintiffs and each Class Member took
17 delivery of their vehicles. By backdating the subsequent purchase contract to the date
18 of the now-rescinded original purchase contract, thereby charging interest before
19 consummation, Mossy Nissan violated Civil Code Section 2982(a), which requires all
20 conditional sales contracts to comply with the disclosure requirements of Regulation
21 Z. The backdated purchase contracts also improperly charged Plaintiffs and the Class
22 Members compound interest.

23 73. By backdating the final purchase contract to the date of the original
24 purchase contract, Mossy Nissan overstated the payment that was due for the annual
25 percentage rate shown on the contract. The actual annual percentage rate, based on
26 a contract consummation date of the final purchase contract, varied from the disclosed
27 annual percentage rate by more than Regulation Z permits. Likewise, the actual
28

1 finance charges, based on a contract consummation date of the final purchase contract,
2 varied from the disclosed finance charge by more than Regulation Z permits.

3 74. By backdating the final purchase contract to the date of the original
4 purchase contract, Mossy Nissan violated the ASFA's single document rule. The final
5 purchase contract does not accurately set forth the terms of payment for the motor
6 vehicle because it misstates the annual percentage rate, the finance charge, and what
7 the true monthly payment should be based on the disclosed annual percentage rate.
8 The final purchase contract also fails to disclose the interest charged prior to
9 consummation. The only means of determining the true annual percentage rate,
10 finance charge, and monthly payment is through review of other documents stating the
11 date the final contract was actually consummated.

12 75. By backdating the final purchase contract, Mossy Nissan also violated
13 Civil Code Section 2982(j) by causing the holder to charge, collect, or receive a finance
14 charge which exceeds the disclosed finance charge.

15 76. Plaintiffs and each Class Member have been damaged by Mossy Nissan's
16 violations of the ASFA. Since the violations include violations of Civil Code
17 Sections 2981.9, 2982(a), and 2982(j), Plaintiffs and each Class Member are entitled
18 to rescission of their purchase contracts pursuant to Civil Code Section 2983 and
19 damages, including return of all monies paid under the contracts. Plaintiffs also seek
20 attorneys' fees and costs pursuant to Civil Code Section 2983.4.

21 **THIRD CAUSE OF ACTION**

22 **Commission of Unlawful, Unfair, and/or Fraudulent Business Acts and**
23 **Practices, Bus. & Prof. Code Section 17200, *et seq.* – Individual and Class**
24 **Claim Against Defendants Mossy Nissan and Does 1-5**

25 77. Plaintiffs incorporate by reference each and every allegation set forth in
26 Paragraphs 1 through 76, inclusive, of this Complaint. This cause of action is brought
27 by Plaintiffs individually and on behalf of all others similarly-situated.

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1 78. Mossy Nissan's acts, omissions, misrepresentations, practices, and non-
2 disclosures constituted unlawful, unfair, and fraudulent business acts and practices
3 within the meaning of California Business & Professions Code Sections 17200, *et seq.*

4 79. Plaintiffs and the Class Members have suffered injury in fact and have
5 lost money as a result of Defendant's unfair competition.

6 80. Mossy Nissan has engaged in "unlawful" business acts and practices by
7 the following: (1) backdating subsequent purchase contracts to the date of the original
8 purchase contracts; (2) violating the single document rule in Civil Code Section 2981.9;
9 (3) improperly completing second contracts for the purchase of a vehicle; (4) charging
10 interest before consummation; (5) collecting or causing to be collected finance charges
11 in excess of disclosed finance charges; (6) charging compound interest in simple
12 interest contracts; (7) failing to include all agreements between the buyer and the
13 seller in a single document; (8) failing to advise customers of their right to cancel and
14 obtain back their trade-in when financing was not obtained; and (9) violating the single
15 document rule by putting an earlier date on the RISC than it was actually signed.

16 81. These policies, acts, and practices were intended to and did violate, *inter*
17 *alia*, the CLRA, and the ASFA. Accordingly, Defendants have violated Business &
18 Professions Code Section 17200's proscription against engaging in an "unlawful"
19 business act or practice.

20 82. Defendants have also engaged in a "fraudulent" business act or practice
21 in that the representations and omissions of material fact described above have a
22 tendency and likelihood to deceive purchasers of these vehicles and the general public.

23 83. Defendants have also engaged in an "unfair" business act or practice in
24 that the justification for selling vehicles based on the misrepresentations and
25 omissions of material fact delineated above is outweighed by the gravity of the
26 resulting harm, particularly considering the available alternatives, and offends public
27 policy, is immoral, unscrupulous, unethical, and offensive, or causes substantial injury
28 to consumers.

1 89. Defendant Mossy Nissan is a “person” pursuant to Civil Code
2 Section 1761(c).

3 90. The advertisement and sale of the Vehicle to Plaintiffs is a “transaction”
4 pursuant to Civil Code Section 1761(e).

5 91. Pursuant to the Consumers Legal Remedies Act, the following unfair
6 methods of competition and unfair or deceptive acts or practices are prohibited:

7 (1) representing that goods or services have characteristics, uses, or benefits which
8 they do not have; (2) advertising goods or services with intent not to sell them as
9 advertised; (3) making false or misleading statements of fact concerning reasons for,
10 existence of, or amounts of price reductions; (4) representing that a transaction confers
11 or involves rights, remedies, or obligations which it does not have or involve, or which
12 are prohibited by law; (5) representing that the subject of a transaction has been
13 supplied in accordance with a previous representation when it has not.

14 92. The statutory thirty-day period expired without cure of Defendant’s
15 violations as to Plaintiffs, and therefore Plaintiffs seek actual damages, rescission and
16 restitution, and punitive damages under the Consumers Legal Remedies Act for
17 Defendant’s fraudulent, malicious, and oppressive violations of the CLRA.

18 93. Section 1780(a)(2) of the CLRA provides that a consumer is entitled to an
19 injunction prohibiting acts or practices which violate the CLRA. Plaintiffs allege that
20 Mossy Nissan has established a pattern and practice of: (1) backdating subsequent
21 purchase contracts to the date of the original purchase contracts; (2) violating the
22 single document rule in Civil Code Section 2981.9; (3) improperly completing second
23 contracts for the purchase of a vehicle; (4) charging interest before consummation;
24 (5) collecting or causing to be collected finance charges in excess of disclosed finance
25 charges; (6) charging compound interest in simple interest contracts; (7) failing to
26 include all agreements between the buyer and the seller in a single document;
27 (8) failing to provide a copy of credit applications; (9) failing to advise customers of
28 their right to cancel and obtain back their trade-in when financing was not obtained;

1 (10) misrepresenting the reasons for and/or terms charged for re-written contracts; and
2 (11) violating the single document rule by putting an earlier date on the RISC than it
3 was actually signed. Plaintiffs also seek an order enjoining Mossy Nissan from the
4 acts, methods, and practices as set forth in this Complaint and for payment of
5 restitution.

6 94. Plaintiffs have suffered actual monetary harm from Defendants' violations
7 of the CLRA, and therefore seek all available remedies pursuant to Civil Code § 1780,
8 including restitution and attorneys' fees and costs according to proof at time of trial.
9 Plaintiffs do not seek actual or punitive damages for Defendants' violations at this
10 time.

11 FIFTH CAUSE OF ACTION

12 **Violation of the Song-Beverly Consumer Warranty Act - Against All** 13 **Defendants**

14 95. Plaintiff incorporates by reference each and every allegation set forth in
15 Paragraphs 1 through 94, inclusive, of this complaint. This cause of action is brought
16 by Plaintiffs individually.

17 96. Pursuant to the Song-Beverly Consumer Warranty Act (hereinafter
18 "Song-Beverly") Civil Code §§1790 *et seq.*, the Vehicle constitutes "consumer goods"
19 purchased primarily for family or household purposes and Plaintiffs have used the
20 vehicle primarily for those purposes.

21 97. Plaintiffs are "buyers" of consumer goods under Song-Beverly.

22 98. Defendant Nissan is a "manufacturer" or "distributor" under
23 Song-Beverly.

24 99. Defendant Mossy Nissan is a "seller" and "retailer" under Song-Beverly.

25 100. Nissan's express warranty accompanied the sale of the Vehicle to
26 Plaintiffs. Pursuant to Nissan's express warranty, Nissan undertook to preserve or
27 maintain the utility or performance of Plaintiffs' vehicle or provide compensation if
28 there was a failure in such utility or performance.

1 101. The sale of the vehicle to Plaintiffs was accompanied by Defendants'
2 implied warranties of merchantability and fitness.

3 102. The vehicle was delivered to Plaintiffs with serious defects and non-
4 conformities to warranty, including, but not limited to, those described above.

5 103. The foregoing defects and non-conformities to warranty manifested
6 themselves within the applicable implies and express warranty periods. The non-
7 conformities substantially impair the use, value, and/or safety of the Vehicle.

8 104. In order to meet the implied warranty of merchantability consumer goods
9 must meet each of the following criteria: (1) pass without objection in the trade under
10 the contract description; (2) be fit for the ordinary purposes for which such goods are
11 used; (3) be adequately contained, packaged and labeled; and (4) conform to the
12 promises or affirmations of fact made on the container or label.

13 105. The implied warranty of merchantability has been breached in that the
14 Vehicle suffers from the defects described above.

15 106. Due to the defects with the Vehicle, and Defendants' inability to repair
16 the defects, Plaintiffs are entitled to justifiably revoke acceptance of the Vehicle under
17 Song-Beverly.

18 107. Plaintiffs are entitled to and seek damages and other legal and equitable
19 relief, including, but not limited to, all incidental, consequential, and general damages
20 resulting from Defendants' failure to comply with their obligations under Song-Beverly.

21 108. Plaintiffs are entitled under Song-Beverly to recover as part of the
22 judgment a sum equal to the aggregate amount of costs and expenses, including
23 attorneys' fees, reasonably incurred in connection with the commencement and
24 prosecution of this action.

25 109. Plaintiffs are entitled to, in addition to the amounts recovered, a civil
26 penalty of up to two times the amount of actual damages in that Defendants have
27 willfully failed to comply with their responsibilities under Song-Beverly.

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1 PRAYER FOR RELIEF

2 WHEREFORE, Plaintiffs pray for judgment as follows, on behalf of themselves
3 and the Class as appropriate for the particular causes of action:

4 1. An Order certifying the Class under the appropriate provisions of
5 California law, and appointing Plaintiffs and their counsel to represent the Class.

6 2. For the declaratory, equitable, and/or injunctive relief requested as
7 permitted under the Consumers Legal Remedies Act and Business & Professions Code
8 Section 17203.

9 3. For general, special, and actual damages as appropriate to each cause of
10 action, and according to proof at trial.

11 4. For rescission and/or restitution of all monies required to be expended.

12 5. For incidental and consequential damages according to proof at trial.

13 6. For the specified causes of action, punitive, and/or statutory damages.

14 7. For pre-judgment interest at the legal rate.

15 8. For reasonable attorneys' fees and costs of suit as specified under, *inter*
16 *alia*, Code of Civil Procedure §1021.5, Civil Code §§ 1717, 1780(d), 1794, and 2983.4.

17 9. For such other and further relief as the Court deems just and proper
18 under the circumstances.

19
20 DATED: May 26, 2009

ROSNER & MANSFIELD, LLP

21 By: 
22 CHRISTOPHER P. BARRY
23 Attorneys for Plaintiffs
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EXHIBIT 1

SIMPLE INTEREST FINANCE CHARGE

Dealer Number V04063992 Contract Number 163992 R.O.S. Number 16412849 Stock Number 328145

Buyer (and Co-Buyer) Name and Address (Including County and Zip Code) XAVIER AGUIRRE LILIANA AGUIRRE 2094 MAIN ST APT 172 SAN DIEGO CA 92113	Creditor - Seller (Name and Address) Mossy Nissan National City 2700 National City Blvd National City CA 91950
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You, the Buyer (and Co-Buyer, if any), may buy the vehicle below for cash or on credit. By signing this contract, you choose to buy the vehicle on credit under the agreements on the front and back of this contract. You agree to pay the Creditor - Seller (sometimes "we" or "us" in this contract) the Amount Financed and Finance Charge according to the payment schedule below. We will figure your finance charge on a daily basis. The Truth-in-Lending Disclosures below are part of this contract.

New Used	Year	Make and Model	Odometer	Vehicle Identification Number	Primary Use For Which Purchased
NEW	2006	NISSAN QUEST	11	5N1BV28U16N113475	<input checked="" type="checkbox"/> personal, family or household <input type="checkbox"/> business or commercial

FEDERAL TRUTH-IN-LENDING DISCLOSURES

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	Amount Financed	Total of Payments	Total Sale Price
The cost of your credit as a yearly rate.	The dollar amount the credit will cost you.	The dollar amount of credit provided to you or on your behalf.	The amount you will have paid after you have made all payments as scheduled.	The total cost of your purchase on credit, including your down payment of
10.59 %	\$ 2,149.97(e)	\$ 27,778.35	\$ 36,928.32(e)	\$ 1,600.00 is \$ 38,528.32(e)

(e) means an estimate

STATEMENT OF INSURANCE
 NOTICE: No person is required as a condition of financing the purchase of a motor vehicle to purchase or negotiate any insurance through a particular insurance company, agent or broker. You are not required to buy any other insurance to obtain credit. Your decision to buy or not buy other insurance will not be a factor in the credit approval process.

Vehicle Insurance

	Term	Premium
\$ <u>N/A</u> Ded. Comp., Fire & Theft	<u>N/A</u> Mos.	\$ <u>N/A</u>
\$ <u>N/A</u> Ded. Collision	<u>N/A</u> Mos.	\$ <u>N/A</u>
Bodily Injury \$ <u>N/A</u> Limits	<u>N/A</u> Mos.	\$ <u>N/A</u>
Property Damage \$ <u>N/A</u> Limits	<u>N/A</u> Mos.	\$ <u>N/A</u>
Medical	<u>N/A</u> Mos.	\$ <u>N/A</u>
Total Vehicle Insurance Premiums		\$ <u>N/A</u> (b)

YOUR PAYMENT SCHEDULE WILL BE:

Number of Payments:	Amount of Payments:	When Payments Are Due:
One Payment of	N/A	N/A
One Payment of	N/A	N/A
Payments	N/A	Monthly, Beginning N/A
65 Payments	559.52	Monthly, Beginning 8/6/06
One Final Payment	559.52	1/6/12

Late Charge: If payment is not received in full within 10 days after it is due, you will pay a late charge of 5% of the part of the payment that is late.
 Prepayment: If you pay off all your debt early, you may be charged a minimum finance charge.
 Security Interest: You are giving a security interest in the vehicle being purchased.
 Additional Information: See this contract for more information including information about nonpayment, default, any required repayment in full before the scheduled date, minimum finance charges, and security interest.

UNLESS A CHARGE IS INCLUDED IN THIS AGREEMENT FOR PUBLIC LIABILITY OR PROPERTY DAMAGE INSURANCE, PAYMENT FOR SUCH COVERAGE IS NOT PROVIDED BY THIS AGREEMENT.

You may buy the physical damage insurance this contract requires (see back) from anyone you choose who is acceptable to us. You

Buyer X _____
 Co-Buyer X _____
 Seller X _____

If any insurance is checked below, policies or certificates from the named insurance companies will describe the terms and conditions.

Application for Optional Credit Insurance

Credit Life: Buyer Co-Buyer Both
 Credit Disability (Buyer Only)

	Term	Exp.	Premium
Credit Life	<u>N/A</u> Mos.	<u>N/A</u>	\$ <u>N/A</u>
Credit Disability	<u>N/A</u> Mos.	<u>N/A</u>	\$ <u>N/A</u>
Total Credit Insurance Premiums			\$ <u>N/A</u> (b)

Insurance Company Name _____

Home Office Address _____

Credit life insurance and credit disability insurance are not required to obtain credit. Your decision to buy or not buy credit life and credit disability insurance will not be a factor in the credit approval process. They will not be provided unless you sign and agree to pay the extra cost. Credit life insurance is based on your original payment schedule. This insurance may not pay all you owe on this contract if you make late payments. Credit disability insurance does not cover any increase in your payment or in the number of payments. Coverage for credit life insurance and credit disability insurance ends on the original due date for the last payment unless a different term for the insurance is shown above.

You are applying for the credit insurance marked above. Your signature below means that you agree that: (1) You are not eligible for insurance if you have reached your 65th birthday. (2) You are eligible for disability insurance only if you are working for wages or profit 30 hours a week or more on the Effective Date. (3) Only the Primary Buyer is eligible for disability insurance. **DISABILITY INSURANCE MAY NOT COVER CONDITIONS FOR WHICH YOU HAVE SEEN A DOCTOR OR CHIROPRACTOR IN THE LAST 6 MONTHS** (Refer to "Total Disabilities Not Covered" in your policy for details).
 You want to buy the credit insurance.

N/A Date X N/A Buyer Signature N/A Age
N/A Date X N/A Co-Buyer Signature N/A Age

ITEMIZATION OF THE AMOUNT FINANCED

1. Total Cash Price

A. Cash Price of Motor Vehicle and Accessories \$ 26,995.00 (A)

1. Cash Price Vehicle	\$ 26,995.00
2. Cash Price Accessories	\$ 0.00
3. Other (Nontaxable)	
Describe _____	\$ <u>N/A</u>
Describe _____	\$ <u>N/A</u>

B. Document Preparation Fee (not a governmental fee) \$ 45.00 (B)
 C. Smog Fee Paid to Seller \$ N/A (C)
 D. Sales Tax (on taxable items in A+B+C) \$ 2,095.60 (D)
 E. Optional DMV Electronic Filing Fee \$ N/A (E)
 F. (Optional) Service Contract* \$ N/A (F)
 G. (Optional) Service Contract' \$ N/A (G)
 H. Prior Credit or Lease Balance paid by Seller to WFS ENCL INC \$ N/A (H)
 (see downpayment and trade-in calculation)
 I. (Optional) Gap Contract (to whom paid)* \$ N/A (I)
 J. Other (to whom paid)* \$ N/A (J)
 For N/A

Total Cash Price (A through J) \$ 29,135.60 (1)

2. Amounts Paid to Public Officials

A. License Fees <u>ESTIMATED</u>	\$ 234.00 (A)
B. Registration/Transfer/Titling Fees	\$ <u>N/A</u> (B)
C. California Tire Fees*	\$ 8.75 (C)
D. Other <u>N/A</u>	\$ <u>N/A</u> (D)
E. Other <u>N/A</u>	\$ <u>N/A</u> (E)

Total Official Fees (A through E) \$ 242.75 (2)

3. Amount Paid to Insurance Companies (Total premiums from Statement of Insurance column a + b) \$ N/A (3)

4. Smog Certification or Exemption Fee Paid to State \$ N/A (4)

5. Subtotal (1 through 4) \$ 29,378.35 (5)

6. Total Downpayment

A. Agreed Trade-In Value Y2004 Make NISSAN \$ 11,000.00 (A)
 Model X TERRA Odom 15,552
 VIN 5N1DD28T14C679857

B. Less Prior Credit or Lease Balance \$ 13,500.00 (W)

C. Net Trade-In (A less B) (indicate if a negative number) \$ 2,500.00 (C)

D. Deferred Downpayment \$ N/A (D)

E. Manufacturer's Rebate \$ 3,000.00 (E)

F. Other \$ N/A (F)

G. Cash \$ 1,100.00 (G)

Total Downpayment (C through G) \$ 1,600.00 (6)

(If negative, enter zero on line 6 and enter the amount less than zero as a positive number on line 1H above)

7. Amount Financed (5 less 6) \$ 27,778.35 (7)

*Seller may keep part of these amounts.

OPTIONAL GAP CONTRACT A gap contract (debt cancellation contract) is not required to obtain credit and will not be provided unless you sign below and agree to pay the extra charge. If you choose to buy a gap contract, the charge is shown in item 11. See your gap contract for details on the protection it provides. It is a part of this contract.

Term N/A Mos N/A

Name of Gap Contract _____

You want to buy a gap contract.

Buyer X _____

SELLER ASSISTED LOAN
BUYER MAY BE REQUIRED TO PLEDGE SECURITY FOR THE LOAN, AND WILL BE OBLIGATED FOR THE INSTALLMENT PAYMENTS ON BOTH THIS RETAIL INSTALLMENT SALE CONTRACT AND THE LOAN.

Proceeds of Loan From: N/A

Amount \$ N/A Finance Charge \$ N/A

Total \$ N/A Payable in N/A installments of \$ N/A \$ N/A from this loan is shown in item 6D.

AUTO BROKER FEE DISCLOSURE
If this contract reflects the retail sale of a new motor vehicle, the sale is not subject to a fee received by an autobroker from us unless the following box is checked:

Name of autobroker receiving fee, if applicable:

OPTIONAL SERVICE CONTRACT(S) You want to purchase the service contract(s) written with the following company(ies) for the term(s) shown below for the charge(s) shown in item 1.F and/or 1.G above.

1.F Company _____ Term N/A Mos or N/A Miles

1.G Company N/A Term N/A Mos. or N/A Miles

Buyer X _____

NOTICE OF RESCISSION RIGHTS
If Buyer and Co-Buyer sign here, the provisions of the Rescission Rights section on the back giving the Seller the right to rescind if Seller is unable to assign this contract to a financial institution will apply.

Buyer X _____

Co-Buyer X _____

HOW THIS CONTRACT CAN BE CHANGED. This contract contains the entire agreement between you and us relating to this contract. Any change to the contract must be in writing and both you and we must sign it. No oral changes are binding.

X _____ Buyer Signs

X _____ Co-Buyer Signs

OPTION: You pay no finance charge if the Amount Financed, item 7, is paid in full on or before N/A Year N/A SELLER'S INITIALS N/A

THE MINIMUM PUBLIC LIABILITY INSURANCE LIMITS PROVIDED IN LAW MUST BE MET BY EVERY PERSON WHO PURCHASES A VEHICLE. IF YOU ARE UNSURE WHETHER OR NOT YOUR CURRENT INSURANCE POLICY WILL COVER YOUR NEWLY ACQUIRED VEHICLE IN THE EVENT OF AN ACCIDENT, YOU SHOULD CONTACT YOUR INSURANCE AGENT.

WARNING:
YOUR PRESENT POLICY MAY NOT COVER COLLISION DAMAGE OR MAY NOT PROVIDE FOR FULL REPLACEMENT COSTS FOR THE VEHICLE BEING PURCHASED. IF YOU DO NOT HAVE FULL COVERAGE, SUPPLEMENTAL COVERAGE FOR COLLISION DAMAGE MAY BE AVAILABLE TO YOU THROUGH YOUR INSURANCE AGENT OR THROUGH THE SELLING DEALER. HOWEVER, UNLESS OTHERWISE SPECIFIED, THE COVERAGE YOU OBTAIN THROUGH THE DEALER PROTECTS ONLY THE DEALER, USUALLY UP TO THE AMOUNT OF THE UNPAID BALANCE REMAINING AFTER THE VEHICLE HAS BEEN REPOSSESSED AND SOLD.

FOR ADVICE ON FULL COVERAGE THAT WILL PROTECT YOU IN THE EVENT OF LOSS OR DAMAGE TO YOUR VEHICLE, YOU SHOULD CONTACT YOUR INSURANCE AGENT. THE BUYER SHALL SIGN TO ACKNOWLEDGE THAT HE/SHE UNDERSTANDS THESE PUBLIC LIABILITY TERMS AND CONDITIONS.

S/S X _____

Representations of Buyer: Seller has relied on the truth and accuracy of the information provided by you in connection with the Trade-In Vehicle. You represent that you have given a true payoff amount on the vehicle traded in. If the payoff amount is more than the amount shown above in item 6.B as "Prior Credit or Lease Balance," you must pay Seller the excess amount. If the payoff amount is less than the amount shown above in item 6.B as "Prior Credit or Lease Balance," Seller will refund the difference to you.

Buyer X _____

Co-Buyer X _____

Notice to buyer:
(1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement.

If you have a complaint concerning this sale, you should try to resolve it with the seller. Complaints concerning unfair or deceptive practices or methods by the seller may be referred to the city attorney, the district attorney, or an investigator for the Department of Motor Vehicles, or any combination thereof.

After this contract is signed, the seller may not change the financing or payment terms unless you agree in writing to the change. You do not have to agree to any change, and it is an unfair or deceptive practice for the seller to make a unilateral change.

Buyer Signature X _____

Co-Buyer Signature X _____

The Annual Percentage Rate may be negotiable with the Seller. The Seller may assign this contract and retain its right to receive a part of the Finance Charge.

THERE IS NO COOLING OFF PERIOD
California law does not provide for a "cooling off" or other cancellation period for vehicle sales. Therefore, you cannot later cancel this contract simply because you change your mind, decide the vehicle costs too much, or wish you had acquired a different vehicle. After you sign below, you may only cancel this contract with the agreement of the seller or for legal cause, such as fraud.

YOU AGREE TO THE TERMS OF THIS CONTRACT. YOU CONFIRM THAT BEFORE YOU SIGNED THIS CONTRACT, WE GAVE IT TO YOU, AND YOU WERE FREE TO TAKE IT AND REVIEW IT. YOU ACKNOWLEDGE THAT YOU HAVE READ BOTH SIDES OF THIS CONTRACT, INCLUDING THE ARBITRATION CLAUSE ON THE REVERSE SIDE, BEFORE SIGNING BELOW. YOU CONFIRM THAT YOU RECEIVED A COMPLETELY FILLED-IN COPY WHEN YOU SIGNED IT.

Buyer Signature X _____ Date 6/22/06 Co-Buyer Signature X _____ Date 6/22/06

Co-Buyers and Other Owners — A co-buyer is a person who is responsible for paying the entire debt. An other owner is a person whose name is on the title to the vehicle but does not have to pay the debt. The other owner agrees to the security interest in the vehicle given to us in this contract.

Other Owner Signature X N/A Address _____

GUARANTY
To induce us to sell the vehicle to Buyer, each person who signs as a Guarantor individually guarantees the payment of this contract. If Buyer fails to pay any money owing on this contract, each Guarantor must pay it when asked. Each Guarantor will be liable for the total amount owing even if other persons also sign as Guarantor, and even if Buyer has a complete defense to Guarantor's demand for reimbursement. Each Guarantor agrees to be liable even if we do one or more of the following: (1) give the Buyer more time to pay one or more payments; (2) give a full or partial release to any other Guarantor; (3) release any security; (4) accept less from the Buyer than the total amount owing; or (5) otherwise reach a settlement relating to this contract or extend the contract. Each Guarantor acknowledges receipt of a completed copy of this contract and guaranty at the time of signing.

Guarantor waives notice of acceptance of this Guaranty, notice of the Buyer's non-payment, non-performance, and default; and notices of the amount owing at any time, and of any demands upon the Buyer.

Guarantor X N/A Date _____ Guarantor X N/A Date _____

Address _____ Address _____

Seller Signs _____ Date 6/22/06 By X _____ Title _____

EXHIBIT 2

Stock #: V04063992 VIN:5N1BV2...16N113475
Original Contract Date: 6/22/06
Rewritten Contract Date: 6/29/06

Thursday, June 29, 2006

XAVIER F AGUIRRE LILIANA AGUIRRE
2094 MAIN ST APT 172
SAN DIEGO CA 92113

Acknowledgement of Rewritten Contract:

I/We hereby acknowledge that the original contract entered into between myself and Mossy has been mutually rescinded and no longer has any legal effect.

Adjusting APR Adding down Payment

I understand that I may be entitled to a complete refund of all consideration previously paid by me, including return of my trade, if applicable. If my trade has been sold, I have been offered the amount allowed on the contract less any actual payoff amount owing.

I hereby freely and voluntarily elect to enter into a different contract for the purchase of the vehicle as evidenced by my signing the rewritten contract referenced above.

I understand that I do not have to agree to any change in the original terms or conditions. No form of duress or pressure has been exerted against me by any person at Mossy to enter into a new contract.

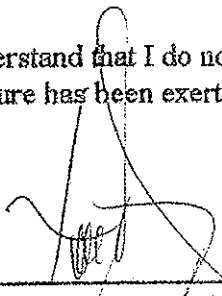
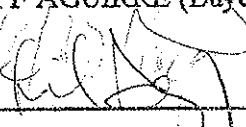
 _____	6/29/2006	_____	6/29/2006
XAVIER F AGUIRRE (Buyer)	Date	Mossy Team Manager (For Seller)	Date
 _____	6/29/2006		
LILIANA AGUIRRE (Co-Buyer)	Date		

EXHIBIT 3

SIMPLE INTEREST FINANCE CHARGE

Dealer Number VD4051002 Contract Number VD4063992 R.O.S. Number 1441000 Stock Number 328165

Buyer (and Co-Buyer) Name XAVIER F AGUIRRE LILLIANA AGUIRRE 2094 MAIN ST APT 172 SAN DIEGO CA 92113	Address (including County and Zip Code)	Creditor - Seller (Name and Address) Mossy Nissan National City 2700 National City Blvd National City CA 91950
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You, the Buyer (and Co-Buyer, if any), may buy the vehicle below for cash or on credit. By signing this contract, you choose to buy the vehicle on credit under the agreements on the front and back of this contract. You agree to pay the Creditor - Seller (sometimes "we" or "us" in this contract) the Amount Financed and Finance Charge according to the payment schedule below. We will figure your finance charge on a daily basis. The Truth-in-Lending Disclosures below are part of this contract.

New Used	Year	Make and Model	Odometer	Vehicle Identification Number	Primary Use For Which Purchased
NEW	2005	NISSAN QUEST	11	5N1BV28U16N113475	<input checked="" type="checkbox"/> personal, family or household <input type="checkbox"/> business or commercial

FEDERAL TRUTH-IN-LENDING DISCLOSURES				
ANNUAL PERCENTAGE RATE	FINANCE CHARGE	Amount Financed	Total of Payments	Total Sale Price
The cost of your credit as a yearly rate.	The dollar amount the credit will cost you.	The amount of credit provided to you or on your behalf.	The amount you will have paid after you have made all payments as scheduled.	The total cost of your purchase on credit, including your down payment of \$ <u>500.00</u> is \$ <u>40,462.16</u> (e)
11.19 %	\$ 11,083.81(e)	\$ 28,878.35	\$ 39,962.16(e)	\$ 40,462.16(e)
(e) means an estimate				
YOUR PAYMENT SCHEDULE WILL BE:				
Number of Payments:		Amount of Payments:		When Payments Are Due:
One Payment of		N/A		N/A
One Payment of		N/A		N/A
Payments		N/A		Monthly, Beginning N/A
71 Payments		555.03		Monthly, Beginning 8/16/06
One Final Payment		555.03		7/6/12

Late Charge: If payment is not received in full within 10 days after it is due, you will pay a late charge of 5% of the part of the payment that is late.
Prepayment: If you pay off all your debt early, you may be charged a minimum finance charge.
Security Interest: You are giving a security interest in the vehicle being purchased.
Additional Information: See this contract for more information including information about nonpayment, default, any required repayment in full before the scheduled date, minimum finance charges, and security interest.

STATEMENT OF INSURANCE
NOTICE: No person is required as a condition of financing the purchase of a motor vehicle to purchase or negotiate any insurance through a particular insurance company, agent or broker. You are not required to buy any other insurance to obtain credit. Your decision to buy or not buy other insurance will not be a factor in the credit approval process.

Vehicle Insurance

Term	Premium
\$ N/A Ded. Comp., Fire & Theft	N/A mos \$ N/A
\$ N/A Ded. Collision	N/A mos \$ N/A
Body Injury \$ N/A Limits	N/A mos \$ N/A
Property Damage \$ N/A Limits	N/A mos \$ N/A
Medical	N/A mos \$ N/A
Total Vehicle Insurance Premiums	\$ N/A

UNLESS A CHARGE IS INCLUDED IN THIS AGREEMENT FOR PUBLIC LIABILITY OR PROPERTY DAMAGE INSURANCE, PAYMENT FOR SUCH COVERAGE IS NOT PROVIDED BY THIS AGREEMENT.
You may buy the physical damage insurance this contract requires (see back) from anyone you choose who is acceptable to us. You are not required to buy any other insurance to obtain credit.

Buyer X
Seller X

If any insurance is checked below, policies or certificates from the named insurance companies will describe the terms and conditions.

Application for Optional Credit Insurance

Credit Life: Buyer Co-Buyer Both
 Credit Disability (Buyer Only)

Term	Exp.	Premium
Credit Life	N/A mos	N/A \$ N/A
Credit Disability	N/A mos	N/A \$ N/A
Total Credit Insurance Premiums		\$ N/A (H)
Insurance Company Name		N/A

Home Office Address _____

Credit life insurance and credit disability insurance are not required to obtain credit. Your decision to buy or not buy credit life and credit disability insurance will not be a factor in the credit approval process. They will not be provided unless you sign and agree to pay the extra cost. Credit life insurance is based on your original payment schedule. This insurance may not pay all you owe on this contract if you make late payments. Credit disability insurance does not cover any increase in your payment or in the number of payments. Coverage for credit life insurance and credit disability insurance ends on the original due date for the last payment unless a different term for the insurance is shown above.
You are applying for the credit insurance marked above. Your signature below means that you agree that: (1) You are not eligible for insurance if you have reached your 65th birthday. (2) You are eligible for disability insurance only if you are working for wages or profit 30 hours a week or more on the Effective Date. (3) Only the Primary Buyer is eligible for disability insurance. DISABILITY INSURANCE MAY NOT COVER CONDITIONS FOR WHICH YOU HAVE SEEN A DOCTOR OR CHIROPRACTOR IN THE LAST 6 MONTHS (Refer to "Total Disabilities Not Covered" in your policy for details).
You want to buy the credit insurance.

N/A X N/A
Date Buyer Signature Age
N/A X N/A
Date Co-Buyer Signature Age

ITEMIZATION OF THE AMOUNT FINANCED

- Total Cash Price**
 - Cash Price of Motor Vehicle and Accessories \$ 26,995.00 (A)
 - Cash Price Vehicle \$ 26,995.00
 - Cash Price Accessories \$ 0.00
 - Other (Nontaxable) \$ N/A
Describe _____ \$ N/A
Describe _____ \$ N/A
 - Document Preparation Fee (not a governmental fee) \$ 45.00 (B)
 - Smog Fee Paid to Seller \$ N/A (C)
 - Sales Tax (on taxable items in A+B+C) \$ 2,095.60 (D)
 - Optional DMV Electronic Filing Fee* \$ N/A (E)
 - (Optional) Service Contract* \$ N/A (F)
 - (Optional) Service Contract* \$ N/A (G)
 - Prior Credit or Lease Balance paid by Seller to WFS FNCL INC \$ N/A (H)
(see downpayment and trade-in calculation)
 - (Optional) Gap Contract (to whom paid)* \$ N/A (I)
 - Other (to whom paid)* \$ N/A (J)
For N/A
- Total Cash Price (A through J)** \$ 29,135.60 (1)
- Amounts Paid to Public Officials**
 - License Fees **ESTIMATED** \$ 234.00 (A)
 - Registration/Transfer/Titling Fees \$ N/A (B)
 - California Tire Fees* \$ 8.75 (C)
 - Other N/A \$ N/A (D)
 - Other N/A \$ N/A (E)
- Total Official Fees (A through E)** \$ 242.75 (2)
- Amount Paid to Insurance Companies**
(Total premiums from Statement of Insurance column a + b)* \$ N/A (3)
- Smog Certification or Exemption Fee Paid to State** \$ N/A (4)
- Subtotal (1 through 4)** \$ 29,378.35 (5)
- Total Downpayment**
 - Agreed Trade-In Value Y2004 Make NISSAN \$ 11,000.00 (A)
Model XTEERRA Odom 15,557
VIN 5N1DD28T14C679857

b. Less Prior Credit or Lease Balance \$ 2,500.00 (C)
 C. Net Trade-In (A less B) (indicate if a negative number) \$ N/A (D)
 D. Deferred Downpayment \$ N/A (E)
 E. Manufacturer's Rebate \$ 3,000.00 (F)
 F. Other \$ N/A (G)
 G. Cash \$ N/A (H)
 Total Downpayment (C through G) \$ 500.00 (I)
 (If negative, enter zero on line 6 and enter the amount less than zero as a positive number on line 1H above)
 7. Amount Financed (5 less 6) \$ 28,878.35 (J)
 *Seller may keep part of these amounts.

OPTIONAL GAP CONTRACT A gap contract (debt cancellation contract) is not required to obtain credit and will not be provided unless you sign below and agree to pay the extra charge. If you choose to buy a gap contract, the charge is shown in item 1. See your gap contract for details on the protection it provides. This is part of this contract.
 Term: N/A Mos. N/A
 Name of Gap Contract: _____
 You want to buy a gap contract.
 Buyer X: N/A

SELLER ASSISTED LOAN
 BUYER MAY BE REQUIRED TO PLEDGE SECURITY FOR THE LOAN, AND WILL BE OBLIGATED FOR THE INSTALLMENT PAYMENTS ON BOTH THIS RETAIL INSTALLMENT SALE CONTRACT AND THE LOAN.
 Proceeds of Loan From: N/A
 Amount \$ N/A Finance Charge \$ N/A
 Total \$ N/A Payable in N/A
 installments of \$ N/A \$ N/A
 from this Loan is shown in item 6D.

AUTO BROKER FEE DISCLOSURE
 If this contract reflects the retail sale of a new motor vehicle, the sale is not subject to a fee received by an autobroker from us unless the following box is checked:
 Name of autobroker receiving fee, if applicable: _____

OPTIONAL SERVICE CONTRACT(S) You want to purchase the service contract(s) written with the following company(ies) for the term(s) shown below for the charge(s) shown in item 1.F and/or 1.G above.
 1.F Company: N/A Mos. or N/A Miles
 Term: N/A Mos. or N/A Miles
 1.G Company: N/A Mos. or N/A Miles
 Term: N/A Mos. or N/A Miles
 Buyer X: N/A

NOTICE OF RESCISSION RIGHTS
 If Buyer and Co-Buyer sign here, the provisions of the Rescission Rights section on the back giving the Seller the right to rescind if Seller is unable to assign this contract to a financial institution will apply.
 Buyer X: _____
 Co-Buyer X: _____
 OPTION: You pay no finance charge if the Amount Financed, item 7, is paid in full on or before _____ Year. SELLER'S INITIALS _____

HOW THIS CONTRACT CAN BE CHANGED. This contract contains the entire agreement between you and us relating to this contract. Any change to the contract must be in writing and both you and we must sign it. No oral changes are binding.
 X Buyer Signs: _____
 Co-Buyer Signs: _____

THE MINNAPPA PUBLIC LIABILITY INSURANCE LIMITS PROVIDED IN LAW MUST BE MET BY EVERY PERSON WHO PURCHASES A VEHICLE. IF YOU ARE UNSURE WHETHER OR NOT YOUR CURRENT INSURANCE POLICY WILL COVER YOUR NEWLY ACQUIRED VEHICLE IN THE EVENT OF AN ACCIDENT, YOU SHOULD CONTACT YOUR INSURANCE AGENT.
WARNING:
 YOUR PRESENT POLICY MAY NOT COVER COLLISION DAMAGE OR MAY NOT PROVIDE FOR FULL REPLACEMENT COSTS FOR THE VEHICLE BEING PURCHASED. IF YOU DO NOT HAVE FULL COVERAGE, SUPPLEMENTAL COVERAGE FOR COLLISION DAMAGE MAY BE AVAILABLE TO YOU THROUGH YOUR INSURANCE AGENT OR THROUGH THE SELLING DEALER. HOWEVER, UNLESS OTHERWISE SPECIFIED, THE COVERAGE YOU OBTAIN THROUGH THE DEALER PROTECTS ONLY THE DEALER, USUALLY UP TO THE AMOUNT OF THE UNPAID BALANCE REMAINING AFTER THE VEHICLE HAS BEEN REPOSSESSED AND SOLD.
 FOR ADVICE ON FULL COVERAGE THAT WILL PROTECT YOU IN THE EVENT OF LOSS OR DAMAGE TO YOUR VEHICLE, YOU SHOULD CONTACT YOUR INSURANCE AGENT.
 THE BUYER SHALL SIGN AND ACKNOWLEDGE THAT HE/SHE UNDERSTANDS THESE PUBLIC LIABILITY TERMS AND CONDITIONS.
 S/S X: _____
 Co-Buyer X: _____

Representations of Buyer: Seller has relied on the truth and accuracy of the information provided by you in connection with the Trade-In Vehicle. You represent that you have given a true payoff amount on the vehicle traded in. If the payoff amount is more than the amount shown above in item 6.B as "Prior Credit or Lease Balance," you must pay Seller the excess on demand. If the payoff amount is less than the amount shown above in item 6.B as "Prior Credit or Lease Balance," Seller will refund the difference to you.
 Buyer X: _____
 Co-Buyer X: _____

Notice to buyer:
 (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement.

If you have a complaint concerning this sale, you should try to resolve it with the seller. Complaints concerning unfair or deceptive practices or methods by the seller may be referred to the city attorney, the district attorney, or an investigator for the Department of Motor Vehicles, or any combination thereof.
 After this contract is signed, the seller may not change the financing or payment terms unless you agree in writing to the change. You do not have to agree to any change, and it is an unfair or deceptive practice for the seller to make a unilateral change.
 Buyer Signature X: _____
 Co-Buyer Signature X: _____

The Annual Percentage Rate may be negotiable with the Seller. The Seller may assign this contract and retain its right to receive a part of the Finance Charge.

THERE IS NO COOLING OFF PERIOD
 California law does not provide for a "cooling off" or other cancellation period for vehicle sales. Therefore, you cannot later cancel this contract simply because you change your mind, decide the vehicle costs too much, or wish you had acquired a different vehicle. After you sign below, you may only cancel this contract with the agreement of the seller or for legal cause, such as fraud.

YOU AGREE TO THE TERMS OF THIS CONTRACT. YOU CONFIRM THAT BEFORE YOU SIGNED THIS CONTRACT WE GAVE IT TO YOU, AND YOU WERE FREE TO TAKE IT AND REVIEW IT. YOU ACKNOWLEDGE THAT YOU HAVE READ BOTH SIDES OF THIS CONTRACT, INCLUDING THE ARBITRATION CLAUSE ON THE REVERSE SIDE, BEFORE SIGNING BELOW. YOU CONFIRM THAT YOU RECEIVED A COMPLETELY FILLED-IN COPY WHEN YOU SIGNED IT.

Buyer Signature X: _____ Date: 6/22/06
 Co-Buyer Signature X: _____ Date: 6/22/06
 Co-Buyers and Other Owners — A co-buyer is a person who is responsible for paying the entire debt. An other owner is a person whose name is on the title to the vehicle but does not have to pay the debt. The other owner agrees to the security interest in the vehicle given to us in this contract.
 Other Owner Signature X: N/A Address: _____

GUARANTY
 To induce us to sell the vehicle to Buyer, each person who signs as a Guarantor individually guarantees the payment of this contract. If Buyer fails to pay any money owing on this contract, each Guarantor must pay it when asked. Each Guarantor will be liable for the total amount owing even if other persons also sign as Guarantor, and even if Buyer has a complete defense to Guarantor's demand for reimbursement. Each Guarantor agrees to be liable even if we do one or more of the following: (1) give the Buyer more time to pay one or more payments; (2) give a full or partial release to any other Guarantor; (3) release any security; (4) accept less from the Buyer than the total amount owing; or (5) otherwise reach a settlement relating to this contract or extend the contract. Each Guarantor acknowledges receipt of a completed copy of this contract and guaranty at the time of signing.
 Guarantor waives notice of acceptance of the Guaranty, notice of the Buyer's non-payment, non-performance, and default; and notices of the amount owing at any time, and of any demands upon the Buyer.
 Guarantor X: N/A Date: _____ Guarantor X: N/A Date: _____
 Address: _____ Address: _____

Seller Signs: _____ Date: 6/22/06 By X: _____ Title: _____