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**FILED**  
SUPERIOR COURT  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT

MAY 05 2009

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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
13 **IN AND FOR THE COUNTY OF SAN BERNARDINO**

14 OCTAVIO SANCHEZ CASTANEDA,  
individually and on behalf of all others  
15 similarly situated,

CASE NO. CIVSS816398

16 Plaintiff,

**CLASS ACTION**

17 v.

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

18 SPREEN, INC., a California  
Corporation, d.b.a. SPREEN HONDA;  
19 and DOES 1 through 10, inclusive,

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

20 Defendants.  
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1 Plaintiff Octavio Sanchez Castaneda, individually as to all causes of action, and on  
2 behalf of all others similarly-situated as to the First through Third Causes of Action, alleges  
3 as follows on information and belief, formed after an inquiry reasonable under the  
4 circumstances:

#### 5 INTRODUCTION

6 1. Plaintiff is one of many customers who, during the past several years,  
7 purchased a vehicle from Defendant Spreen Honda (hereinafter "Defendant" and/or  
8 "Spreen"), a large automobile dealership in San Bernardino County, California. After  
9 Plaintiff and other consumers signed purchase contracts for vehicles, Spreen contacted  
10 them and told them that the deal needed to be changed in one way or another. Spreen  
11 then had these customers sign a subsequent purchase contract that was backdated to the  
12 date of the original purchase contract.

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

22 3. The conduct herein described violates, *inter alia*, the Automobile Sales  
23 Finance Act ("ASFA") (Civil Code §2981, *et seq.*), the Consumers Legal Remedies Act  
24 ("CLRA") (Civil Code §1750, *et seq.*), and the Unfair Competition Law ("UCL") (Bus. & Prof.  
25 Code §17200, *et seq.*). Further, the illegal practice of backdating contracts is a policy,  
26 procedure, or practice followed by Spreen. Thus, class relief is appropriate to remedy such  
27 practices.

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1 JURISDICTION AND VENUE

2 4. This Court has jurisdiction over all causes of action asserted herein pursuant  
3 to the California Constitution, Article VI, Section 10, because this case is a cause not given  
4 by statute to other trial courts.

5 5. This Court has jurisdiction over Defendants because each are individuals,  
6 associations, or corporations that are either authorized to conduct or, in fact, do conduct  
7 substantial business in the State of California, County of San Bernardino.

8 6. Venue is proper in this County because the transactions at issue in this  
9 lawsuit all occurred in this County.

10 PARTIES

11 7. Plaintiff Octavio Sanchez Castaneda is an individual residing in the City of  
12 San Bernardino, County of San Bernardino, State of California.

13 8. Defendant Spreen Honda (hereinafter "Defendant" and/or "Spreen"), is a  
14 new and used car dealership in the City of Loma Linda, County of San Bernardino, State  
15 of California.

16 9. Plaintiff does not know the true names and capacities, whether  
17 corporate, partnership, associate, individual, or otherwise of Defendants sued herein  
18 as Does 1 through 10, inclusive, under the provisions of Section 474 of the California  
19 Code of Civil Procedure. Defendants Does 1 through 10, inclusive, are in some manner  
20 responsible for the acts, occurrences, and transactions set forth herein, and are legally  
21 liable to Plaintiff and the class. Plaintiff will set forth the true names and capacities of the  
22 fictitiously-named Defendants together with appropriate charging allegations when  
23 ascertained.

24 10. All acts of corporate employees as alleged were authorized or ratified by an  
25 officer, director, or managing agent of the corporate employer.

26 11. Each Defendant, whether actually or fictitiously-named herein, was the  
27 principal, agent (actual or ostensible), or employee of each other Defendant and in acting  
28 as such principal or within the course and scope of such employment or agency, took some

1 part in the acts and omissions hereinafter set forth by reason of which each Defendant is  
2 liable to Plaintiff for the relief prayed for herein.

3 **CLASS ALLEGATIONS**

4 12. This action is brought, and may properly be maintained, as a class action  
5 pursuant to the provisions of California Code of Civil Procedure Section 382 and Civil Code  
6 Section 1781(a).

7 13. Plaintiff brings this action on behalf of himself and all others similarly-situated  
8 as representative members of the following proposed class:

9 All persons in the four years prior to the date of filing of the complaint in this  
10 action, who (a) purchased a vehicle from Defendant Spreen for personal  
11 use; (b) on a later date rescinded their original purchase contract; and  
12 (c) signed a subsequent or second contract for the purchase of the same  
13 vehicle, which contract was dated the date of the original purchase contract  
14 and involved financing at an annual percentage rate greater than 0.00% (the  
15 "Class", made up of "Class Members").

16 14. In this lawsuit, Plaintiff and the Class seek both equitable relief, including  
17 declaratory, injunctive, restitutionary, and other equitable monetary relief and economic  
18 and statutory damages as set forth more fully below, including, but not limited to, full  
19 rescission and restitution of any purchase contract entered into by any Class Member.

20 15. Specifically excluded from the proposed Class are the Court and its staff,  
21 Defendants, any entity in which any of the Defendants has a controlling interest, and the  
22 officers, directors, affiliates, legal representatives, heirs, successors, subsidiaries, and/or  
23 assigns of any such individual or entity.

24 **A. NUMEROSITY OF THE CLASS**

25 16. The proposed Class is so numerous that the individual joinder of the Class  
26 Members in one action is impracticable. The exact number and the identities of the  
27 Members of the Class are unknown at this time and can only be ascertained through  
28 appropriate investigation and discovery.

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

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

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

**C. TYPICALITY OF CLAIMS**

18. In regard to members of the Class, Spreen engaged in the standard practice of having customers sign subsequent Retail Installment Sale Contracts and backdating the subsequent contract to the date of the original purchase contract.

19. Plaintiff and each member of the Class purchased a vehicle for personal use and signed a second Retail Installment Sale Contract that was backdated to the date of their original contract and included financing at an annual percentage rate greater than 0%.

20. Plaintiff's claims are typical of the claims of members of the Class.

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1           **D.     ADEQUATE REPRESENTATION**

2           21.     Plaintiff will fairly and adequately protect the interests of the members of the  
3 Class in that he does not have irreconcilable conflicts with or interests materially  
4 antagonistic to those of other Class members.

5           22.     Plaintiff has retained attorneys experienced in the prosecution of class  
6 actions, including consumer class actions.

7           **E.     SUPERIORITY AND SUBSTANTIAL BENEFITS OF CLASS LITIGATION**

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

1 this action on a class-wide basis by avoiding the burden of multiple litigation involving  
2 identical claims, as well as by aiding legitimate business enterprises in curtailing illegitimate  
3 competition and ensuring a therapeutic effect on those companies such as Spreen that  
4 indulge in fraudulent practices.

5 24. Notice of the pendency of any resolution of this action can be provided to the  
6 Class Members by publication and/or individual mailed notice, as appropriate under  
7 California law, and the costs of such notice are properly imposed on Spreen.

8 25. This action is also properly certified to proceed on a class-wide basis  
9 because:

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

23 **SUMMARY OF FACTS COMMON TO THE CLASS**

24 26. During the Class period, it was Spreen's practice and policy that when a  
25 purchase contract was rescinded, and a subsequent purchase contract was entered into  
26 for the same vehicle with the same customer, the date recorded on the subsequent  
27 purchase contract was not the date the subsequent purchase contract was executed but  
28 the date the customer signed the original purchase contract.

1           27. Each Class Member purchased a vehicle for personal use from Spreen.  
2 Each Class Member executed an "Acknowledgement of Rescinded Contract" form (or a  
3 similar form) and each Class Member entered into a subsequent purchase contract with  
4 Spreen that was backdated to the date of the original purchase contract.

5           28. The financial disclosures in the final purchase contract signed by each Class  
6 Member were based on a consummation date of the date shown on the contract, not the  
7 date the contract was signed and consummated.

8           29. The final purchase contracts for each Class Member do not contain all of the  
9 agreements between the buyer and the seller as they do not disclose, among other things,  
10 the date of consummation, the accurate APR, and/or finance charge disclosures, and/or  
11 the charges are prior to consummation.

12           **SUMMARY OF FACTS RELATIVE TO PLAINTIFF'S INDIVIDUAL PURCHASE**

13           30. Responding to Spreen's newspaper advertisements promising quality cars  
14 for sale with monthly payments between \$99 to \$159 per month, Mr. Castaneda went to  
15 Spreen with his wife and two small children to look for a new family vehicle.

16           31. At the dealership, the Castanedas were approached by dealership personnel.  
17 They asked him how much he could spend a month to buy a car. Mr. Castaneda  
18 responded that he could not spend more than \$250 per month.

19           32. The Castanedas were shown several used cars. Mr. Castaneda settled on  
20 two cars, a Dodge Stratus and a white Saturn. The salespeople told Mr. Castaneda the  
21 Saturn had been sold already.

22           33. A sales manager then appeared and said "I have a better car for you,"  
23 pointing to a Saturn Ion. The sales manager said the Ion had "only one owner, an old lady  
24 who passed away." He said "her husband just kept the car in the garage a long time."

25           34. The Ion was advertised as coming with a 30-day dealership warranty.

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1           35.     The Castanedas were then taken inside to fill out paperwork. Mr. Castaneda  
2 insisted that he did not want to buy a car at that time, but wanted to see if he qualified for  
3 financing for the Stratus. The Castanedas were kept inside the dealership for several  
4 hours while the dealership was ostensibly looking for financing for the Stratus.

5           36.     Suddenly, the loud speakers came on at the dealership announcing  
6 "Mr. Octavio Castaneda has qualified for a Saturn Ion." No other such announcements  
7 were made over the speakers during the Castanedas' long wait.

8           37.     The salespeople then approached the Castanedas with much fanfare,  
9 congratulating them about qualifying for the Ion. A salesman then showed Mr. Castaneda  
10 a "Buyer's Agreement Sheet," listing a used, 2005 Saturn Ion (VIN:  
11 1G8AJ52F45Z167636)(the "Vehicle"), and containing an amount to be financed,  
12 downpayment amount, and monthly payment amount. Mr. Castaneda asked about the  
13 Dodge Stratus. The salespeople told him the bank would not finance the Stratus because  
14 it did not come with a lot of warranties, or something to that effect.

15           38.     Mr. Castaneda was told he had to sign the Buyer's Agreement Sheet at the  
16 bottom, which stated he agreed to buy the Ion, before he could be sent to the Finance  
17 Department. The full terms of the purchase and credit were not listed on the Buyer's  
18 Agreement Sheet. Mr. Castaneda asked why the purchase price listed was several  
19 thousand dollars above the advertised price. The sales person told him that would be  
20 explained to him in the Finance Department. Mr. Castaneda did not want to be bound to  
21 buy the car with all the questions he had, but he was told he had no other choice if he  
22 wanted to get the badly needed car.

23           39.     Only after having been forced to sign the Buyer's Agreement Sheet were  
24 Mr. Castaneda and his family sent to the Finance Department. Mr. Castaneda was not  
25 given a copy of the signed Buyer's Agreement Sheet. Mr. Castaneda then signed a Retail  
26 Installment Sale Contract on June 8, 2008, for purchase of the Vehicle ("RISC #1"). The  
27 sale included an expensive service contract that was supposed to provide comprehensive  
28 coverage if anything went wrong with the Vehicle.

1           40.     Approximately five days later, the dealership called Mr. Castaneda and said  
2 he had to come in and do another contract. Mr. Castaneda asked why, and the dealership  
3 representative abruptly stated "Hey, do you want to save some money?"

4           41.     When Mr. Castaneda arrived at the dealership on or about June 13, 2008,  
5 he was shown to a Finance Manager's office. He was told that the new contract lowered  
6 his interest rate one point, and that would save him approximately \$900. Based on the  
7 dealership's representations, Mr. Castaneda signed the second Retail Installment Sale  
8 Contract on June 13, 2008 ("RISC #2"). A true and correct copy of the contract is attached  
9 hereto as Exhibit 1.

10          42.     Mr. Castaneda also signed an Acknowledgement of Rewritten Contract form,  
11 stating the "sale was rescinded for the following reason: rewritten per bank guidelines [sic]."  
12 The Acknowledgement form was dated June 13, 2008. A true and correct copy of the  
13 Acknowledgment is attached hereto as Exhibit 2.

14          43.     The second purchase contract, which Mr. Castaneda executed with Spreen  
15 on June 13, 2008, was dated the date of the original purchase contract – June 8, 2008.

16          44.     Approximately two to three weeks after the sale, Mr. Castaneda began  
17 experiencing significant problems with the Vehicle. On several occasions, sensor alarms  
18 would activate and the Vehicle would lose power, not be able to accelerate past 50-55  
19 miles per hour, and other problems would appear. The alarm lights then shut themselves  
20 off.

21          45.     Mr. Castaneda took the Vehicle to Spreen when the problems with the  
22 vehicle reappeared on or about July 11, 2008. Spreen service personnel told him that the  
23 30-day warranty, which would normally pay 100% of the repair cost, had expired a couple  
24 of days prior. The service personnel told him that he must take it to a Saturn dealer for  
25 repair (although the service contract required Spreen do the repair) and that if his service  
26 contract would not cover the repairs, Spreen would probably pay for the repairs itself.

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1 respects: (1) representing that a transaction confers or involves rights, remedies, or  
2 obligations which it does not have or involve, or which are prohibited by law; and  
3 (2) representing that the subject of a transaction has been supplied in accordance with a  
4 previous representation when it has not.

5 55. Concurrently with the filing of this lawsuit, Plaintiff served Spreen via certified  
6 and regular mail a CLRA notification and demand on behalf of all persons who  
7 (a) purchased a vehicle from Spreen for personal use; (b) on a later date rescinded their  
8 original purchase contract; and (c) signed a subsequent or second contract for the  
9 purchase of the same vehicle, which contract was dated the date of the original purchase  
10 contract and involved financing at an annual percentage rate greater than 0.00% (the  
11 "Class").

12 56. **The statutory thirty-day period expired without cure of Defendant's**  
13 **violations as to Plaintiff or the Class, and therefore Plaintiff and the Class seek**  
14 **actual damages, rescission and restitution, and punitive damages under the**  
15 **Consumers Legal Remedies Act for Defendant's fraudulent, malicious, and**  
16 **oppressive violations of the CLRA.**

17 57. Civil Code Section 1780(a)(2) provides that a consumer is entitled to an  
18 injunction prohibiting acts or practices which violate the Act. Plaintiff alleges that Spreen  
19 has established a pattern and practice of: (1) backdating subsequent purchase contracts  
20 to the date of the original purchase contracts; (2) improperly completing second contracts  
21 for the purchase of a vehicle; (3) charging interest before consummation; (4) collecting or  
22 causing to be collected finance charges in excess of disclosed finance charges;  
23 (5) charging compound interest in simple interest contracts, and (6) failing to include all  
24 agreements between the buyer and the seller in a single document. Plaintiff, on behalf of  
25 himself and the Class Members, seeks an order enjoining Defendants from the acts,  
26 methods, and practices as set forth in the complaint.

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1           66.     Spreen and Plaintiff, and each Class Member, consummated their final  
2 purchase on the date the subsequent purchase contract was signed by Plaintiff and each  
3 Class Member, respectively, and Plaintiff and each Class Member took delivery of their  
4 vehicles. By backdating the subsequent purchase contract to the date of the now-  
5 rescinded original purchase contract, thereby charging interest before consummation,  
6 Spreen violated Civil Code Section 2982(a), which requires all conditional sales contracts  
7 to comply with the disclosure requirements of Regulation Z. The backdated purchase  
8 contracts also improperly charged Plaintiff and the Class Members compound interest.

9           67.     By backdating the final purchase contract to the date of the original purchase  
10 contract, Spreen overstated the payment that was due for the annual percentage rate  
11 shown on the contract. The actual annual percentage rate, based on a contract  
12 consummation date of the final purchase contract, varied from the disclosed annual  
13 percentage rate by more than Regulation Z permits. Likewise, the actual finance charges,  
14 based on a contract consummation date of the final purchase contract, varied from the  
15 disclosed finance charge by more than Regulation Z permits.

16           68.     By backdating the final purchase contract to the date of the original purchase  
17 contract, Spreen violated the ASFA's single document rule. The final purchase contract  
18 does not accurately set forth the terms of payment for the motor vehicle because it  
19 misstates the annual percentage rate, the finance charge, and what the true monthly  
20 payment should be based on the disclosed annual percentage rate. The final purchase  
21 contract also fails to disclose the interest charged prior to consummation. The only means  
22 of determining the true annual percentage rate, finance charge, and monthly payment is  
23 through review of other documents stating the date the final contract was actually  
24 consummated.

25           69.     By backdating the final purchase contract, Spreen also violated Civil Code  
26 Section 2982(j) by causing the holder to charge, collect, or receive a finance charge which  
27 exceeds the disclosed finance charge. Plaintiff signed the Buyer's Agreement Sheet,  
28 which is a "Purchase Order" as defined by Civil Code Section 2981(c). Spreen requested

1 Plaintiff sign the vehicle purchase proposal, and failed to give Plaintiff a copy prior to  
2 delivery of the vehicle.

3 70. Plaintiff and each Class Member have been damaged by Spreen's violations  
4 of the ASFA. Since the violations include violations of Civil Code Sections 2981.9,  
5 2982(a), and 2982(j), Plaintiff and each Class Member are entitled to rescission of their  
6 purchase contracts pursuant to Civil Code Section 2983.1 and return of all monies paid  
7 under the contracts pursuant to Civil Code Section 2983. Plaintiff also seeks attorneys'  
8 fees and costs pursuant to Civil Code Section 2983.4 and requests an injunction prohibiting  
9 Spreen from engaging in the illegal practices alleged herein.

10 **THIRD CAUSE OF ACTION**

11 **Commission of Unlawful, Unfair, and/or Fraudulent Business Acts and Practices,**  
12 **Bus. & Prof. Code Section 17200, et seq. – Class Claim Against Defendant Spreen**  
13 **and Does 1-10**

14 71. Plaintiff, on his own behalf and on behalf of the Class Members, incorporates  
15 by reference each and every allegation set forth in Paragraphs 1 through 70, inclusive, of  
16 this Complaint.

17 72. Spreen's acts, omissions, misrepresentations, practices, and non-disclosures  
18 constituted unlawful, unfair, and fraudulent business acts and practices within the meaning  
19 of California Business & Professions Code Sections 17200, et seq.

20 73. Plaintiff, and the Class Members have suffered injury in fact and have lost  
21 money as a result of Defendant's unfair competition.

22 74. Spreen has engaged in "unlawful" business acts and practices by the  
23 following: (1) backdating subsequent purchase contracts to the date of the original  
24 purchase contracts; (2) violating the single document rule in Civil Code Section 2981.9;  
25 (3) improperly completing second contracts for the purchase of a vehicle; (4) charging  
26 interest before consummation; (5) collecting or causing to be collected finance charges in  
27 excess of disclosed finance charges; (6) charging compound interest in simple interest  
28 contracts; and (7) failing to include all agreements between the buyer and the seller in a

1 single document. These policies, acts, and practices were intended to and did violate, *inter*  
2 *alia*, the CLRA and the ASFA. Accordingly, Defendant has violated Business &  
3 Professions Code Section 17200's proscription against engaging in an "unlawful" business  
4 act or practice.

5 75. Defendant has also engaged in a "fraudulent" business act or practice in that  
6 the representations and omissions of material fact described above have a tendency and  
7 likelihood to deceive purchasers of these vehicles.

8 76. Defendant has also engaged in an "unfair" business act or practice in that the  
9 justification for selling vehicles based on the misrepresentations and omissions of material  
10 fact delineated above is outweighed by the gravity of the resulting harm, particularly  
11 considering the available alternatives, and offends public policy, is immoral, unscrupulous,  
12 unethical, and offensive, or causes substantial injury to consumers.

13 77. The above-described unlawful, fraudulent, or unfair business acts and  
14 practices conducted by Defendant continues to this day and presents a threat to Plaintiff,  
15 the Class Members, and the general public in that Defendant has failed to publicly  
16 acknowledge the wrongfulness of its actions and provide full equitable injunctive and  
17 monetary relief as required by the statute.

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

3 **FOURTH CAUSE OF ACTION**

4 **Violation of Consumers Legal Remedies Act, Civil Code Section 1750, et seq. (For**  
5 **Injunctive Relief Only) – Individual Claim Against Defendant Spreen and**  
6 **Does 1-10**

7 79. Plaintiff incorporates by reference each and every allegation set forth in  
8 Paragraphs 1 through 78, inclusive, of this Complaint. This cause of action is brought by  
9 Plaintiff individually.

10 80. The Vehicle constitutes a “good” bought primarily for personal, family, or  
11 household purposes pursuant to Civil Code Section 1761(a).

12 81. Plaintiff is a “consumer” pursuant to Civil Code Section 1761(d).

13 82. The advertisement and sale of the Vehicle to Plaintiff is a “transaction”  
14 pursuant to Civil Code Section 1761(e).

15 83. Pursuant to the Consumers Legal Remedies Act, the following unfair  
16 methods of competition and unfair or deceptive acts or practices are prohibited under the  
17 following subsections of Section 1770(a): (2) misrepresenting the source, sponsorship,  
18 approval or certification of goods or services; (3) misrepresenting the affiliation, connection,  
19 or association with, or certification by, another; (5) representing that goods or services  
20 have sponsorship, approval, characteristics, uses, or benefits which they do not have;  
21 (7) representing that goods or services are of a particular standard, quality, or grade, if they  
22 are of another; (9) advertising goods or services with intent not to sell them as advertised;  
23 (13) making false or misleading statements of fact concerning reasons for, existence of,  
24 or amounts of price reductions; (14) representing that a transaction confers or involves  
25 rights, remedies, or obligations which it does not have or involve, or which are prohibited  
26 by law; (15) representing that a part, replacement, or repair service is needed when it is  
27 not; (16) representing that the subject of a transaction has been supplied in accordance  
28 with a previous representation when it has not; (18) misrepresenting the authority of a

1 salesperson, representative, or agent to negotiate the final terms of a transaction with a  
2 consumer; and (19) inserting an unconscionable provision in a contract.

3 84. Concurrently with the filing of this lawsuit, Plaintiff served Spreen via certified  
4 and regular mail a Consumers Legal Remedies Act notification and demand letter seeking  
5 individual relief from Spreen.

6 85. **The statutory thirty-day period expired without cure of Defendant's**  
7 **violations as to Plaintiff or the Class, and therefore Plaintiff and the Class seek**  
8 **actual damages, rescission and restitution, and punitive damages under the**  
9 **Consumers Legal Remedies Act for Defendant's fraudulent, malicious, and**  
10 **oppressive violations of the CLRA.**

11 86. Section 1780(a)(2) of the CLRA provides that a consumer is entitled to an  
12 injunction prohibiting acts or practices which violate the CLRA. Plaintiff alleges that Spreen  
13 has established a pattern and practice of: (1) misrepresenting the reasons for second or  
14 subsequent contracts; (2) misrepresenting vehicle history; (3) misrepresenting warranty  
15 coverage; (4) misrepresenting the Buyers Agreement Sheet and failing to give executed  
16 Buyer's Agreement Sheets to buyers; (5) misrepresenting service contract coverage and  
17 requirements; and (6) inserting an unconscionable arbitration clause. Plaintiff also seeks  
18 an order enjoining Spreen from the acts, methods, and practices as set forth in this  
19 Complaint and for payment of restitution.

20 87. Plaintiff seeks all remedies available pursuant to Civil Code Section 1780,  
21 including attorneys' fees and costs according to proof at time of trial.

## 22 FIFTH CAUSE OF ACTION

### 23 **Intentional Misrepresentation – Individual Claim Against Defendants Spreen and** 24 **Does 1-10**

25 88. Plaintiff incorporates by reference each and every allegation set forth in  
26 Paragraphs 1 through 87, inclusive, of this Complaint. This cause of action is brought  
27 by Plaintiff individually.

28 ///

1           89. At the time of purchase, and afterwards, Defendant made the  
2 misrepresentations as set forth in Paragraphs 30-48. The identity of Defendant's  
3 employees who made the misrepresentations to Plaintiff are stated in those same  
4 Paragraphs. Names of Defendant's employees whom Plaintiff does not know are known  
5 to Defendant and are stated in documents in Defendant's possession.

6           90. At the time of purchase, and afterwards, Defendant omitted from the  
7 statements it had made material facts as set forth above, the disclosure of which were  
8 necessary in order to make Defendant's other statements not misleading. These  
9 omissions include, but are not limited to the following: the mechanical problems Plaintiff  
10 experienced with the Vehicle were pre-existing, the dealership warranty ran from the date  
11 of the second sale, the finance company(ies) did not require the terms of the second  
12 contract, the second contract was written to increase dealer profits, the Buyers Agreement  
13 Sheet was an illegal document meant to pressure customers, the dealership would not  
14 honor the Buyers Agreement Sheet, the dealership misrepresented the Vehicle's prior  
15 history and use, and an unconscionable arbitration clause was inserted in the contract.

16           91. At all times Defendant either had actual or constructive notice of the true  
17 facts but nonetheless intentionally or recklessly concealed these facts from Plaintiff.

18           92. Defendant made these representations and omitted material facts with the  
19 intent to defraud Plaintiff and induce Plaintiff to purchase the Vehicle. At the time Plaintiff  
20 purchased the vehicle he did not know, or have reason to know, that Defendant was  
21 making false and misleading representations and had omitted material facts. Plaintiff acted  
22 in justifiable reliance upon the truth of the representations which misled them as to the  
23 nature and extent of the facts concealed. Plaintiff was justified in his reliance as Defendant  
24 held itself out as a professional in the automotive sales and leasing industry and Plaintiff  
25 had no reason to doubt its representations.

26           93. As a direct and proximate result of Defendant's fraudulent representations,  
27 omissions of material fact and wrongful conduct, Plaintiff has suffered damages, including  
28 actual, general, consequential, and incidental damages according to proof at trial.





1 112. Notwithstanding Plaintiff's entitlement thereto, Defendant has refused  
2 Plaintiff's demands for a refund or replacement.

3 113. By the failure of Defendant to remedy the defects as alleged above, or to  
4 issue a refund or replacement, Defendant is in breach of its obligations under the Act.

5 114. Plaintiff is entitled to justifiably revoke acceptance of the Vehicle under the  
6 Act.

7 115. Under the Act, Plaintiff is entitled to reimbursement of the purchase price paid  
8 for the Vehicle less that amount directly attributable to use by Plaintiff prior to discovery of  
9 the nonconformities.

10 116. Plaintiff is entitled to all incidental, consequential, and general damages  
11 resulting from Defendant's refusal and/or failure to comply with their obligations under the  
12 Act.

13 117. As Defendant's failure and refusal to comply with the Act regarding its  
14 express warranties was willful, Plaintiff is entitled to a civil penalty.

15 118. Plaintiff is entitled under the Act to recover as part of the judgment a sum  
16 equal to the aggregate amount of costs and expenses, including attorney's fees,  
17 reasonably incurred in connection with the commencement and prosecution of this action.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff prays for judgment as follows, on behalf of himself, and the  
20 members of the Class, as appropriate for the particular causes of action:

21 1. An Order certifying the Class under the appropriate provisions of California  
22 law, and appointing Plaintiff and his counsel to represent the Class.

23 2. For the declaratory, equitable, and/or injunctive relief requested.

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

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

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

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

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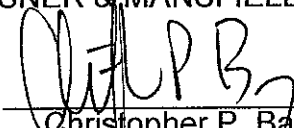
7. For pre-judgment interest at the legal rate.

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

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

DATED: April 15, 2009

ROSNER & MANSFIELD, LLP

By:   
\_\_\_\_\_  
Christopher P. Barry  
Attorneys for Plaintiff

# EXHIBIT 1

RETAIL INSTALLMENT CONTRACT - SIMPLE FINANCE CHARGE

Dealer Number \_\_\_\_\_ Contract Number \_\_\_\_\_ R.O.S. Number 34641149 Stock Number H1124

Buyer Name and Address (Including County and Zip Code) <b>OCTAVIO CASTANEDA</b> <b>1233 GOULD ST</b> <b>SAN BERNARDINO CA 92408</b> <b>SAN BERNARDINO</b>	Co-Buyer Name and Address (Including County and Zip Code)	Creditor-Seller (Name and Address) <b>SPREEN HONDA</b> <b>25050 REDLANDS BLVD</b> <b>LOMA LINDA CA 92354</b> <b>SAN BERNARDINO</b>
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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 in U.S. funds 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
<input checked="" type="checkbox"/> USED	2005	SATURN ION	68744	1G8AJ52F45Z167636	<input checked="" type="checkbox"/> personal, family or household <input type="checkbox"/> business or commercial

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	Amount Financed	Total of Payments	Total Sale Price
The cost of your credit as a yearly rate. <b>6.20 %</b>	The dollar amount the credit will cost you. <b>\$ 3087.92 (e)</b>	The amount of credit provided to you or on your behalf. <b>\$ 15434.80</b>	The amount you will have paid after you have made all payments as scheduled. <b>\$ 18522.72(e)</b>	The total cost of your purchase on credit, including your down payment of <b>1200.00</b> is <b>\$ 19722.72 (e)</b>

(e) means an estimate

YOUR PAYMENT SCHEDULE WILL BE:		
Number of Payments:	Amount of Payments:	When Payments Are Due:
One Payment of	<b>N/A</b>	<b>N/A</b>
One Payment of <b>N/A</b>	<b>N/A</b>	<b>N/A</b>
<b>71</b> Payments	<b>257.26</b>	Monthly, Beginning <b>07/08/2008</b>
Payments	<b>N/A</b>	Monthly, Beginning <b>N/A</b>
One Final Payment	<b>257.26</b>	<b>DUE ON 06/08/2014</b>

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.

ITEMIZATION OF THE AMOUNT FINANCED (Seller may keep part of the amounts paid to others.)	
<b>1. Total Cash Price</b>	
A. Cash Price of Motor Vehicle and Accessories	<b>\$ 11305.00 (A)</b>
1. Cash Price Vehicle	<b>\$ 11305.00</b>
2. Cash Price Accessories	<b>\$ N/A</b>
3. Other (Non-taxable)	<b>\$ N/A</b>
Describe <b>N/A</b>	<b>\$ N/A</b>
Describe <b>N/A</b>	<b>\$ N/A</b>
B. Document Preparation Fee (not a governmental fee)	<b>\$ 55.00 (B)</b>
C. Smog Fee Paid to Seller	<b>\$ N/A (C)</b>
D. (Optional) Theft Deterrent Device (to whom paid) <b>SPREEN HONDA</b>	<b>\$ 1300.00 (D)</b>
E. (Optional) Theft Deterrent Device (to whom paid) <b>N/A</b>	<b>\$ N/A (E)</b>
F. (Optional) Theft Deterrent Device (to whom paid) <b>N/A</b>	<b>\$ N/A (F)</b>
G. (Optional) Surface Protection Product (to whom paid) <b>N/A</b>	<b>\$ N/A (G)</b>
H. (Optional) Surface Protection Product (to whom paid) <b>N/A</b>	<b>\$ N/A (H)</b>
I. Sales Tax (on taxable items in A through H)	<b>\$ 1012.80 (I)</b>
J. Optional DMV Electronic Filing Fee	<b>\$ N/A (J)</b>
K. (Optional) Service Contract (to whom paid) <b>CENTURY</b>	<b>\$ 2000.00 (K)</b>
L. (Optional) Service Contract (to whom paid) <b>N/A</b>	<b>\$ N/A (L)</b>
M. (Optional) Service Contract (to whom paid) <b>N/A</b>	<b>\$ N/A (M)</b>
N. (Optional) Service Contract (to whom paid) <b>N/A</b>	<b>\$ N/A (N)</b>
O. (Optional) Service Contract (to whom paid) <b>N/A</b>	<b>\$ N/A (O)</b>
P. Prior Credit or Lease Balance paid by Seller to	<b>\$ N/A (P)</b>
(see downpayment and trade-in calculation)	
Q. (Optional) Gap Contract (to whom paid) <b>OWNERGUARD</b>	<b>\$ 795.00 (Q)</b>
R. (Optional) Used Vehicle Contract Cancellation Option Agreement	<b>\$ N/A (R)</b>
S. Other (to whom paid) <b>N/A</b>	<b>\$ N/A (S)</b>
For <b>N/A</b>	
<b>Total Cash Price (A through S)</b>	<b>\$ 16467.80 (1)</b>
<b>2. Amounts Paid to Public Officials</b>	
A. License Fees <b>ESTIMATED</b>	<b>\$ 83.00 (A)</b>
B. Registration/Transfer/Titling Fees	<b>\$ 76.00 (B)</b>
C. California Tire Fees	<b>\$ N/A (C)</b>
D. Other <b>N/A</b>	<b>\$ N/A (D)</b>
<b>Total Official Fees (A through D)</b>	<b>\$ 159.00 (2)</b>
<b>3. Amount Paid to Insurance Companies</b>	
(Total premiums from Statement of Insurance column a + b)	<b>\$ N/A (3)</b>
4. <input type="checkbox"/> Smog Certification or <input checked="" type="checkbox"/> Exemption Fee Paid to State	<b>\$ 8.00 (4)</b>
5. Subtotal (1 through 4)	<b>\$ 16634.80 (5)</b>
<b>6. Total Downpayment</b>	
A. Agreed Trade-In Value Yr. <b>N/A</b> Make <b>N/A</b>	<b>\$ N/A (A)</b>
Model <b>N/A</b> Odom <b>N/A</b>	
VIN <b>N/A</b>	

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

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  *Octavio Castaneda*  
Co-Buyer  *N/A*  
Seller  *Spree Honda*

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)

Credit Life	Term	Exp.	Premium
Credit Life	<b>N/A</b> Mos.		<b>\$ N/A</b>
Credit Disability	<b>N/A</b> Mos.		<b>\$ N/A</b>
Total Credit Insurance Premiums			<b>\$ N/A (b)</b>
Insurance Company Name	<b>N/A</b>		
Home Office Address	<b>N/A</b>		

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.

**6-14** Date *Oct 14 2008* Buyer Signature *Octavio Castaneda* Age \_\_\_\_\_  
Date **x N/A** Co-Buyer Signature \_\_\_\_\_ Age \_\_\_\_\_

**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 1Q of the Itemization of Amount Financed. See your gap contract for details on the terms and conditions it provides. It is a part of this contract.  
Term **72** Mos. **OWNERGUARD** Name of Gap Contract

1. California license fees \$ N/A (C)  
 2. Other N/A \$ N/A (C)  
 Total Officer's Fee (through D) \$ 00 (2)  
 3. Amount Paid to Finance Companies (Total premiums from Statement of Insurance column a + b) \$ N/A (3)  
 4.  Smog Certification of  Exemption Fee Paid to State \$ 8.00 (4)  
 5. Subtotal (1 through 4) \$ 16634.80 (5)  
 6. Total Downpayment  
 A. Agreed Trade-In Value Yr N/A Make N/A \$ N/A (A)  
 Model N/A Odom N/A  
 VIN N/A  
 B. Less Prior Credit or Lease Balance \$ N/A (B)  
 C. Net Trade-In (A less B) (indicate if a negative number) \$ N/A (C)  
 D. Deferred Downpayment \$ N/A (D)  
 E. Manufacturer's Rebate \$ N/A (E)  
 F. Other N/A \$ N/A (F)  
 G. Cash \$ 1200.00 (G)  
 Total Downpayment (C through G) \$ 1200.00 (6)  
 (If negative, enter zero on line 6 and enter the amount less than zero as a positive number on line 1P above)  
 7. Amount Financed (5 less 6) \$ 15434.80 (7)

14 Date 06/08/08 Buyer Signature [Signature] Age \_\_\_\_\_  
 Date X N/A Co-Buyer Signature \_\_\_\_\_ Age \_\_\_\_\_

**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 1Q of the Itemization of Amount Financed. See your gap contract for details on the terms and conditions it provides. It is a part of this contract.  
 Term 72 Mos. OWNER GUARD  
 Name of Gap Contract \_\_\_\_\_  
 I want to buy a gap contract.

**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 1K, 1L, 1M, 1N, and/or 1O.  
 1K Company CENTURY  
 Term 36 Mos. or 100000 Miles  
 1L Company N/A  
 Term N/A Mos. or N/A Miles  
 1M Company N/A  
 Term N/A Mos. or N/A Miles  
 1N Company N/A  
 Term N/A Mos. or N/A Miles  
 1O Company N/A  
 Term N/A Mos. or N/A Miles  
 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:  
N/A

**SELLER'S RIGHT TO CANCEL** If Buyer and Co-Buyer sign here, the provisions of the Seller's Right to Cancel section on the back giving the Seller the right to cancel if Seller is unable to assign this contract to a financial institution will apply.  
 Buyer X [Signature] Co-Buyer X N/A

**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. Verbal changes are binding.  
 Buyer Signs X \_\_\_\_\_  
 Co-Buyer Signs X N/A

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

**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 UNPAID BALANCE REMAINING AFTER THE VEHICLE HAS BEEN REPOSSESSED AND SOLD.  
 FOR ADVICE ON FULL COVERAGE THAT YOU WILL WANT TO OBTAIN, 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 \_\_\_\_\_ X N/A

**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 6B 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 6B as "Prior Credit or Lease Balance," Seller will refund the difference to you.  
 Buyer X \_\_\_\_\_ Co-Buyer X N/A

**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 N/A

**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 UNLESS YOU OBTAIN A CONTRACT CANCELLATION OPTION**  
 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 under legal cause, such as fraud. However, California law does require a seller to offer a 2-day contract cancellation option on used vehicles with a purchase price of less than \$40,000, subject to certain statutory conditions. This contract cancellation option requirement does not apply to the sale of a recreational vehicle, a motorcycle, or an off-highway motor vehicle subject to identification under California law. See the vehicle contract cancellation option agreement for details.

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 06/08/08 Co-Buyer Signature N/A Date \_\_\_\_\_

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 \_\_\_\_\_ 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 \_\_\_\_\_ Date \_\_\_\_\_ Guarantor X \_\_\_\_\_ Date \_\_\_\_\_  
 Address \_\_\_\_\_ Address \_\_\_\_\_

Seller Signs SPREEN HONDA Date 06/08/08 By X [Signature] Title \_\_\_\_\_

# EXHIBIT 2

NEW CONTRACT/  
ACKNOWLEDGEMENT OF REWRITTEN CONTRACT

Buyer(s) Name OCTAVIO CASTENEDA  
Vehicle I.D. # 1G8AJ52F45Z167636  
Original Contract Date 6/8/08  
Rewritten Contract Date 6/8/08

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

The sale was rescinded for the following reason:

REWRITTEN PER BANK GUIDELINES

I understand I am 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 acknowledge that all checks tendered in consideration on the original contract are hereby transferred to the rewritten contract.

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 the dealership.

6/13/08  
Date Signed

[Signature]  
Buyer

[Signature]  
Co-Buyer

[Signature]  
Seller

1 **PROOF OF SERVICE**

2 **Castaneda v. Spreen, Inc.**  
3 **Superior Court of California County of San Bernardino**  
4 **Case No: CIVSS816398**

5 I am employed in the County of San Diego, State of California. I am over the age of  
6 18 and not a party to the within action. My business address is: 10085 Carroll Canyon  
7 Road, Suite 100, San Diego, California 92131.

8 On the date shown below, I served the foregoing document(s) described as:

9 **First Amended Complaint**

10 on the interested parties in this action by mail at San Diego, California addressed as  
11 follows:

12 Myron Wayne Tucker 13 Tucker & Associates 14 268 W. Hospitality Ln # 202 15 San Bernardino, CA 92408-3271 16 Telephone: (909) 890-2236 17 Facsimile: (908) 890-2268 18 Email: <a href="mailto:wayne.tucker@farmerinsurance.com">wayne.tucker@farmerinsurance.com</a>	19 Sheldon Cohen, Esq. 20 Callahan, McCune & Willis, APLC 21 111 Fashion Lane 22 Tustin, CA 92780 23 Telephone: (714) 730-5700 24 Co-Counsel for Spreen, Inc
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25  **BY U.S. MAIL:** I enclosed the documents in a sealed envelope or package  
26 addressed to the persons at the addresses listed above and:

27 (1)  deposited the sealed envelope with the United States Postal Service, with  
28 the postage fully prepaid.

(2)  placed the envelope for collection and mailing, following our ordinary  
business practices. I am readily familiar with the business's practice for collecting  
and processing correspondence for mailing. Under that practice, on the same  
day that correspondence is placed for collection and mailing, it is deposited in the  
ordinary course of business with the United States Postal Service, in a sealed  
envelope with postage thereon fully prepaid, at San Diego, California. I am aware  
that on motion of the party served, service is presumed invalid if postal  
cancellation date or postage meter date is more than one day after date of  
deposit for mailing in affidavit.

**BY FACSIMILE:** On the date below, the document(s) were transmitted by  
facsimile transmission to each of the parties at the facsimile number(s) listed  
above and the transmission(s) reported as complete and without error. A true  
and correct copy of the said transmission report is attached hereto and  
incorporated herein by reference.  
**[attach copy of fax transmission]**

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**(BY ELECTRONIC MAIL, CRC 2.260 and CCP §2015.5):** The documents were transmitted via email from danette@rosnerandmansfield.com on \_\_\_\_\_ at \_\_\_\_\_ am/pm to each of the parties at the email address(s) listed above and the transmission(s) reported complete and without error.

**BY OVERNIGHT DELIVERY:** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the above addressed. I caused such envelope or package to be deposited in a regularly utilized drop box of the overnight delivery carrier.

**BY PERSONAL SERVICE:** I caused to be personally delivered the documents listed above to the addressee(s) named above.

**(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

**(FEDERAL)** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on **April 15, 2009** at San Diego, California.

  
Danette P. Reando