

COPY

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

NOV 04 2009

By Olivia M. DeBono
Deputy

1 ROSNER, BARRY & BABBITT, LLP
Hallen D. Rosner, SBN: 109740
2 Christopher P. Barry, SBN: 179308
10085 Carroll Canyon Road, Suite 100
3 San Diego, CA 92131
TEL: (858) 348-1005
4 FAX: (858) 348-1150

5 Attorneys for Plaintiff

6
7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN BERNARDINO

10 LETICIA GAMA, individually and on
behalf of all others similarly-situated
11 and the general public,

12 Plaintiff,

13 v.

14 MOSS BROS., INC., a California
corporation dba MOSS BROS. DODGE;
15 and DOES 1 through 10, inclusive,

16 Defendants.
17
18
19
20
21
22
23
24

CASE NO **CIVDS 915868**

CLASS ACTION

COMPLAINT FOR INJUNCTIVE
RELIEF AND DAMAGES:

1. VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT- CLASS CLAIM;
2. DECLARATORY RELIEF - CLASS CLAIM;
3. UNLAWFUL, UNFAIR, FRAUDULENT BUSINESS ACTS & PRACTICES - CLASS CLAIM;
4. VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT - INDIVIDUAL CLAIM;
5. VIOLATION OF ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT - INDIVIDUAL CLAIM;
6. INTENTIONAL MISREPRESENTATION - INDIVIDUAL CLAIM;
7. NEGLIGENCE MISREPRESENTATION - INDIVIDUAL CLAIM.
8. BREACH OF CONTRACT

25 Plaintiff, individually and on behalf of all others similarly-situated as to the First
26 through Third Causes of Action, allege as follows against Defendant Moss Bros., Inc.
27 (hereinafter "Moss Bros."), on information and belief, formed after an inquiry
28 reasonable under the circumstances:

1 INTRODUCTION

2 2. Plaintiff Leticia Gama is one of hundreds of customers who purchased a
3 vehicle from Defendant Moss Bros., a large automobile dealership in San Bernardino,
4 California, pursuant to a Retail Installment Sale Contract ("RISC"). The form RISC
5 used by Moss Bros. gives the dealership a ten-day window to assign the contract to a
6 financial institution or cancel the deal. Moss Bros. sent Ms. Gama a "Notice of Non-
7 Assignment of Contract" (the "Notice"). The Notice does not cancel or rescind the RISC.
8 After Moss Bros.'s ten-day window to cancel expired, Moss Bros. contacted Ms. Gama
9 and informed her that it was exercising its right to cancel the deal. Moss Bros.
10 threatened to repossess Ms. Gama's vehicle in breach of her RISC if she did not return
11 the vehicle.

12 3. Moss Bros. violated state consumer protection laws by sending the Notice and
13 threatening to repossess Ms. Gama's vehicle. Ms. Gama seeks a declaration that she
14 has an enforceable contract with Moss Bros. to prevent it from illegally breaching the
15 RISC and repossessing the vehicle. Ms. Gama seeks this relief on behalf of herself and
16 all other similarly-situated consumers of Moss Bros.

17 4. The conduct herein described violates, *inter alia*, the Consumers Legal
18 Remedies Act ("CLRA") (Civil Code §1750, *et seq.*), and the Unfair Competition Law
19 ("UCL") (Bus. & Prof. Code §17200, *et seq.*). Further, the illegal use of the Notice and
20 threats to repossess vehicles is a procedure and/or practice followed by Moss Bros.
21 Thus, class relief and an action on behalf of the general public are appropriate to
22 remedy such practices.

23 JURISDICTION AND VENUE

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

27 ///

28 ///

1 CLASS ALLEGATIONS

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

5 14. Plaintiff brings this action on behalf of herself and all others similarly-
6 situated as a representative member of the following proposed class: "All persons who,
7 since June 16, 2008, (a) purchased a vehicle from Moss Bros. for personal use pursuant
8 to a retail installment sale contract; (b) on a later date received a "Notification of Non-
9 assignment of Contract" letter; and (c) who were not notified within ten days of the
10 execution of their purchase contract that Moss Bros. was exercising its contractual right
11 of rescission by some form of notice other than the Notification of Non-assignment of
12 Contract letter (the "Class").

13 15. In this lawsuit, Plaintiff and the Class seek both equitable relief, including
14 declaratory, injunctive, restitutionary, and other equitable monetary relief and
15 economic and statutory damages as set forth more fully below, including, but not
16 limited to, a declaration that they have an enforceable purchase contract with Moss
17 Bros. and Moss Bros. is not contractually able to repossess their vehicle.

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

22 **A. NUMEROSITY OF THE CLASS**

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

27 ///

28 ///

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

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

6 a. Whether Moss Bros.'s practice of sending a Notification of Non-assignment
7 of Contract was a contractual exercise of its right to rescind and whether
8 such conduct violates California's consumer protection statutes including,
9 *inter alia*, the CLRA, the ASFA, and/or UCL.

10 b. The amount of revenues and profits Moss Bros. received, and/or the amount
11 of monies or other obligations imposed on, or lost by, Class Members as a
12 result of such wrongdoing.

13 c. Whether Class Members are threatened with irreparable harm and are
14 entitled to injunctive and other equitable relief and, if so, what is the nature
15 of such relief.

16 d. Whether Class Members are entitled to payment of actual, incidental,
17 consequential, exemplary, punitive, and/or statutory damages plus interest
18 thereon, and if so, what is the nature of such relief.

19 **C. TYPICALITY OF CLAIMS**

20 19. In regards to Members of the Class, Moss Bros. engaged in the standard
21 practice of having customers sign Retail Installment Sale Contracts, sending the
22 customer a Notification of Non-assignment of Contract letter, continuing to attempt to
23 secure financing after sending the Notification, and, more than 10 days after execution
24 of the Retail Installment Sale Contracts, informing the Class Members that they either
25 had to sign a new contract or return the vehicle.

26 20. Plaintiff and each Member of the Class received a Notification of Non-
27 assignment of Contract letter and was subsequently told they either had to sign a new
28 contract and/or return the vehicle.

1 21. Accordingly, Plaintiff's claims are typical of the claims of Members of the
2 Class.

3 **D. ADEQUATE REPRESENTATION**

4 22. Plaintiff will fairly and adequately protect the interests of the Members of
5 the Class in that she does not have irreconcilable conflicts with or interests materially
6 antagonistic to those of other Class Members.

7 23. Plaintiff has retained attorneys experienced in the prosecution of class
8 actions, including consumer class actions.

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

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

1 system resulting from multiple trials asserting the same factual 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, the Class and the court system achieve substantial benefits by the
6 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 enterprises
8 in curtailing illegitimate competition and ensuring a therapeutic effect on those
9 companies such as Moss Bros. that indulge in fraudulent practices.

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

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

14 a. The prosecution of separate actions by the individual Class Members would
15 create a risk of inconsistent or varying adjudications with respect to
16 individual Class Members, thus establishing incompatible standards of
17 conduct for Moss Bros.

18 b. Because of the nature of the relief sought, the prosecution of separate actions
19 by individual Class Members would create a risk of adjudication with respect
20 to them that would, as a practical matter, be dispositive of the interests of
21 the other Class Members not parties to such adjudications or would
22 substantially impair or impede the ability of such Class Members to protect
23 their interests.

24 c. Moss Bros. has acted or refuses to act in respects generally applicable to the
25 Class, thereby making appropriate final injunctive relief with regard to the
26 Class Members as a whole in terms of the equitable relief sought.

27 ///

28 ///

1 41. Plaintiff, on her own behalf and on behalf of the Class Members, incorporates
2 by reference each and every allegation set forth in Paragraphs 1-40, inclusive, of this
3 Complaint and further alleges as follows.

4 42. The vehicles purchased by Ms. Gama and the Class Kia Forte constitutes re
5 “goods” bought for use primarily for personal, family, or household purposes pursuant
6 to Civil Code §1761(a).

7 43. Plaintiff and the members of the Class are “consumer” pursuant to Civil Code
8 §1761(d).

9 44. Moss Bros. is a “person” pursuant to Civil Code §1761(c).

10 45. The advertisement and sale of the vehicles to Plaintiff and the Class are
11 “transactions” pursuant to Civil Code §1761(e).

12 46. Pursuant to the CLRA, the following unfair methods of competition and
13 unfair or deceptive acts or practices are prohibited: misrepresenting the source,
14 sponsorship, approval, or certification of goods or services; misrepresenting the
15 affiliation, connection, or association with, or certification by, another; representing that
16 goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits,
17 or quantities which they do not have or that a person has a sponsorship, approval,
18 status, affiliation, or connection which he or she does not have; advertising goods or
19 services with intent not to sell them as advertised; representing that a transaction
20 confers or involves rights, remedies, or obligations which it does not have or involve, or
21 which are prohibited by law; and representing that the subject of a transaction has been
22 supplied in accordance with a previous representation when it has not.

23 47. Moss Bros. violated the CLRA by, at a minimum: (1) attempting to cancel the
24 subject RISC based on an alleged failure to obtain financing after more than 10 days
25 had expired from the date of purchase; (2) threatening to repossess the Vehicle;
26 (3) failing to make required disclosures, harassing, lying and/or violating fair debt
27 collection laws; (4) failing to comply with DMV regulations regarding registration and
28 titling; and (5) failing to pay off trade-in vehicles.

1 48. Plaintiff served Defendants via certified mail, U.S. Mail, and facsimile a
2 Consumers Legal Remedies Act notification and demand letter on November 3, 2009.

3 49. The Consumers Legal Remedies Act provides that a complaint for violation
4 of the Consumers Legal Remedies Act may be amended without leave of court to seek
5 damages should the violations not be remedied within thirty (30) days of notification.
6 Plaintiff will add a claim for actual and punitive damages, for the oppressive,
7 fraudulent, or malicious acts of Moss Bros., and statutory damages under the
8 Consumers Legal Remedies Act for violation of Civil Code §1770 if a full and complete
9 response to this letter is not timely received on behalf of Plaintiff. At this time,
10 equitable and injunctive relief are sought only under this cause of action. No claim for
11 damages is made under this cause of action at this time.

12 50. Civil Code §1780(a)(2) of the CLRA provides that a consumer is entitled to
13 an injunction prohibiting acts or practices which violate it. Plaintiff seeks an order
14 enjoining Moss Bros. from the acts identified above.

15 51. Under Civil Code §§1780(a)(2), (3), and (5), Plaintiff seeks an order from the
16 Court finding that the RISC between Plaintiff and Moss Bros. is enforceable as written
17 and cannot be cancelled by Moss Bros. pursuant to its contractual right of rescission,
18 and that Moss Bros. must comply with the terms of the RISC.

19 52. Pursuant to Civil Code §1780(d), Plaintiff may also recover attorney's fees
20 and costs according to proof at time of trial.

21 **SECOND CAUSE OF ACTION**

22 **Declaratory Relief- Class Claim**

23 53. Plaintiff, on behalf of herself and the Class, re-alleges and incorporates
24 herein each and every allegation set forth in Paragraphs 1 through 52 of the Complaint,
25 as though fully set forth herein.

26 54. A controversy has arisen between Plaintiff, the members of the Class, and
27 Moss Bros. regarding the rights and responsibilities of the parties under their retail
28 installment sale contracts.

1 55. Moss Bros. has taken the position it may repossess Plaintiff's vehicle, and
2 those of Class members, seek costs and expenses, and/or a deficiency balance against
3 Plaintiff and the members of the Class.

4 56. Plaintiff and the members of the Class contend they have enforceable
5 contracts, that Moss Bros. did not timely execute its right to cancel the contracts, that
6 Plaintiff and the members of the Class can keep their vehicles and make their monthly
7 payments directly to Moss Bros. or whoever Moss Bros. assigns their contracts to, that
8 Moss Bros. must pay of trade balances listed on contracts, and that Moss Bros. must
9 register and properly title the vehicles of Plaintiff and the members of the Class.

10 57. Plaintiff's position includes the facts set forth above.

11 58. Plaintiff and the Class further seek attorney's fees and costs under Code of
12 Civil Procedure §1021.5 and Civil Code § 2983.4.

13 **THIRD CAUSE OF ACTION**

14 **Violation of the Unlawful, Unfair or Fraudulent Business Acts and**
15 **Practices - Violation of Bus. & Prof. Code §17200, *et seq.***

16 59. Plaintiff, on behalf of herself and the Class, re-alleges and incorporates
17 herein each and every allegation set forth in Paragraphs 1 through 58 of the Complaint,
18 as though fully set forth herein.

19 60. Moss Bros. has committed acts of unfair competition, as defined by Business
20 and Professions Code §17200, *et seq.* As set forth more fully herein, Defendant has
21 engaged in a course of conduct of systematically violating the consumer laws in this
22 State prohibiting the commitment of deceptive practices, including the laws of fraud
23 and deceit, and the various prohibitions contained in the Consumers Legal Remedies
24 Act, Automobile Sales Finance Act, and Rosenthal Fair Debt Collection Practices Act
25 set forth in detail herein.

26 61. Defendant has engaged in an "unlawful" business act and/or practice by:
27 (1) attempting to cancel the subject RISC based on an alleged failure to obtain financing
28 after more than 10 days had expired from the date of purchase; (2) threatening to

1 repossess the Vehicle; (3) failing to make required disclosures, harassing, lying and/or
2 violating fair debt collection laws; and (4) failing to comply with DMV regulations
3 regarding registration and titling.

4 62. As detailed above; these business acts and practices violated numerous
5 provisions of both state and federal law, including, but not limited to, the CLRA, the
6 ASFA, Rosenthal Act, and the FDCPA.

7 63. The harm to Plaintiff and the members of the Class outweighs the utility of
8 Defendant's policies and/or practices, particularly considering the available
9 alternatives, and that Defendant's policies and/or practices are immoral, unscrupulous,
10 unethical, and against public policy. Defendant's policies and/or practices consequently
11 constitute an "unfair" business act or practice within the meaning of Business and
12 Professions Code §17200.

13 64. Defendant's deceptive policies and/or practices as set forth above also are
14 likely to and/or have deceived Plaintiff and the members of the Class. Thus, Defendant
15 has also engaged in "fraudulent" business practices.

16 65. Defendant has engaged in and continues to engage in the same form of
17 deceptive acts and practices.

18 66. Defendant's unlawful, unfair, and/or fraudulent business practices present
19 a continuing threat to Plaintiff and others in that Defendant will continue utilizing
20 similar policies and practices.

21 67. Business and Professions Code §17203 provides that Plaintiff is entitled to
22 an order enjoining Defendant from engaging in acts or practices that violate Business
23 and Professions Code §17200, as well as providing for equitable monetary relief so as
24 to preclude the retention of all ill-gotten monies by Defendant or so as to restore any
25 monies wrongfully obtained by Defendant to the Plaintiffs. Plaintiff and the members
26 of the Class have lost money and suffered injury in fact as a result of Defendant's illegal
27 conduct. Plaintiffs seek such equitable monetary relief, and an order enjoining
28 Defendant from engaging in the acts and practices set forth in this Complaint, imposing

1 an asset freeze or constructive trust over such monies as the Court deems appropriate,
2 as well as compelling a corrective informational campaign to correct the misperceptions
3 in the marketplace created by such conduct.

4 68. Plaintiff further seeks attorney's fees and costs under Code of Civil Procedure
5 §1021.5.

6 **FOURTH CAUSE OF ACTION**

7 **Violation of the Consumers Legal Remedies Act - Injunctive and Equitable**
8 **Relief Only- No claim for Damages at this time**

9 69. Plaintiff incorporates by reference the allegations in Paragraphs 1 through
10 68 inclusive, of this Complaint. This cause of action is brought by Plaintiff individually.

11 70. The Sebring constitutes "goods" bought for use primarily for personal, family,
12 or household purposes pursuant to Civil Code §1761(a).

13 71. Plaintiff is a "consumer" pursuant to Civil Code §1761(d).

14 72. Moss Bros. is a "person" pursuant to Civil Code §1761(c).

15 73. The advertisement and sale of the Sebring to Plaintiff is a "transaction"
16 pursuant to Civil Code §1761(e).

17 74. Pursuant to the CLRA, the following unfair methods of competition and
18 unfair or deceptive acts or practices are prohibited: misrepresenting the source,
19 sponsorship, approval, or certification of goods or services; representing that goods or
20 services have sponsorship, approval, characteristics, ingredients, uses, benefits, or
21 quantities which they do not have or that a person has a sponsorship, approval, status,
22 affiliation, or connection which he or she does not have; representing that goods or
23 services are of a particular standard, quality, or grade, or that goods are of a particular
24 style or model, if they are of another; advertising goods or services with intent not to
25 sell them as advertised; representing that a transaction confers or involves rights,
26 remedies, or obligations which it does not have or involve, or which are prohibited by
27 law; and representing that the subject of a transaction has been supplied in accordance
28 with a previous representation when it has not.

1 75. Moss Bros. violated the CLRA by, at a minimum: (1) attempting to cancel
2 the subject RISC based on an alleged failure to obtain financing after more than 10
3 days had expired from the date of purchase; (2) failing to comply with DMV regulations
4 regarding registration and titling; (3) threatening to repossess the vehicle; (4) failing
5 to make required disclosures, harassing, lying and/or violating fair debt collection laws;
6 (5) falsely representing that Ms. Gama had to purchase a GAP contract.

7 76. Plaintiff served Defendants via certified mail, U.S. Mail, and facsimile a
8 Consumers Legal Remedies Act notification and demand letter on November 3, 2009.

9 77. The Consumers Legal Remedies Act provides that a complaint for violation
10 of the Consumers Legal Remedies Act may be amended without leave of court to seek
11 damages should the violations not be remedied within thirty (30) days of notification.
12 Plaintiff will add a claim for actual and punitive damages, for the oppressive,
13 fraudulent, or malicious acts of Moss Bros., and statutory damages under the
14 Consumers Legal Remedies Act for violation of Civil Code §1770 if a full and complete
15 response to this letter is not timely received on behalf of Plaintiff. At this time,
16 equitable and injunctive relief are sought only under this cause of action. No claim for
17 damages is made under this cause of action at this time.

18 78. Civil Code §1780(a)(2) of the CLRA provides that a consumer is entitled to
19 an injunction prohibiting acts or practices which violate it. Plaintiff seeks an order
20 enjoining Moss Bros. from the acts identified above.

21 79. Under Civil Code §§1780(a)(2), (3), and (5), Plaintiff seeks an order from the
22 Court finding that the RISC between Plaintiff and Moss Bros. is enforceable as written
23 and cannot be cancelled by Moss Bros. pursuant to its contractual right of rescission,
24 and that Moss Bros. must comply with the terms of the RISC.

25 80. Pursuant to Civil Code §1780(d), Plaintiff may also recover attorney's fees
26 and costs according to proof at time of trial.

27 ///

28 ///

1 **FIFTH CAUSE OF ACTION**

2 **Violation of the Rosenthal Fair Debt Collection Practices**

3 **Act California Civil Code §1788 *et seq.***

4 81. Plaintiff incorporates by reference the allegations in Paragraphs 1 through
5 68 inclusive, of this Complaint. This cause of action is brought by Plaintiff individually.

6 82. This cause of action arises out of Moss Bros.'s violations of the Rosenthal Fair
7 Debt Collection Practices Act, California Civil Code sections 1788-1788.32 ("Rosenthal
8 Debt Collect Practices Act") and California Common Law.

9 83. The California legislature has determined that the banking and credit system
10 and grantors of credit to consumers are dependent upon the collection of just and owing
11 debts and that unfair or deceptive collection practices undermine the public confidence
12 that is essential to the continued functioning of the banking and credit system and
13 sound extensions of credit to consumers. The Legislature has further determined that
14 there is a need to ensure that debt collectors exercise this responsibility with fairness,
15 honesty, and due regard for the debtor's rights and that debt collectors must be
16 prohibited from engaging in unfair or deceptive acts or practices.

17 84. The United States Congress has found abundant evidence of the use of
18 abusive, deceptive, and unfair debt collection practices by many debt collectors, and has
19 determined that abusive debt collection practices contribute to the number of personal
20 bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual
21 privacy. Congress wrote the FDCPA to eliminate abusive debt collection practices by
22 debt collectors, to insure that those debt collectors who refrain from using abusive debt
23 collection practices are not competitively disadvantaged, and to promote consistent
24 State action to protect consumers against debt collection abuses (15 U.S.C. §1692(a)-(e)).
25 Certain practices prohibited by the FDCPA are incorporated into the Rosenthal Debt
26 Collect Practices Act through Civil Code §1788.17.

27 ///

28 ///

1 85. Moss Bros. and its employees and/or agents, and specifically, it's agent "Sam"
2 who has called Plaintiff on multiple occasions, were trying to collect on an alleged
3 financial obligation for primarily personal, family, or household purposes.

4 86. Moss Bros. and its employees and/or agents engaged in a campaign of
5 harassment against Plaintiff by, at a minimum: (1) attempting to cancel the RISC more
6 than 10 days after the purchase of the vehicle which it is not legally entitled to do;
7 (2) abusing, threatening and harassing Plaintiff verbally; (3) threatening to and/or
8 attempting to repossess a vehicle when it had no legal right to do so; and (4) making
9 false, deceptive, or misleading representations to collect the debt.

10 87. The FDCPA, in 15 U.S.C. §§1692c(a) and (b), 1692d(5) and (6), 1692e, 1692e
11 (2), (4), (5), (7), (10), and (14), and 1692f(6), and the Rosenthal Debt Collect Practices
12 Act, in Civil Code §§1788.10(a), (b), and (e), 1788.11(d), and (e), 1788.12(d) and (e), and
13 1788.13(e) and (f) prohibit these practices.

14 88. As a result of violations of the FDCPA, and Rosenthal Debt Collect Practices
15 Act by Defendant and its employees and/or agents, Plaintiff has suffered out-of-pocket
16 expenses and is entitled to actual damages pursuant to California Civil Code
17 §1788.30(a), statutory damages for a knowing or willful violation pursuant to California
18 Civil Code §1788.30(b), and reasonable attorney's fees and costs pursuant to California
19 Civil Code §1788.30(c) from Moss Bros.

20 **SIXTH CAUSE OF ACTION**

21 **Intentional Misrepresentation - Individual Claim**

22 89. Plaintiff incorporates by reference each and every allegation set forth in
23 Paragraphs 1 through 88, inclusive, of this Complaint. This cause of action is brought
24 by Plaintiff individually.

25 90. At the time of purchase, and afterwards, Defendant made the
26 misrepresentations as set forth in Paragraphs 30-40. The identity of Defendant's
27 employees who made the misrepresentations to Plaintiff are stated in those same
28

1 Paragraphs. Names of Defendant's employees whom Plaintiff does not know are known
2 to Defendant and are stated in documents in Defendant's possession.

3 91. At the time of purchase, and afterwards, Defendant omitted from the
4 statements it had made material facts as set forth above, the disclosure of which were
5 necessary in order to make Defendant's other statements not misleading. These
6 omissions include, but are not limited to the following: the contract was enforceable,
7 and Moss Bros. had no right to cancel the transaction; Plaintiff did not have to purchase
8 a GAP contract in order to purchase the vehicle.

9 92. At all times Defendant either had actual or constructive notice of the true
10 facts but nonetheless intentionally or recklessly concealed these facts from
11 Plaintiff.

12 93. Defendant made these representations and omitted material facts with the
13 intent to defraud Plaintiff and induce Plaintiff to purchase the Vehicle. At the time
14 Plaintiff purchased the vehicle she did not know, or have reason to know, that
15 Defendant was making false and misleading representations and had omitted material
16 facts. Plaintiff acted in justifiable reliance upon the truth of the representations which
17 misled her as to the nature and extent of the facts concealed. Plaintiff was justified in
18 her reliance as Defendant held itself out as a professional in the automotive sales and
19 leasing industry and Plaintiff had no reason to doubt its representations.

20 94. As a direct and proximate result of Defendant's fraudulent representations,
21 omissions of material fact and wrongful conduct, Plaintiff has suffered damages,
22 including actual, general, consequential, and incidental damages according to proof at
23 trial.

24 95. Defendant acted with malice, oppression, and fraud toward Plaintiff within
25 the meaning of Civil Code Section 3294. In particular, Defendant's conduct included
26 misrepresentations by Finance Managers and sales persons, among others, authorized
27 to act on Defendant's behalf. Plaintiff is, therefore, entitled to punitive damages.

28 ///

1 **SEVENTH CAUSE OF ACTION**

2 **Negligent Misrepresentation – Individual Claim**

3 96. Plaintiff incorporates by reference each and every allegation set forth in
4 Paragraphs 1 through 95, inclusive, of this Complaint and further alleges in the
5 alternative to the Sixth Cause of Action as follows. This cause of action is brought by
6 Plaintiff individually.

7 97. The representations made by Defendant as alleged in Paragraphs 30-40 were
8 not true.

9 98. Regardless of its actual belief, Defendant made the representations without
10 any reasonable grounds for believing them to be true.

11 99. Defendant failed to exercise due care in ascertaining the accuracy of the
12 representations made to Plaintiff.

13 100. Defendant made the representations for the purpose of inducing Plaintiff to
14 rely upon them, and to act, or refrain from acting, in reliance thereon.

15 101. Plaintiff was unaware of the falsity of the representations and acted in
16 reliance upon the truth of those representations and was justified in relying upon those
17 representations.

18 102. As a direct and proximate result of Defendant's negligent misrepresentations
19 of material fact, Plaintiff has suffered damages, including actual, consequential, and
20 incidental damages according to proof of trial.

21 **EIGHTH CAUSE OF ACTION**

22 **Breach of Contract - Individual Claim**

23 103. Plaintiff incorporates by reference each and every allegation set forth in
24 Paragraphs 1 through 102, inclusive, of this Complaint. This cause of action is brought
25 by Plaintiff individually.

26 104. Plaintiff entered into a contract with Moss Bros. whereby Moss Bros. agreed
27 to pay \$2,000 to Loanmart on Plaintiff's outstanding lien on her Nissan Altima.

28 105. Moss Bros. breached the contract by failing to pay Loanmart.

1 106. As a direct and proximate result of Defendant's material breach of contract,
2 Plaintiff has suffered damages in an amount to be proven at trial, plus interest at the
3 legal rate. Plaintiff is also entitled to recover costs and attorney's fees.

4 WHEREFORE, Plaintiff prays for judgment as follows, on behalf of herself and the
5 Class, as appropriate for the particular causes of action:

6 1. An Order certifying the Class under the appropriate provisions of California
7 law, and appointing Plaintiff and her counsel to represent the Classes.

8 2. For general, special, actual, and statutory damages according to proof at
9 trial.

10 3. For incidental and consequential damages according to proof at trial.

11 4. For specific performance or a ruling that the RISCS between Ms. Gama and
12 the Class and Moss Bros. are enforceable.

13 5. For the equitable, injunctive and monetary relief permitted under Business
14 & Professions Code §17203.

15 6. For pre- and post-judgment interest at the legal rate.

16 7. For a preliminary and permanent injunction and declaratory relief as set
17 forth in this Complaint.

18 8. For reasonable attorney's fees and costs of suit as specified under *inter alia*,
19 Code of Civil Procedure §1021.5, Civil Code §§1780(d), 2983.4 and 1788.30(c), 15 U.S.C.
20 §§1681n(c), 1681o(b), and 1692k(a)(3).

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

23 10. No request for damages is made pursuant to the Consumers Legal Remedies
24 Act at this time.

25 DATED: November 3, 2009

ROSNER, BARRY & BABBITT, LLP

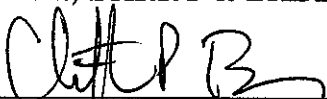
26 By: 
27 Christopher P. Barry
28 Attorneys for Plaintiff

EXHIBIT 1

Buyer Name and Address
(Including County and Zip Code)
LETICIA SAMA
1726 W PORTER ST
SAN BERNARDINO CA 92407
SAN BERNARDINO

Co-Buyer Name and Address
(Including County and Zip Code)

Creditor-Seller (Name and Address)
MOSS BROS C/D SAN BERNARDINO
1100 SOUTH E ST.
SAN BERNARDINO CA 92408
SAN BERNARDINO

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 terms and conditions of 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 I 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
USED	2005	CHRYSLER SEBRING	16502	1C3LC36R4N226262	<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 \$1300.00.
19.95 %	\$ 11759.41(e)	\$ 15959.15	\$ 27718.56(e)	\$ 29218.56(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		
71 Payments	384.98	Monthly, Beginning 11/21/2009		
Payments	N/A	Monthly, Beginning N/A		
One Final Payment	384.98	DUE ON 10/21/2015		
<p>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.</p> <p>Prepayment: If you pay off all your debt early, you may be charged a minimum finance charge.</p> <p>Security Interest: You are giving a security interest in the vehicle being purchased.</p> <p>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.</p>				

STATEMENT OF INSURANCE			
NOTICE: No person is required as a condition of the purchase of a motor vehicle to purchase or negotiate insurance through a particular insurance company, agent, 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	
Bodily Injury	\$ N/A Limits	Mos. \$ N/A	
Property Damage	\$ N/A Limits	Mos. \$ N/A	
Medical	N/A	Mos. \$ N/A	
N/A		Mos. \$ N/A	
Total Vehicle Insurance Premiums		\$ N/A	
UNLESS A CHARGE IS INCLUDED IN THIS AGREEMENT PUBLIC LIABILITY OR PROPERTY DAMAGE INSURANCE, PAY 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 <i>[Signature]</i>			
Co-Buyer <i>[Signature]</i>			
Seller <i>[Signature]</i>			

ITEMIZATION OF THE AMOUNT FINANCED (Seller may keep part of the amounts paid to others)	
I. Total Cash Price	
A. Cash Price of Motor Vehicle and Accessories	
1. Cash Price Vehicle	\$ 14991.00 (A)
2. Cash Price Accessories	\$ N/A
3. Other (Nontaxable)	\$ N/A
Describe N/A	\$ N/A
Describe N/A	\$ N/A
B. Document Preparation Fee (not a governmental fee)	\$ 35.00 (B)
C. Smog Fee Paid to Seller	\$ N/A (C)
D. (Optional) Theft Deterrent Device (to whom paid) N/A	\$ N/A (D)
E. (Optional) Theft Deterrent Device (to whom paid) N/A	\$ N/A (E)
F. (Optional) Theft Deterrent Device (to whom paid) N/A	\$ N/A (F)
G. (Optional) Surface Protection Product (to whom paid) N/A	\$ N/A (G)
H. (Optional) Surface Protection Product (to whom paid) N/A	\$ N/A (H)
I. Sales Tax (on taxable items in A through H)	\$ 134.15 (I)
J. Optional DMV Electronic Filing Fee	\$ 29.99 (J)
K. (Optional) Service Contract (to whom paid) N/A	\$ N/A (K)
L. (Optional) Service Contract (to whom paid) N/A	\$ N/A (L)
M. (Optional) Service Contract (to whom paid) N/A	\$ N/A (M)
N. (Optional) Service Contract (to whom paid) N/A	\$ N/A (N)
O. (Optional) Service Contract (to whom paid) N/A	\$ N/A (O)
P. Prior Credit or Lease Balances paid by Seller to N/A	\$ N/A (P)
(see downpayment and trade-in calculation)	
Q. (Optional) Gap Contract (to whom paid) EXPRESS AUTOGAP	\$ 750.00 (Q)
R. (Optional) Used Vehicle Contract Cancellation Option Agreement	\$ N/A (R)
S. Other (to whom paid) N/A	\$ N/A (S)

Application for Optional Credit Insurance			
<input type="checkbox"/> Credit Life:	<input type="checkbox"/> Buyer	<input type="checkbox"/> Co-Buyer	<input type="checkbox"/> Both
<input type="checkbox"/> Credit Disability (Buyer Only)			
	Term	Exp.	Premium
Credit Life	N/A	Mos.	\$ N/A
Credit Disability	N/A	Mos.	\$ N/A
Total Credit Insurance Premiums		\$ N/A (T)	
Insurance Company Name			
N/A			
Home Office Address			
N/A			
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 based on your original payment schedule. This insurance will not pay all you owe on this contract if you make late payment. 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 this 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 wage or profit 30 hours a week or more on the Effective Date of the Contract.			

B. Registration/Transfer/Titling Fees \$ 101.00 (B)
 C. California Tire Fees \$ N/A (C)
 D. Other N/A \$ N/A (D)
Total Official Fees (A through D) \$ 272.00 (2)

3. Amount Paid to Insurance Companies \$ N/A (3)
 (Total premiums from Statement of Insurance column a + b)
 4. Smog Certification or Exemption Fee Paid to State \$ 6.00 (4)
 5. Subtotal (1 through 4) \$ 1755.15 (5)
 6. Total Downpayment \$ 300.00 (A)

A. Agreed Trade-In Value Yr. 2002 Make NISSAN \$ 300.00 (A)
 Model ALTIMA Odom 122337
 VIN 1N4AL11D92C234372

B. Less Prior Credit or Lease Balance LIQUART \$ 2000.00 (B)
 C. Net Trade-In (A less B) (indicate if a negative number) \$ 1500.00 (C) 0
 D. Deferred Downpayment \$ N/A (D)
 E. Manufacturer's Rebate \$ N/A (E)
 F. Other N/A \$ N/A (F)
 G. Cash \$ N/A (G)
Total Downpayment (C through G) \$ 1500.00 (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) \$ 1555.15 (7)

Date N/A Buyer Signature _____ Age _____
 Date 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. EXPRESS AUTO GAP
 Name of Gap Contract _____
 I want to buy a gap contract _____
 Buyer Signs X _____

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 N/A Term N/A Mos. or N/A 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 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: 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. No oral changes are binding.
 Buyer Signs X _____
 Co-Buyer Signs X N/A

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

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 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 _____ 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.
 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 AWAY.
 Buyer Signature X _____
 Co-Buyer Signature X _____

OPTION: You pay no finance charge if the Amount Financed, item 7, is paid in full on or before 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 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 obligation 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 or for 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. CONFIRM THAT BEFORE YOU SIGNED THIS CONTRACT WE GAVE IT TO YOU; AND YOU WERE FREE TO TAKE AND REVIEW IT. YOU ACKNOWLEDGE THAT YOU HAVE READ BOTH SIDES OF THIS CONTRACT, INCLUDING 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 10/29/09 Co-Buyer Signature X N/A

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 complete defense to Guarantor's demand for reimbursement. Each Guarantor agrees to be liable even if he or she does 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 _____ Address _____ Title F/I

Seller Signs MOSS BROS C/D SAN BERNARDINO Date 10/29/09

LAW FORM NO. 553-CA-ARB (REV. 5/08) U.S. PATENT NO. 6,887,732 ©2008 The Reynolds and Reynolds Company. TO ORDER: www.reynolds.com 1-800-344-0988 ext. 400-651-8055. THIS PRINTER MAKES NO WARRANTY, EXPRESS OR IMPLIED, AS TO CONTENT OR FITNESS FOR PURPOSE OF THIS FORM. CONSULT YOUR OWN LEGAL COUNSEL.

CUSTOMER / TRUTH-IN LENDING COPY

EXHIBIT 2



October 12, 2009

Leticia Gama
1728 W Porter St
San Bernardino, CA 92407

Dear Leticia,

You recently entered into a motor vehicle contract and security agreement with Moss Bros. Dodge for the purchase of a motor vehicle. This contract and agreement is contingent upon our ability to obtain a financial institution to purchase that contract.

To date, we have been unable to obtain a financial institution willing to do so. Pursuant to the terms of the contractual agreement you signed with Moss Bros Dodge, this letter is to serve as "Notification of Non-assignment of Contract".

As we continue to work on obtaining financing, if you have any questions please feel free to contact the Finance Department. We appreciate your business.

Sincerely,



Moss Bros. Dodge
Finance Department