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

10 PAUL KIM, individually and on behalf  
of all others similarly situated,  
11  
12 Plaintiff,

13 v.

14 KDF AUTOMOTIVE GROUP, INC., a  
corporation, d.b.a. EL CAJON  
15 MITSUBISHI; and DOES 1 through 10,  
inclusive,  
16  
17 Defendants.

CASE NO. 37-2008-00092250-CU-BT-CTL

**CLASS ACTION**

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

1. VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT- CLASS CLAIM;
2. VIOLATION OF THE AUTOMOBILE SALES FINANCE ACT - 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; AND
6. NEGLIGENT MISREPRESENTATION - INDIVIDUAL CLAIM.

23 Plaintiff Paul Kim, individually as to all causes of action, and on behalf of all others  
24 similarly-situated as to the First through Third Causes of Action, alleges as follows on  
25 information and belief, formed after an inquiry reasonable under the circumstances:

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1 **INTRODUCTION**

2 1. Plaintiff is one of many customers who, during the past several years,  
3 purchased a vehicle from Defendant KDF Automotive Group, Inc., doing business as  
4 El Cajon Mitsubishi (hereinafter "Defendant" and/or "ECM"), a large automobile dealership  
5 in San Diego County, California. After Plaintiff and other consumers signed purchase  
6 contracts for vehicles, ECM contacted them and told them that the deal needed to be  
7 changed in one way or another. ECM then had these customers sign a subsequent  
8 purchase contract that was backdated to the date of the original purchase contract.

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

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

24 **JURISDICTION AND VENUE**

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

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**CLASS ALLEGATIONS**

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

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

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

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

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

**A. NUMEROSITY OF THE CLASS**

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

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

3           17.    Common questions of law and fact arising out of the claims here at issue  
4 exist 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 ECM's practice of backdating subsequent purchase contracts  
7                   violates California's consumer protection statutes including, *inter alia*, the  
8                   CLRA, the ASFA, and/or the UCL;
- 9           b.    the amount of revenues and profits ECM received, and/or the amount of  
10                   monies or other obligations imposed on, or lost by, Class Members as a  
11                   result of such wrongdoing;
- 12           c.    whether Class Members are threatened with irreparable harm and are  
13                   entitled to injunctive and other equitable relief and, if so, what is the nature  
14                   of such relief; and
- 15           d.    whether Class Members are entitled to rescission, payment of actual,  
16                   incidental, consequential, exemplary, punitive, and/or statutory damages plus  
17                   interest thereon, and, if so, what is the nature of such relief.

18           **C.    TYPICALITY OF CLAIMS**

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

22           19.    Plaintiff and each member of the Class signed a second Retail Installment  
23 Sale Contract that was backdated to the date of their original contract and involved  
24 financing at an annual percentage rate greater than 0.0%.

25           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 ECM'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 ECM 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 ECM.

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 ECM;

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. ECM 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 ECM'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 from ECM. Each Class Member  
2 executed an "Acknowledgement of Rescinded Contract" form (or a similar form) and each  
3 Class Member entered into a subsequent purchase contract with ECM that involved  
4 financing at an annual percentage rate greater than 0.0% and that was backdated to the  
5 date of the original purchase contract.

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

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

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

14           30. In March and April 2008, Mr. Kim and his wife were in the market for a larger  
15 vehicle, possibly a used vehicle, that could accommodate their second child who was due  
16 in July. Safety and accident history were two of their most important concerns.

17           31. They went to a tent sale at Qualcomm Stadium and went to the aisle for  
18 El Cajon Mitsubishi ("ECM").

19           32. During the last hour of the tent sale, they saw a 2007 Chevrolet Avalanche  
20 (VIN: 3GNEC12097GG268739)(hereinafter "the Vehicle"). The Kims initially thought the  
21 Vehicle was not for sale as there were no window stickers posted on the Vehicle. The  
22 ECM salesman, however, told them that the owner of the dealership was using the Vehicle,  
23 but that "they could still sell it."

24           33. They test drove the Vehicle and asked numerous questions of the ECM sales  
25 staff. Mrs. Kim asked the salesman whether the Vehicle had been in an accident. The  
26 salesman replied "Oh no, its never been in an accident."

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1           34.    The Kims asked for a Carfax report. The salesman soon handed them a two-  
2 page Carfax report, stating "look, everything turned out clean." The Carfax report provided  
3 to the Kims did not disclose a previous accident involving the vehicle.

4           35.    The Kims were concerned with the amount of the monthly payments being  
5 asked, and were told they could get financing for 84 months. Believing what he was told,  
6 Mr. Kim then signed a Retail Installment Sale Contract on April 20, 2008, for purchase of  
7 the Vehicle ("RISC #1"). The payment term listed on the contract was for 84 monthly  
8 payments.

9           36.    The very next day, ECM employee Melissa Barton called the Kims. She told  
10 them that no lender would approve an 84-month contract, but they could only get approved  
11 for a 72-month term.

12          37.    Ms. Barton told the Kims that if they did not want that length of loan, they  
13 would have to give the Vehicle back.

14          38.    Based on Ms. Barton's representations, Mr. Kim returned to the dealership  
15 and signed a second Retail Installment Sale Contract on April 21, 2008 ("RISC #2a").  
16 Mr. Kim asked at that time whether the down payment could be reduced from \$2,000 to  
17 \$1,500. Mr. Kim was told by ECM that they would check.

18          39.    Five days later, Mr. Kim returned to ECM and signed a third contract ("RISC  
19 #3"), which reduced the required downpayment to \$1,500. The third contract failed to  
20 accurately and separately state the fees for licensing and registration. (A true and correct  
21 copy of RISC #3 is attached hereto as Exhibit 1.)

22          40.    The third purchase contract, which Mr. Kim executed with ECM on April 26,  
23 2008, was dated the date of the original purchase contract – April 20, 2008. Mr. Kim also  
24 signed an "Acknowledgment of Rewritten Contract" on April 26, 2008 (a true and correct  
25 copy is attached hereto as Exhibit 2).

26          41.    After signing the third contract, Mr. Kim learned that the Carfax report he had  
27 been given by ECM at the tent sale was not a full Carfax and did not list the full history of  
28 the Vehicle. The Kims brought this to ECM's attention and, at the Kims request, were

1 mailed the full Carfax report. That report shows the Vehicle was in fact involved in an  
2 accident, contrary to ECM's representations.

3 42. ECM is, on information and belief, a licensed dealer and lessor-retailer in this  
4 state within the terms of the California Vehicle Code §§ 285 and 373.

5 **FIRST CAUSE OF ACTION**

6 **Violation of Consumers Legal Remedies Act, Civil Code Section 1750 et seq.**  
7 **(For Injunctive Relief Only) – Class Claim Against Defendants ECM and Does 1-10**

8 43. Plaintiff, on his own behalf and on behalf of the Class Members, incorporates  
9 by reference each and every allegation set forth in Paragraphs 1 through 42, inclusive, of  
10 this Complaint.

11 44. The vehicles purchased by Plaintiff and each member of the Class constitute  
12 "goods" bought for use primarily for personal, family, or household purposes pursuant to  
13 Civil Code § 1761(a).

14 45. Plaintiff and each member of the Class are "consumers" pursuant to  
15 Civil Code § 1761(c).

16 46. The advertisement and sale of the vehicles to Plaintiff and each member of  
17 the Class are "transactions" pursuant to Civil Code § 1761(e).

18 47. The policies, acts, and practices engaged in by ECM and alleged herein were  
19 intended to, and did, result in the sale of the vehicles at issue to Plaintiff and the Class  
20 Members primarily for personal, family, or household purposes, and violated and continue  
21 to violate the Consumers Legal Remedies Act ("CLRA"), in at least the following respects:  
22 (1) representing that a transaction confers or involves rights, remedies, or obligations which  
23 it does not have or involve, or which are prohibited by law; and (2) representing that the  
24 subject of a transaction has been supplied in accordance with a previous representation  
25 when it has not.

26 48. Concurrently with the filing of this lawsuit, Plaintiff served ECM via certified  
27 and regular mail a CLRA notification and demand on behalf of all persons who  
28 (a) purchased a vehicle from ECM for personal use; (b) on a later date rescinded their

1 original purchase contract; and (c) signed a subsequent or second contract for the  
2 purchase of the same vehicle, which contract was dated the date of the original purchase  
3 contract and involved financing at an annual percentage rate greater than 0.00%.

4 **49. ECM received the letter on September 19, 2008. ECM did not offer**  
5 **Plaintiff or the proposed class an appropriate remedy within 30 days of notice of**  
6 **violations of the CLRA. Accordingly, Plaintiff seeks damages and punitive damages**  
7 **under the Consumers Legal Remedies Act for ECM's violations of Civil Code**  
8 **Sections 1770(a)(14) and (16).**

9 50. Civil Code § 1780(a)(2) provides that a consumer is entitled to an injunction  
10 prohibiting acts or practices which violate the Act. Plaintiff alleges that ECM has  
11 established a pattern and practice of: (1) backdating subsequent purchase contracts to the  
12 date of the original purchase contracts; (2) improperly completing second contracts for the  
13 purchase of a vehicle; (3) charging interest before consummation; (4) collecting or causing  
14 to be collected finance charges in excess of disclosed finance charges; (5) charging  
15 compound interest in simple interest contracts, and (6) failing to include all agreements  
16 between the buyer and the seller in a single document. Plaintiff, on behalf of himself and  
17 the Class Members, seeks an order enjoining Defendant from the acts, methods, and  
18 practices as set forth in the complaint.

19 51. Plaintiff and the Class Members seek all relief available pursuant to Civil  
20 Code § 1780, including restitution and attorneys' fees and costs according to proof at time  
21 of trial.

## 22 SECOND CAUSE OF ACTION

23 **Violation of the Automobile Sales Finance Act, Civil Code Section 2981 et seq. –**

24 **Class Claim Against Defendants ECM and Does 1-10**

25 52. Plaintiff, on his own behalf and on behalf of the Class Members, incorporates  
26 by reference each and every allegation set forth in Paragraphs 1 through 51, inclusive, of  
27 this Complaint.

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1           53.    The purchase contracts executed by Plaintiff and each member of the Class  
2 for their vehicles are "conditional sale contracts" pursuant to Civil Code § 2981(a).

3           54.    ECM is a "seller" pursuant to Civil Code § 2981(b).

4           55.    Plaintiff and each member of the Class are "buyers" pursuant to Civil Code  
5 § 2981(c).

6           56.    The vehicles purchased by Plaintiff and each member of the Class are "motor  
7 vehicles" pursuant to Civil Code § 2981(k).

8           57.    Vehicle Code § 5901(c) states that consummation of a sale occurs when the  
9 purchaser has signed a purchase contract and taken physical possession of the vehicle.

10          58.    ECM and Plaintiff, and each Class Member, consummated their original  
11 purchases upon signature of their original purchase contracts and taking delivery of their  
12 respective vehicles. Those transactions were rescinded when Plaintiff and each Class  
13 Member returned to ECM with their vehicles and signed an "Acknowledgement of  
14 Rewritten Contract" or similar form which explicitly stated the original contract entered into  
15 between myself and dealer has been mutually rescinded and no longer has any legal  
16 effect.

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

25          60.    By backdating the final purchase contract to the date of the original purchase  
26 contract, ECM overstated the payment that was due for the annual percentage rate shown  
27 on the contract. The actual annual percentage rate, based on a contract consummation  
28 date of the final purchase contract, varied from the disclosed annual percentage rate by

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

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

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

15 63. Plaintiff and each Class Member have been damaged by ECM's violations  
16 of the ASFA. Since the violations include violations of Civil Code §§ 2981.9, 2982(a), and  
17 2982(j), Plaintiff and each Class Member are entitled to rescission of their purchase  
18 contracts and return of all monies paid under the contracts pursuant to Civil Code § 2983.  
19 Plaintiff also seeks attorneys' fees and costs pursuant to Civil Code § 2983.4. Plaintiff also  
20 seeks an injunction prohibiting the conduct identified herein.

### 21 THIRD CAUSE OF ACTION

#### 22 **Commission of Unlawful, Unfair, and/or Fraudulent Business Acts and Practices,** 23 **Bus. & Prof. Code Section 17200, et seq. – Class Claim Against Defendant ECM** 24 **and Does 1-10**

25 64. Plaintiff, on his own behalf and on behalf of the Class Members, incorporates  
26 by reference each and every allegation set forth in Paragraphs 1 through 63, inclusive, of  
27 this Complaint.

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

4           66.    Plaintiff and each member of the Class have suffered injury in fact and have  
5 lost money as a result of Defendant's unfair competition.

6           67.    ECM has engaged in "unlawful" business acts and practices by the following:  
7 (1) backdating subsequent purchase contracts to the date of the original purchase  
8 contracts; (2) violating the single document rule in Civil Code § 2981.9; (3) improperly  
9 completing second contracts for the purchase of a vehicle; (4) charging interest before  
10 consummation; (5) collecting or causing to be collected finance charges in excess of  
11 disclosed finance charges; (6) charging compound interest in simple interest contracts; and  
12 (7) failing to include all agreements between the buyer and the seller in a single document.  
13 These policies, acts, and practices were intended to and did violate, *inter alia*, the CLRA  
14 and the ASFA. Accordingly, Defendant has violated Business & Professions Code §  
15 17200's proscription against engaging in an "unlawful" business act or practice.

16           68.    Defendant has also engaged in a "fraudulent" business act or practice in that  
17 the representations and omissions of material fact described above have a tendency and  
18 likelihood to deceive purchasers of these vehicles.

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

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



1 amounts of price reductions; (4) representing that a transaction confers or involves rights,  
2 remedies, or obligations which it does not have or involve, or which are prohibited by law;  
3 (5) representing that the subject of a transaction has been supplied in accordance with a  
4 previous representation when it has not; (6) misrepresenting the source, sponsorship,  
5 approval, or certification of goods or services, and (7) misrepresenting the affiliation,  
6 connection, or association with, or certification by, another.

7 77. Concurrently with the filing of this lawsuit, Plaintiff served ECM via certified  
8 and regular mail a Consumers Legal Remedies Act notification and demand letter seeking  
9 individual relief from ECM.

10 78. **ECM received the letter on September 19, 2008. ECM did not offer**  
11 **Plaintiff or the proposed class an appropriate remedy within 30 days of notice of**  
12 **violations of the CLRA. Accordingly, Plaintiff seeks damages and punitive damages**  
13 **under the Consumers Legal Remedies Act for ECM's violations of Civil Code**  
14 **Sections 1770(a)(14) and (16).**

15 79. Section 1780(a)(2) of the CLRA provides that a consumer is entitled to an  
16 injunction prohibiting acts or practices which violate the CLRA. Plaintiff alleges that ECM  
17 has established a pattern and practice of: (1) misrepresenting certification and Carfax  
18 reports; (2) misrepresenting vehicle history and accident history; (3) failing to separately  
19 itemize registration, transfer, or titling fees; (4) misrepresenting license and registration fee  
20 amounts; (5) misrepresenting available financing; and (6) inserting unconscionable  
21 arbitration clauses. Plaintiff also seeks an order enjoining ECM from the acts, methods,  
22 and practices as set forth in this Complaint and for payment of restitution.

23 80. Plaintiff seeks all remedies available pursuant to Civil Code § 1780, including  
24 attorneys' fees and costs according to proof at time of trial.

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1 **FIFTH CAUSE OF ACTION**

2 **Intentional Misrepresentation – Individual Claim Against Defendants El Cajon**  
3 **Mitsubishi and Does 1-10**

4 81. Plaintiff incorporates by reference each and every allegation set forth in  
5 Paragraphs 1 through 80, inclusive, of this Complaint. This cause of action is brought by  
6 Plaintiff individually.

7 82. At the time of purchase, and afterwards, Defendant made the  
8 misrepresentations as set forth in Paragraphs 30-40. The identity of Defendant's  
9 employees who made the misrepresentations to Plaintiff are stated in those same  
10 Paragraphs. Names of Defendant's employees whom Plaintiff does not know by name  
11 are known to Defendant and are stated in documents in Defendant's possession.

12 83. At the time of purchase, and afterwards, Defendant omitted from the  
13 statements it had made material facts as set forth above, the disclosure of which were  
14 necessary in order to make Defendant's other statements not misleading. These  
15 omissions include, but are not limited to the following: that the Vehicle had been in an  
16 accident, that registration fees would be charged, that license fees were less than charged,  
17 and that the initial Carfax report was incomplete.

18 84. At all times Defendant either had actual or constructive notice of the true  
19 facts but nonetheless intentionally or recklessly concealed these facts from Plaintiff.

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

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

4 87. Defendant acted with malice, oppression, and fraud toward Plaintiff within the  
5 meaning of Civil Code § 3294. In particular, Defendant's conduct included  
6 misrepresentations by Finance Managers and sales persons, among others, authorized  
7 to act on Defendant's behalf. Plaintiff is, therefore, entitled to punitive damages.

8 88. Plaintiff hereby alleges fraud in the inducement to enter into the purchase  
9 contract, and therefore is entitled to rescission of the purchase contract and restitution and  
10 attorneys' fees in an amount according to proof at trial.

11 **SIXTH CAUSE OF ACTION**

12 **Negligent Misrepresentation – Individual Claim Against Defendants ECM and**  
13 **Does 1-10**

14 89. Plaintiff incorporates by reference each and every allegation set forth in  
15 Paragraphs 1 through 88, inclusive, of this Complaint and further alleges in the alternative  
16 to the Fifth Cause of Action as follows. This cause of action is brought by Plaintiff  
17 individually.

18 90. The representations made by Defendant as alleged in Paragraphs 30-40  
19 were not true.

20 91. Regardless of its actual belief, Defendant made the representations without  
21 any reasonable grounds for believing them to be true.

22 92. Defendant failed to exercise due care in ascertaining the accuracy of the  
23 representations made to Plaintiff.

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

26 94. Plaintiff was unaware of the falsity of the representations and acted in  
27 reliance upon the truth of those representations and was justified in relying upon those  
28 representations.

1 95. As a direct and proximate result of Defendant's negligent misrepresentations  
2 of material fact, Plaintiff has suffered damages, including actual, consequential, and  
3 incidental damages according to proof of trial.

4 96. Plaintiff alleges fraud in the inducement to enter into the purchase contracts,  
5 and therefore are entitled to rescission of the purchase contracts, restitution, and attorneys'  
6 fees in an amount according to proof at trial.

7 **PRAYER FOR RELIEF**

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

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

12 2. For the declaratory, equitable, and/or injunctive relief requested as permitted.

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

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

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

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

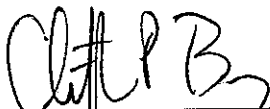
18 7. For pre-judgment interest at the legal rate.

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

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

23 DATED: January 6, 2009

ROSNER & MANSFIELD, LLP

24  
25 By:   
26 CHRISTOPHER P. BARRY  
27 Attorneys for Plaintiff  
28

# EXHIBIT 1

Buyer (and Co-Buyer) Name and Address (Including County and Code) <b>PAUL KIN</b>  1608 BARBARA WORTH DR #9 EL CENTRO CA IMPERIAL 92243	Creditor - Seller (Name and Address) <b>EL CAJON MITSUBISHI</b>  247 EL CAJON BLVD EL CAJON, CA 92020-4303
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You, the Buyer (and Co-Buyer, if any), may buy the vehicle below for cash or on credit. By signing this contract, you choose to buy the vehicle on credit under the agreements on the front and back of this contract. You agree to pay the Creditor - Seller (sometimes "we" or "us" in this contract) the Amount Financed and Finance Charge according to the payment schedule below. We will figure your finance charge on a daily basis. The Truth-In-Lending Disclosures below are part of this contract.

New Used	Year	Make and Model	Odometer	Vehicle Identification Number	Primary Use For Which Purchased
USED	2007	CHEVROLET AVALANCH	20616	3GNEC12097G269739	<input checked="" type="checkbox"/> personal, family or household <input type="checkbox"/> business or commercial

FEDERAL TRUTH-IN-LENDING DISCLOSURES				
ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost you.	Amount Financed The amount of credit provided to you or on your behalf.	Total of Payments The amount you will have paid after you have made all payments as scheduled.	Total Sale Price The total cost of your purchase on credit, including your down payment of \$ <u>0.00</u> is
<b>8.94 %</b>	<b>\$ 11280.54(e)</b>	<b>\$ 37541.94</b>	<b>\$ 50322.48(e)</b>	<b>\$ 48822.48(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>1500.00</b>	<b>05/04/08</b>		
One Payment of	<b>N/A</b>	<b>N/A</b>		
<b>71</b> Payments	<b>678.09</b>	Monthly, Beginning <b>06/04/08</b>		
Payments	<b>N/A</b>	Monthly, Beginning <b>N/A</b>		
One Final Payment	<b>678.09</b>	<b>05/04/2014</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.				

STATEMENT OF INSURANCE		
NOTICE: No person is required as a condition of financing the purchase of a motor vehicle to purchase or negotiate any insurance through a particular insurance company, agent or broker. You are not required to buy any other insurance to obtain credit. Your decision to buy or not buy other insurance will not be a factor in the credit approval process.		
Vehicle Insurance	Term	Premium
\$ <u>N/A</u> Ded. Comp., Fire & Theft	<u>N/A</u> Mos.	<u>N/A</u>
\$ <u>N/A</u> Ded. Collision	<u>N/A</u> Mos.	<u>N/A</u>
Bodily Injury \$ <u>N/A</u> Limits	<u>N/A</u> Mos.	<u>N/A</u>
Property Damage \$ <u>N/A</u> Limits	<u>N/A</u> Mos.	<u>N/A</u>
Medical <u>N/A</u>	<u>N/A</u> Mos.	<u>N/A</u>
<u>N/A</u>	<u>N/A</u> Mos.	<u>N/A</u>
Total Vehicle Insurance Premiums		<u>N/A</u>
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 <input checked="" type="checkbox"/>		
Co-Buyer <input type="checkbox"/>		
Seller <input checked="" type="checkbox"/> <b>EL CAJON MITSUBISHI</b>		
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		
<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)		
Credit Life	Term	Exp. Premium
\$ <u>N/A</u> Mos.	<u>N/A</u>	<u>N/A</u>
\$ <u>N/A</u> Mos.	<u>N/A</u>	<u>N/A</u>
Total Credit Insurance Premiums		<u>N/A</u>
Insurance Company Name	<u>N/A</u>	
Home Office Address _____		
Credit life insurance and credit disability insurance are not required to obtain credit. Your decision to buy or not buy credit life and credit disability insurance will not be a factor in the credit approval process. They will not be provided unless you sign and agree to pay the extra cost. Credit life insurance is based on your original payment schedule. This insurance may not pay all you owe on this contract if you make late payments. Credit disability insurance does not cover any increase in your payment or in the number of payments. Coverage for credit life insurance and credit disability insurance ends on the original due date for the last payment unless a different term for the insurance is shown above.		
You are applying for the credit insurance marked above. Your signature below means that you agree that: (1) You are not eligible for insurance if you have reached your 65th birthday. (2) You are eligible for disability insurance only if you are working for wages or profit 30 hours a week or more on the Effective Date. (3) Only the Primary Buyer is eligible for disability insurance. <b>DISABILITY INSURANCE MAY NOT COVER CONDITIONS FOR WHICH YOU HAVE SEEN A DOCTOR OR CHIROPRACTOR IN THE LAST 6 MONTHS</b> (Refer to "Total Disabilities Not Covered" in your policy for details). You want to buy the credit insurance.		
Date	<u>Paul Kin</u> Buyer Signature	Age
Date	<u>X</u> Co-Buyer Signature	Age

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	\$ <u>26077.66</u> (A)
1. Cash Price Vehicle	\$ <u>26077.66</u>
2. Cash Price Accessories	\$ <u>N/A</u>
3. Other (Nontaxable)	\$ <u>N/A</u>
Describe <u>N/A</u>	\$ <u>N/A</u>
Describe <u>N/A</u>	\$ <u>N/A</u>
B. Document Preparation Fee (not a governmental fee)	\$ <u>55.00</u> (B)
C. Smog Fee Paid to Seller	\$ <u>N/A</u> (C)
D. (Optional) Theft Deterrent Device (to whom paid)	\$ <u>N/A</u> (D)
E. (Optional) Theft Deterrent Device (to whom paid)	\$ <u>N/A</u> (E)
F. (Optional) Surface Protection Product (to whom paid)	\$ <u>N/A</u> (F)
G. (Optional) Surface Protection Product (to whom paid)	\$ <u>N/A</u> (G)
H. Sales Tax (on taxable items in A through G)	\$ <u>2025.28</u> (H)
I. Optional DMV Electronic Filing Fee	\$ <u>N/A</u> (I)
J. (Optional) Service Contract (to whom paid)	\$ <u>N/A</u> (J)
K. (Optional) Service Contract (to whom paid)	\$ <u>N/A</u> (K)
L. (Optional) Service Contract (to whom paid)	\$ <u>N/A</u> (L)
M. Prior Credit or Lease Balance paid by Seller to <b>HONDA LEASE TRST</b>	\$ <u>8150.00</u> (M)
(see downpayment and trade-in calculation)	
N. (Optional) Gap Contract (to whom paid) <b>premier gap</b>	\$ <u>750.00</u> (N)
O. (Optional) Used Vehicle Contract Cancellation Option Agreement	\$ <u>N/A</u> (O)
P. Other (to whom paid) <u>N/A</u>	\$ <u>N/A</u> (P)
For <u>N/A</u>	
<b>Total Cash Price (A through P)</b>	<b>\$ 37057.94</b> (1)
<b>2. Amounts Paid to Public Officials</b>	
A. License Fees (ESTIMATED)	\$ <u>484.00</u> (A)
B. Registration/Transfer/Titling Fees	\$ <u>N/A</u> (B)
C. California Tire Fees	\$ <u>N/A</u> (C)
D. Other <u>N/A</u>	\$ <u>N/A</u> (D)
<b>Total Official Fees (A through D)</b>	<b>\$ 484.00</b> (2)
<b>3. Amount Paid to Insurance Companies</b>	
(Total premiums from Statement of Insurance column a + b)	\$ <u>N/A</u> (3)
4. <input type="checkbox"/> Smog Certification or <input type="checkbox"/> Exemption Fee Paid to State	\$ <u>N/A</u> (4)
<b>5. Subtotal (1 through 4)</b>	<b>\$ 37541.94</b> (5)

6. Total Downpayment

A. Agreed Trade-In Value Yr 2007 Make ACUR \$24000.00 (A)  
 Model L Odom 22752  
 VIN 19UUA66217A025165

B. Less Prior Credit or Lease Balance (ESTIMATED) \$33650.00 (B)  
 C. Net Trade-In (A less B) (indicate if a negative number) \$-9650.00 (C)  
 D. Deferred Downpayment \$1500.00 (D)  
 E. Manufacturer's Rebate \$ N/A (E)  
 F. Other \$ N/A (F)  
 G. Cash \$ N/A (G)

Total Downpayment (C through G) \$ 0.00 (6)  
 (If negative, enter zero on line 6 and enter the amount less than zero as a positive number on line 1M above)

7. Amount Financed (5 less 6) \$37541.94 (7)

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 1N. See your gap contract for details on the protection it provides. It is a part of this contract.

Term 72 Mos premier gap  
 Name of Gap Contract

You want to buy a gap contract.

Buyer X *[Signature]*

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 1J, 1K, and/or 1L above.

1J Company N/A  
 Term N/A Mos. on N/A Miles  
 1K Company N/A  
 Term N/A Mos. on N/A Miles  
 1L Company N/A  
 Term N/A Mos. on N/A Miles

Buyer X *[Signature]*

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:

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 *[Signature]*  
 Co-Buyer Signs X *[Signature]*

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.

X Buyer X Co-Buyer

OPTION:  You pay no finance charge if the Amount Financed, item 7, is paid in full on or before \_\_\_\_\_, 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 *[Signature]* 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 *[Signature]* Co-Buyer X \_\_\_\_\_

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

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

Buyer Signature X *[Signature]* Co-Buyer Signature X \_\_\_\_\_

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

THERE IS NO COOLING-OFF PERIOD 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. 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 *[Signature]* Date 4/20/08 Co-Buyer Signature X \_\_\_\_\_ 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 4/20/08 Guarantor X \_\_\_\_\_ Date \_\_\_\_\_  
 Address \_\_\_\_\_ Address \_\_\_\_\_

Seller Sign EL CAJON MITSUBISHI Date 4/20/08 By X *[Signature]* Title MGR

# EXHIBIT 2

**ACKNOWLEDGEMENT OF REWRITTEN CONTRACT**

Buyer's Name KIM  
Vehicle I.D. # 36NEC120976269739  
Original Contract Date 4/20/08  
Rewritten Contract Date 4/26/09

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:

GAP TO \$750 ADJUST PAYOFF  
NEW PAYMENT 678.09

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 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.

4/26/09  
Date

[Signature]  
Buyer

[Signature]  
Seller