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8	SUPERIOR COURT OF THE STATE OF CALIFORNIA		
9	COUNTY OF ORANGE - CENTRAL JUSTICE CENTER		
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11	CHRISTY LEWIS, an individual,	Case No.: 30-2011-00441338-CU-BT-CJC	
12	Plaintiff	SECOND AMENDED COMPLAINT FOR VIOLATION OF VEHICLE LEASING ACT	
13	v.	VIOLATION OF VEHICLE ELASTICATION	
14	FLETCHER JONES MOTOR CARS, INC., a California corporation, and		
15	DOES 1 through 75,		
16	Defendants.		
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1. This complaint arises out of a consumer's lease of a motor vehicle from Defendant Fletcher Jones Motor Cars, Inc. (the "Dealership"). Specifically, the Dealership falsified lease documents in order to get Plaintiff financed for a lease for which she otherwise would not have qualified. Based on the down payment that Plaintiff could afford and her income, Defendant's lender(s) would not have financed the loan needed for Plaintiff to lease such an expensive vehicle. However, because Plaintiff could not obtain financing, Defendant falsely inflated the amount of Plaintiff's down payment on the lease contract, thereby committing a fraud on the lender in order to trick it into financing the lease, and resulting in Plaintiff being ensnared in a predatory loan. The Dealership's intentional falsification of the down payment amount on the lease contract violates the financial disclosure requirements of California's Vehicle Leasing Act (the "VLA") (Civil Code Section 2985.7 et seq.). During the term of the lease, Plaintiff incurred missed payment penalties and late fees as a result of the predatory financing terms, which she would not have been subject to but for the Dealership's intentional falsification of the lease documents.

- 2. The Dealership further violated the VLA by failing to disclose in the lease contract the amount of the penalty that Plaintiff would be charged for violating Defendant's "Anti-Export Policy." Defendant's failure to include the amount of this potential charge on the face of the lease violated Civil Code Section 2985.8(c)(1), and Defendant's inclusion of the amount of this penalty in a separate document violated the "single document rule" imposed by Civil Code Section 2985.8(a).
- 3. Because the Dealership's violation's of the VLA's disclosure requirements were intentional, Plaintiff is entitled to rescind the lease contract and be reimbursed for all payments made towards the lease.

PARTIES

Plaintiff Christy Lewis is an individual residing in Newport Beach,
 California.

- 5. Defendant Fletcher Jones Motor Cars, Inc. (the "Dealership") is a California corporation that at all material times has been doing business as a car dealership at 3300 Jamboree Road, Newport Beach, California.
- 6. Plaintiff does not know the true names and capacities, whether corporate, partnership, associate, individual, or otherwise, of defendants sued herein as Does 1 through 75, inclusive, and thus names them under the provisions of Section 474 of the California Code of Civil Procedure. Defendants Does 1 through 75 are in some manner responsible for the acts set forth herein, and are legally liable to Plaintiff. Plaintiff will set forth the true names of the fictitiously-named defendants together with appropriate charging allegations when ascertained.
- 7. All acts of corporate employees were authorized or ratified by an officer, director, or managing agent of the corporate employer.
- 8. Each defendant (whether actually or fictitiously-named herein) was the principal, agent, alter-ego, co-conspirator, or employee of each other defendant and in acting as such principal or within the course and scope of such employment, agency, or conspiracy, took some part in the acts and omissions hereinafter set forth by reason of which each defendant is liable to Plaintiff.

FACTS

- 9. Plaintiff alleges as follows, on information and belief, formed after an inquiry reasonable under the circumstances:
- 10. On or about October 16, 2006, Plaintiff visited the Dealership shopping for a vehicle. The Dealership showed Plaintiff that certain 2007 Mercedes-Benz E350 with vehicle identification number WDBUF56XX7B034333 (the "Mercedes E350"). Plaintiff thereafter informed the Dealership that she would be interested in leasing the Mercedes E350, and that she could pay a down payment of \$2,000.
- 11. The Dealership had Plaintiff fill out a credit application, ran her credit, and ascertained her ability to qualify for the financing necessary to lease the Mercedes

E350. Based on the down payment that Plaintiff could afford, Plaintiff's income, and credit score, Defendant's lender(s) would not finance the loan needed for Plaintiff to lease such an expensive car. The Dealership informed Plaintiff that she would need to make a down payment of at least \$6,000 in order to be financed. However, Plaintiff was unable to make an immediate payment in that amount.

- 12. Plaintiff and the Dealer then agreed that Plaintiff would make an immediate down payment of \$2,000, Plaintiff would immediately take delivery of the vehicle, and then Plaintiff would pay an additional \$4,000 in a couple of weeks.
- 13. Because the Dealership knew that the Dealership's lender(s) would not finance this arrangement (*i.e.*, which included an immediate down payment of only \$2,000) the Dealership intentionally falsified Plaintiff's down payment in the lease contract. Specifically, the lease contract stated that Plaintiff was making an immediate down payment of \$6,000, and contained no mention of the fact that \$4,000 of this amount would actually be paid a couple of weeks after the vehicle's delivery. The Dealership did this with the intention of defrauding the lender into financing the lease (which it otherwise would not have done) and getting Plaintiff financed for a predatory loan that she could not afford. But for the Dealership's falsification of the lease documents, Plaintiff would not have leased the Mercedes E350.
- 14. Plaintiff did not understand the complex lease documentation, did not know that the Dealership was violating applicable laws, did not know that the Dealership was falsifying the payment schedule, and did not know the reasons for the Dealership's illegal actions.
- 15. The resulting lease contract, which Plaintiff signed, contained no mention of the \$4,000 payment that Plaintiff was to make a couple of weeks after delivery, and did not state the date on which this amount was to be paid. A copy of Plaintiff's lease contract is attached hereto as Exhibit 1.

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- 16. The Dealership insisted that Plaintiff immediately provide a check for the \$4,000 that she had agreed to pay a couple of weeks after the vehicle's delivery, which she did.
- 17. Partyly because of the fact that the lease contract did not state the date upon which Plaintiff was obligated to make the \$4,000 payment, Plaintiff incurred dishonored check charges when the Dealership attempted to cash the check prior to the time when Plaintiff expected the check to be cashed.
- 18. Because of the predatory finance terms, which Plaintiff could not afford, throughout the term of the lease Plaintiff incurred missed payment penalties and additional interest charges.
- 19. In preparing the lease documents, the Dealership also prepared an document (separate and apart from the lease contract) additional "Acknowledgement of Anti-Export Policy," which stated that Plaintiff would be liable for and have to pay the Dealership \$10,000 if Plaintiff exported the Mercedes E350 from the Dealership's sales territory. This document expressly stated that Plaintiff's signature on the Mercedes E350's lease contract constituted acceptance of "Acknowledgement of Anti Export Policy" document's terms. A copy of the "Acknowledgment of Anti-Export Policy" document that Plaintiff signed is attached hereto as Exhibit 2.
- 20. The lease contract for the Mercedes E350 contains no mention of the "Anti Export Policy" penalty or its amount.
- 21. Section 23(b) of Plaintiff's lease contract states that any violation of the Anti-Export Policy amounts to a default under the lease.
- 22. Violation of the Dealership's "Anti-Export Policy" amounts to a default under Plaintiff's lease contract for the Mercedes E350 pursuant to Section 23(b) of the lease contract.

- 34. 12 C.F.R. 213.4(c) (which is incorporated by reference into the VLA by Civil Code Section 2985.8(c)(1)) requires that all lease contracts accurately state the amounts and due dates of all payments due under the lease.
- 35. The Dealership violated Civil Code Section 2985.8(c)(1) by failing to accurately state in the lease contract (i) the amount due from Plaintiff prior to her taking delivery of the Mercedes E350, and (ii) the amount of and the due date for the payment that Plaintiff agreed to make a couple of weeks after she took delivery of the Mercedes E350.
- 36. Damage is not required in order for a lessee to state a claim for violation of the VLA's disclosure requirements. However, Plaintiff was damaged in that the Dealership's failure to state the due date for the \$4,000 payment Plaintiff agreed to make a couple of weeks after delivery caused Plaintiff to incur dishonored check charges. Plaintiff also incurred missed and late payment penalties and interest charges because of the predatory lease terms to which she was subjected, which she would not have entered into but for the Dealership's fraudulent and intentional misrepresentation of her down payment amount.
- 37. The Dealership's violations of the VLA was willful, and therefore the Lease Contract is not enforceable, and Plaintiff is entitled to rescission and/or statutory and actual damages.

PRAYER FOR RELIEF

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

- 1. For the declaratory, equitable, and/or injunctive relief;
- 2. For rescission and/or restitution as requested above;
- 3. For actual damages and statutory damages, according to proof at trial;
- 4. For pre judgment interest at the legal rate;

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