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Attorneys for Plaintiff, Alexandra Reid, and all others similarly situated

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ALEXANDRA REID, individually,
and on behalf of other members of
the general public similarly situated,

Plaintiff,

vs.

CARMAX AUTO SUPERSTORES,
INC.;
CARMAX AUTO SUPERSTORES
WEST COAST, INC.;
DOES 1-100, INCLUSIVE.

Defendant.

Case No.

CLASS ACTION COMPLAINT

- (1) Violation of Unfair Competition Law (Cal. Business & Professions Code §§ 17200 *et seq.*)
- (2) Common Law Fraud
- (3) Unjust Enrichment

Jury Trial Demanded

1 Plaintiff ALEXANDRA REID (“Plaintiff”), individually and on behalf of all
2 other members of the public similarly situated, allege as follows:

3
4 **PRELIMINARY STATEMENTS**

5 1. This is an action for damages, injunctive relief, and any other available
6 legal or equitable remedies, for violations Unfair Competition Law (Cal. Business
7 & Professions Code §§ 17200 *et seq.*, common law fraud, and unjust enrichment,
8 resulting from the illegal actions of Carmax, in fraudulently and unlawfully selling
9 vehicles that do not meet California Emissions standards, including fraudulently
10 completing the title certificate, to unlicensed dealers for retail sale, in violation of
11 several California laws. Plaintiff alleges as follows upon personal knowledge as to
12 herself and her own acts and experiences, and, as to all other matters, upon
13 information and belief, including investigation conducted by her attorneys.

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17 **JURISDICTION AND VENUE**

18 2. This Court has jurisdiction pursuant to 28 U.S.C. §1332(d), because the
19 matter in controversy exceeds the sum or value of \$5,000,000 exclusive of interest
20 or costs and is a class action in which the members of the class are citizens of a State
21 different from the Defendant.

22
23 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because
24 a substantial part of the events giving rise to this claim occurred in this District, and
25 Carmax does business, inter alia, in the Central District of California.
26
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PARTIES

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2 4. Plaintiff ALEXANDRA REID (“Plaintiff”) is an individual who
3 purchased a Class Vehicle from an unlicensed dealer to whom Defendants
4 unlawfully sold the vehicle for retail sale.
5

6 5. On information and belief, Defendant CARMAX AUTO
7 SUPERSTORES, INC. and Defendant CARMAX AUTO SUPERSTORES WEST
8 COAST, INC (referred to in the collective as “Defendants” or “Carmax”) are
9 Virginia corporations whose principal places of business are located in Richmond,
10 Virginia.
11

12
13 6. At all times relevant hereto, Defendants were engaged in the marketing,
14 and sale of vehicles throughout the United States.
15

FACTS COMMON TO ALL COUNTS

16
17 7. Defendants are one of the largest retail sellers of vehicles in the United
18 States. Defendants advertises, markets, sells, and distributes vehicles throughout
19 California and the United States.
20

21 8. During the Class Period the Defendants engaged in fraudulent conduct
22 to sell cars as retail to unlicensed dealers under the guise of a wholesale dealer to
23 dealer transactions, when California’s Vehicle Code prohibited such sales.
24

25 9. On May 30, 2020, Plaintiff became a victim of Defendants’ fraudulent
26 scam when she purchased a vehicle from private seller, Isaac Lee (“The Car”), the
27

1 partner to unlicensed dealer Sandra Wellington, to whom Carmax unlawfully sold
2 the vehicle to.

3 10. The Car was mechanically unable to pass the California mandated smog
4 test when acquired by CarMax. Therefore, per California Veh. Code § 24007 it could
5 not be sold as retail, and only sold as wholesale to a licensed dealer. CarMax
6 transferred the car to its dealer-only auction in Murrieta, California.
7

8
9 11. Instead of auctioning the Car to a licensed dealer, CarMax unlawfully
10 transferred the Car to Sandra Wellington of "Genuine Automotive Enterprises" who
11 did not possess nor produce a valid dealer license on April 8, 2019.
12

13 12. CarMax fraudulently filled out the dealer-only section on the back of
14 the certificate of title to fraudulently complete the transaction as if it were wholesale.
15 CarMax neglected to record a dealer license number for the buyer as legally required
16 or record "Sold by" with the name and date of the auction as legally required
17 (California Veh. Code § 6100). Although Sandra is listed as the purchaser, the
18 signature on the back of the title is "RW", which reflects the initials of Sandra's
19 husband and partner in the scam, Rod Wellington.
20
21

22 13. CarMax then failed to file the required paperwork for the wholesale
23 transaction (California Reg. § 398) with the DMV. CarMax filed a release of liability
24 instead which does not apply to this type of transaction, but a retail one, and listed
25 the fraudulent dealership as the buyer. This muddled the facts of the transaction,
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1 making it appear as retail, and therefore disguising its illegal nature. This kept the
2 unlicensed dealers off of the DMV's radar and able to successfully victimize
3 Plaintiff. Additionally, failing to report to the DMV painted an untrue history of the
4 Car which Plaintiff relied upon in her decision to purchase it. Indeed, Plaintiff never
5 would have bought the Car had she known it was sold at auction less than two
6 months prior.
7

8
9 14. It should be noted that multiple atypical business practices had to occur
10 for CarMax to deal a wholesale car to an unlicensed dealer at a dealer-only auction.
11 CarMax's own protocol requires dealers to register in its online system in order to
12 participate in dealer-only auctions. The registration process requires dealers to
13 upload documents proving their credentials. By this protocol, it's physically
14 impossible for CarMax to auction a wholesale Car to an unlicensed dealer
15 unknowingly. CarMax's own internal bill of sale lists Sandra Wellington as the
16 purchaser with an invalid dealer license number and a business address belonging to
17 a mailbox in an empty field in Missouri. Indeed, Plaintiff was personally able to
18 verify the dealer's non-existence by a simple google search and confirm
19 unequivocally by emailing the Missouri DMV. CarMax has far more resources at its
20 disposal and bears the burden of dealing its cars lawfully which means verifying that
21 a dealer is in fact licensed before selling them a wholesale car.
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1 15. On May 30, 2020, Plaintiff purchased the Car from a private seller
2 named Issac Lee after seeing the ad on the Nextdoor app. Plaintiff was presented
3 with a fraudulent smog certificate dated May 23rd, 2020 as part of the sale. Within
4 20 miles of the purchase the check engine light came on prompting Plaintiff to take
5 it to WI Simonson Mercedes Benz.
6

7 16. There, Plaintiff was shown diagnostics that the Car had been unable to
8 pass a smog inspection for several years. Realizing that she was the victim of fraud,
9 Plaintiff immediately filed a claim with the California Bureau of Automotive repair
10 who found an illegal smog check had been obtained and cited the responsible
11 mechanic. Plaintiff also discovered publicly available Facebook posts establishing
12 Issac Lee's relationship to Sandra and Rod Wellington, photos of all the cars they
13 sold on Facebook Marketplace, and Issac's bio defining his career as "flipping luxury
14 whips".
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18 17. Plaintiff promptly alerted CarMax that they had illegally dealt the Car
19 and what situation they put Plaintiff in by doing so. Plaintiff provided Defendant
20 Carmax with all necessary documents.
21

22 18. Plaintiff also alerted Carmax that this had happened with multiple
23 vehicles (the "Class Vehicles"), which had also been sold by fraudulent means to
24 unlicensed dealers, and not just the Car Plaintiff had purchased. Carmax ignored
25 Plaintiff's complaints and simply told her that they dealt with the matter "internally."
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1 19. CarMax failed to uphold its legal obligation to report any suspected
2 unlicensed dealing even after Plaintiff gave them proof they had intentionally aided
3 unlicensed dealers, and conducted a fraudulent smog check. This does not make
4 CarMax appear any more innocent and shows a total disregard for the potential
5 victims they have affected.
6

7 20. Indeed, many of the laws CarMax violated were designed to protect
8 consumers and undermined that protection once again. As the largest dealer of used
9 cars in the U.S, CarMax breached its duty to the public repeatedly by putting cars
10 that are not fit to drive onto the streets, and worse into the hands of unlicensed
11 dealers.
12

13 21. CarMax owned the Car and filed a release of interest, and as such,
14 CarMax was aware they sold the Car and who they sold it to. CarMax was legally
15 responsible for any repairs required to make the Car pass a smog test before selling
16 it as retail. When CarMax illegally sold it as retail without a valid smog check,
17 CarMax unfairly shifted the burden of those repairs onto every subsequent party
18 finally landing on Plaintiff and all similarly situated consumers in the stream of
19 commerce. CarMax acted atypically, unlawfully, and often fraudulently at every
20 juncture pertaining to the sale of the Car. CarMax at the very least is not providing
21 adequate oversight of its employees if none of the many discrepancies in this
22 transaction raised a single red flag that it was unlawful in nature.
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1 All persons within California who purchased the Class
2 Vehicles within four years prior to the filing of this
3 Complaint.

4 26. Defendants, their employees and agents are excluded from the Class
5 and Sub-Class. Plaintiff does not know the number of members in the Class and Sub-
6 Class, but reasonably believes the members number in the hundreds, if not more.
7 Thus, this matter should be certified as a Class Action to assist in the expeditious
8 litigation of the matter.
9

10 27. The Class and Sub-Class are so numerous that the individual joinder of
11 all of their members is impractical. While the exact number and identities of their
12 members are unknown to Plaintiff at this time and can only be ascertained through
13 appropriate discovery, Plaintiff is informed and believes and thereon alleges that the
14 Class and Sub-Class include thousands, if not millions of members. Plaintiff alleges
15 that the class members may be ascertained by the records maintained by Carmax.
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18 28. This suit is properly maintainable as a class action pursuant to Fed. R.
19 Civ. P. 23(a) because the Class and Sub-Class are so numerous that joinder of their
20 members is impractical and the disposition of their claims in the Class Action will
21 provide substantial benefits both to the parties and the Court.
22

23 29. There are questions of law and fact common to the Class affecting the
24 parties to be represented. The questions of law and fact common to the Class
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1 predominate over questions which may affect individual class members and include,
2 but are not necessarily limited to, the following:

- 3 a. Whether the Carmax intentionally, negligently, or recklessly
4 engaged in fraudulent conduct by transferring vehicles to
5 unlicensed dealers and misrepresenting the terms of the sale on
6 the certificate of title;
7
8 b. Whether the Carmax's conduct was knowing and intentional;
9
10 c. Whether Carmax's conduct was unfair and deceptive;
11
12 d. Whether Carmax unjustly enriched itself as a result of the
13 unlawful conduct alleged above;
14
15 e. Whether the Class and Sub-Class are entitled to restitution, actual
16 damages, punitive damages, and attorney fees and costs.

17 30. As a resident of the United States and a purchaser of the Class Vehicle
18 in the State of California, Plaintiff is asserting claims that are typical of the Class
19 and Sub-Class.
20

21 31. Plaintiff has no interests adverse or antagonistic to the interests of the
22 other members of the Class and Sub-Class.
23

24 32. Plaintiff will fairly and adequately protect the interests of the members
25 of the Class and Sub-Class. Plaintiff has retained attorneys experienced in the
26 prosecution of class actions.
27

1 33. A class action is superior to other available methods of fair and efficient
2 adjudication of this controversy, since individual litigation of the claims of all Class
3 and Sub-Class members is impracticable. Even if every Class and Sub-Class member
4 could afford individual litigation, the court system could not. It would be unduly
5 burdensome to the courts in which individual litigation of numerous issues would
6 proceed. Individualized litigation would also present the potential for varying,
7 inconsistent or contradictory judgments and would magnify the delay and expense
8 to all parties, and to the court system, resulting from multiple trials of the same
9 complex factual issues. By contrast, the conduct of this action as a class action
10 presents fewer management difficulties, conserves the resources of the parties and
11 of the court system and protects the rights of each class member. Class treatment
12 will also permit the adjudication of relatively small claims by many class members
13 who could not otherwise afford to seek legal redress for the wrongs complained of
14 herein.

15 34. The prosecution of separate actions by individual members of the Class
16 and Sub-Class would create a risk of adjudications with respect to them that would,
17 as a practical matter, be dispositive of the interests of the other class members not
18 parties to such adjudications or that would substantially impair or impede the ability
19 of such non-party class members to protect their interests.
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1 35. Plaintiff's claims and injuries are identical to the claims and injuries of
2 all class and sub-class members, because all claims and injuries of all class and sub-
3 class members are based on the same legal theory. All allegations arise from the
4 identical, fraudulent conduct engaged in by Carmax when they transferred vehicles
5 to unlicensed dealers.
6

7 36. Defendants have acted or refused to act in respect generally applicable
8 to the Class and Sub-Class thereby making appropriate final and injunctive relief
9 with regard to the members of the Class and Sub-Class as a whole.
10

11 37. The size and definition of the Class and Sub-Class can be identified
12 through records held by retailers carrying and reselling the Class Vehicles, and by
13 Carmax's own records indicating history of fraudulent sales to unlicensed dealers.
14

15 **FIRST CAUSE OF ACTION**
16 **Violation of Unfair Business Practices Act**
17 **(Cal. Bus. & Prof. Code §§ 17200 et seq.)**

18 52. Plaintiff incorporates by reference each allegation set forth above.

19 53. Actions for relief under the unfair competition law may be based on
20 any business act or practice that is within the broad definition of the UCL. Such
21 violations of the UCL occur as a result of unlawful, unfair or fraudulent business
22 acts and practices. A plaintiff is required to provide evidence of a causal
23 connection between a defendant's business practices and the alleged harm--that is,
24 evidence that the defendant's conduct caused or was likely to cause substantial
25 injury. It is insufficient for a plaintiff to show merely that the defendant's conduct
26 created a risk of harm. Furthermore, the "act or practice" aspect of the statutory
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1 definition of unfair competition covers any single act of misconduct, as well as
2 ongoing misconduct.

3 **UNFAIR**

4 54. California Business & Professions Code § 17200 prohibits any “unfair
5 ... business act or practice.” Defendant’s acts, omissions, misrepresentations, and
6 practices as alleged herein also constitute “unfair” business acts and practices
7 within the meaning of the UCL in that its conduct is substantially injurious to
8 consumers, offends public policy, and is immoral, unethical, oppressive, and
9 unscrupulous as the gravity of the conduct outweighs any alleged benefits
10 attributable to such conduct. There were reasonably available alternatives to
11 further Defendant’s legitimate business interests, other than the conduct described
12 herein. Plaintiff reserves the right to allege further conduct which constitutes other
13 unfair business acts or practices. Such conduct is ongoing and continues to this
14 date.

15 55. In order to satisfy the “unfair” prong of the UCL, a consumer must
16 show that the injury: (1) is substantial; (2) is not outweighed by any countervailing
17 benefits to consumers or competition; and, (3) is not one that consumers themselves
18 could reasonably have avoided.

19 56. Here, Carmax’s conduct has caused and continues to cause substantial
20 injury to Plaintiff and members of the Class. Plaintiff and members of the Class
21 have suffered injury in fact due to Carmax’s decision to sell unlawfully vehicles
22 that could not pass lawful emissions testing to unlicensed dealers, in violation of a
23 number of California laws and regulations. Thus, Carmax’s conduct has caused
24 substantial injury to Plaintiff and the members of the Sub-Class.

25 57. Moreover, Carmax’s conduct as alleged herein solely benefits Carmax
26 while providing no benefit of any kind to any consumer. Such deception utilized
27

1 by Carmax convinced Plaintiff and members of the Class that the Vehicles they
2 subsequently purchased were lawfully able to be sold, and driven on the roads. In
3 fact, knowing that Class Products, by their objective terms were unable to pass
4 standard emissions testing, and could not at the time of sale from CarMax to
5 unlicensed dealers knowingly and intentionally. Carmax unfairly profited from
6 their sale, in that Carmax received payment for vehicles that it could not otherwise
7 have sold, and knew that the expected benefit that Plaintiff, and other consumers,
8 would receive from these Vehicles were nonexistent. Thus, the injury suffered by
9 Plaintiff and the members of the Sub-Class is not outweighed by any countervailing
10 benefits to consumers.

11 58. Finally, the injury suffered by Plaintiff and members of the Class and
12 Sub-Class is not an injury that these consumers could reasonably have avoided.
13 After Carmax, fraudulently and against many California laws, transferred the
14 vehicles to unlicensed dealers, they acted in such a way that concealed the fraud
15 and the true nature of the sale. Accordingly, Plaintiff, Class members, and Sub-
16 Class Members suffered injury in fact due to Carmax's unlawful sale of the Class
17 Vehicles to unlicensed dealers. Carmax failed to take reasonable steps to inform
18 Plaintiff and class members that the Class Vehicles could not pass emissions
19 testing, including intentionally concealing the true nature of the sale, as set forth
20 herein.

21 59. As such, Carmax took advantage of Carmax's position of perceived
22 power in order to deceive Plaintiff and the Class members to purchasing these
23 vehicles down the line, in order to make money off of a sale of a vehicle that could
24 not otherwise be sold. Therefore, the injury suffered by Plaintiff and members of
25 the Class is not an injury which these consumers could reasonably have avoided.

26 60. Thus, Carmax's conduct has violated the "unfair" prong of California
27
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1 Business & Professions Code § 17200.

2 **FRAUDULENT**

3 61. California Business & Professions Code § 17200 prohibits any
4 “fraudulent ... business act or practice.” In order to prevail under the “fraudulent”
5 prong of the UCL, a consumer must allege that the fraudulent business practice
6 was likely to deceive members of the public.

7 62. The test for “fraud” as contemplated by California Business and
8 Professions Code § 17200 is whether the public is likely to be deceived. Unlike
9 common law fraud, a § 17200 violation can be established even if no one was
10 actually deceived, relied upon the fraudulent practice, or sustained any damage.

11 63. Here, not only were Plaintiff and the Class members likely to be
12 deceived, but these consumers were actually deceived by Carmax. Such deception
13 is evidenced by the fact that Plaintiff agreed to purchase Class Vehicles under the
14 basic assumption that they were traceable in the stream of commerce, as required
15 by the California Vehicle Code and Regulations. Plaintiff’s reliance upon
16 Carmax’s deceptive writings and transfer is reasonable due to the unequal
17 bargaining powers of Carmax and Plaintiff. For the same reason, it is likely that
18 Carmax’s fraudulent business practice would deceive other members of the public.

19 64. As explained above, Carmax deceived Plaintiff and other Class
20 Members by falsely concealing the true nature of the vehicles and the true nature
21 of the sale of those Class Vehicles to unlicensed dealers.

22 65. Thus, Carmax’s conduct has violated the “fraudulent” prong of
23 California Business & Professions Code § 17200.

24 **UNLAWFUL**

25 66. California Business and Professions Code Section 17200, et seq.
26 prohibits “any unlawful...business act or practice.”
27

1 it's false statements on the transfer paperwork itself as set forth herein, Carmax
2 made false statements of material fact.

3 73. At the time Carmax fraudulently indicated that it had sold the
4 vehicles to a licensed dealer on the transfer paperwork, it knew, or reasonably
5 should have known, that the statements described above were false.

6 74. At the time Carmax made the false statement that it was transferring
7 the vehicle to a licensed dealer, as it did on the certificate of title, it intended to
8 deceive all future potential purchasers of the vehicle, including Plaintiff, and the
9 DMV.

10 75. Plaintiff relied upon the truth of the statements described above, and
11 the truth of the representations on the certificate of title, and purchased the Class
12 Vehicle, only to find that the Car was fraudulently sold, and failed to conform to
13 California Emissions standards at the time that it was sold by CarMax.

14 76. As a result of their reasonable reliance upon Carmax's false statements
15 of material fact as set forth above, Plaintiff and other members of the Class and
16 Sub-Class have suffered concrete and particularized injuries, harm and damages
17 which include, but are not limited to, the loss of money spent on vehicles they did
18 not want to buy, extensive repairs required to make these unfit vehicles pass a smog
19 test, and stress, aggravation, frustration, inconvenience, emotional distress, mental
20 anguish, and similar categories of damages.

21 **THIRD CAUSE OF ACTION**
22 **UNJUST ENRICHMENT**

23 77. Plaintiff incorporates all of the allegations and statements made in
24 paragraphs 1 through 76 above as if fully reiterated herein.

25 78. Carmax incurred monetary benefit from falsifying the documentation
26 and unlawfully selling the Class Vehicles to unlicensed dealers.

27 79. Carmax has been unjustly enriched by retaining the revenues derived
28

1 from the unlicensed dealers purchase of the Class Vehicles, based on the false and
2 unlawful statements that are reflected on the Certificate of Title.

3 80. Carmax's retention of the revenue it received from the fraudulent and
4 unlawful sale of it's vehicles to unlicensed dealers, and subsequently the Plaintiff,
5 the Class, and the Sub-Class is unjust and inequitable because Carmax's false
6 statements caused injuries to Plaintiff, the Class, and the Sub-Class, because they
7 would not have purchased the Class Vehicles if they knew that the Class Vehicles
8 were unfit under California law for driving.

9 81. Carmax's unjust retention of the benefits conferred on it by Plaintiff,
10 the Class, and the Sub-Class entitles the Plaintiff, the Class, and the Sub-Class to
11 restitution of the money they paid for the Class Vehicles as a result of Carmax's
12 fraudulent misrepresentations.

13 **MISCELLANEOUS**

14 82. Plaintiff and Class Members allege that they have fully complied with
15 all contractual and other legal obligations and fully complied with all conditions
16 precedent to bringing this action or all such obligations or conditions are excused.

17 **REQUEST FOR JURY TRIAL**

18 83. Plaintiff requests a trial by jury as to all claims so triable.

19 **PRAYER FOR RELIEF**

20 84. Plaintiff, on behalf of herself and the Class, requests the following
21 relief:

- 22 (a) An order certifying the Class and appointing Plaintiff as
23 Representative of the Class;
- 24 (a) An order certifying the undersigned counsel as Class Counsel;
- 25 (b) An order requiring Carmax, at its own cost, to notify all Class
26 Members of the unlawful and deceptive conduct herein;
- 27

- (c) Actual damages suffered by Plaintiff and Class Members as applicable or full restitution of all funds acquired from Plaintiff and Class Members from the sale of fraudulently sold Class Vehicles during the relevant class period;
- (d) Punitive damages, as allowable, in an amount determined by the Court or jury;
- (e) Any and all statutory enhanced damages;
- (f) All reasonable and necessary attorneys' fees and costs provided by statute, common law or the Court's inherent power;
- (g) Pre- and post-judgment interest; and
- (h) All other relief, general or special, legal and equitable, to which Plaintiff and Class Members may be justly entitled as deemed by the Court.

Dated: June 11, 2021

Respectfully submitted,

LAW OFFICES OF TODD M. FRIEDMAN , PC

By: /s/ Todd M. Friedman

TODD M. FRIEDMAN, ESQ.

Attorney for Plaintiff Alexandra Reid

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [CarMax Knowingly Sold Cars that Failed Inspection to Unlicensed Dealers, Class Action Claims](#)
