

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

1) W. BLAKE SONNE, individually and on)	
behalf of all others similarly situated,)	
)	Case No. <u>CIV-22-761-PRW</u>
Plaintiff,)	
)	
v.)	
)	
1) VROOM AUTOMOTIVE LLC, a Texas)	
limited liability company, d/b/a VROOM;)	
2) VROOM INC., a Delaware corporation,)	
)	
Defendants.)	

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, 1446 and 1453, Defendants Vroom Automotive, LLC and Vroom, Inc. (collectively, “Defendants”) hereby give notice of their removal of the putative class action filed as Case No. CJ-2022-822 in the District Court of Cleveland County, Oklahoma to the United States District Court for the Western District of Oklahoma.

As set forth below, removal is appropriate because (i) the federal district court has original jurisdiction under the Class Action Fairness Act of 2005 (“CAFA”), *see* 28 U.S.C. § 1332(d); and (ii) there is complete diversity of citizenship under 28 U.S.C. § 1332(a) between the only named parties—Plaintiff and Defendants—and the alleged amount in controversy of Plaintiff’s individual claims exceeds the \$75,000 jurisdictional threshold.

FACTUAL BACKGROUND

1. On or about July 21, 2022, Plaintiff W. Blake Sonne (“Plaintiff”) filed a Class Action Petition (“Petition”) in the District Court of Cleveland County, State of Oklahoma,

captioned *W. Blake Sonne, individually and on behalf of all others similarly situated v. Vroom Automotive LLC and Vroom Inc.*, CJ-2022-822 (the “State Court Action”). A true copy of the state court docket sheet is attached as Exhibit 1. All process, pleadings and orders filed or served in the State Court Action are attached hereto as Exhibits 2-4. Plaintiff served Vroom Automotive, LLC and Vroom, Inc. with copies of the Petition on or about July 29, 2022. *See* Exhibits 5 and 6, Summonses.

2. Plaintiff alleges that he “is and at all relevant times was a resident of Norman, Cleveland County, State of Oklahoma.” Exhibit 2, Petition, ¶ 1.

3. Plaintiff alleges that Vroom Automotive, LLC is a “Texas limited liability company” with its principal place of business in Texas. *Id.* ¶ 2. Plaintiff further alleges that Vroom, Inc. is a “Delaware corporation” with its principal place of business in Texas. *Id.* ¶ 3.

4. In his Petition, Plaintiff seeks to represent himself and a proposed class of “[a]ll individuals in the State of Oklahoma who purchased a motor vehicle from Defendants via Vroom.com since July 22, 2017 until June 22, 2022 who failed to receive from Vroom.com the motor vehicle title for any such vehicle within 30 days from the date of delivery.” *Id.* ¶ 36.

5. Plaintiff alleges that the proposed class consists of “at least, [] hundreds or thousands of potential members,” and is “so numerous that joinder of all members is impracticable as a matter of law because the proposed class consists of purchasers of any motor vehicle from Vroom.com over the last 5 years.” *Id.* ¶ 39.

6. Plaintiff asserts two causes of action on behalf of himself and the proposed

class. *First*, Plaintiff alleges that Defendants breached express and implied warranties under the Oklahoma Uniform Commercial Code (“UCC”) by failing to provide “clean and marketable title” for motor vehicles in a timely manner. *See id.* ¶¶ 36, 47-52. *Second*, Plaintiff alleges that Defendants violated the Oklahoma Consumer Protection Act (“OCPA”) by engaging in “deceptive and unfair trade practices.” *Id.* ¶ 54.¹

7. Plaintiff seeks the following relief from Defendants, among others: (i) actual, consequential, and “other” damages; (ii) statutory civil penalties for each alleged violation of the OCPA; (iii) attorneys’ fees and costs; and (iv) punitive damages. *See id.* ¶¶ 52, 58, Prayer for Relief.

GROUND FOR REMOVAL

I. REMOVAL IS APPROPRIATE UNDER THE CLASS ACTION FAIRNESS ACT

8. Under CAFA, federal courts have original and removal jurisdiction over certain class actions if: (i) the class has more than 100 members, (ii) the parties are minimally diverse, meaning that “any member of a class of plaintiffs is a citizen of a State different from any defendant,” and (iii) the amount in controversy exceeds \$5,000,000. *See* 28 U.S.C. § 1332(d)(1), (d)(2), (d)(5)(B); 28 U.S.C. §§ 1441(a), 1453; *Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547, 552 (2014); *Frederick v. Hartford Underwriters Ins. Co.*, 683 F.3d 1242, 1244 n.1 (10th Cir. 2012). A notice of removal is sufficient if it makes a plausible allegation that the requirements of CAFA are satisfied.

¹ Defendants do not concede that Oklahoma law governs this action. For purposes of this Notice of Removal, Defendants address the causes of action as they are alleged in Plaintiff’s Petition.

Dart Cherokee, 135 S. Ct. at 554. Each of the CAFA requirements is present here.

A. The Proposed Class Has More Than 100 Members

9. Plaintiff alleges that the proposed class—defined as “[a]ll individuals in the State of Oklahoma who purchased a motor vehicle from Defendants via Vroom.com since July 22, 2017 until June 22, 2022 who failed to receive from Vroom.com the motor vehicle legal title for any such vehicle within 30 days from the date of delivery”—contains “at least, [] hundreds or thousands of potential members.” Exhibit 2, ¶¶ 36, 39 (asserting that the “proposed class is so numerous that joinder of all members is impracticable as a matter of law because the proposed class consists of purchasers of any motor vehicle from Vroom.com over the last 5 years”).

10. Based on Plaintiff’s class size estimate of “hundreds or thousands of potential members,”² the proposed class satisfies the minimal requirement of 100 putative members. *See Judon v. Travelers Prop. Cas. Co. of Am.*, 773 F.3d 495, 505 (3d Cir. 2014) (defendant was entitled to rely on plaintiff’s allegation that she “believed” there were “hundreds” of members of the class as an assertion that there were at least 200 class members to satisfy CAFA numerosity requirement).

² An attorney of record must sign pleadings filed in state court which certifies that “to the best of the person’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances . . . The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation and discovery[.]” OKLA. STAT. tit. 12, § 2011(B)(3); *see also Sabrina Roppo v. Travelers Commercial Insurance Co.*, 869 F. 3d 568, 581 (7th Cir. 2017) (defendant seeking removal under CAFA may rely on a plaintiff’s representations of class size given “the underlying duty of counsel in making them”).

B. Minimal Diversity Is Present Here

11. Minimal diversity is satisfied when any member of a class of plaintiffs is a citizen of a State different from any defendant. 28 U.S.C. § 1332(d)(2)(A). For purposes of CAFA, an unincorporated association is “deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.” 28 U.S.C. § 1332(d)(10). A corporation is “deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business” 28 U.S.C. § 1332(c)(1).

12. Plaintiff, who seeks to represent the proposed class, alleges that he is a resident of Oklahoma, and thus is a citizen of Oklahoma for purposes of diversity jurisdiction. Exhibit 2, ¶ 1.

13. Defendant Vroom Automotive, LLC, d/b/a Vroom, is a Texas limited liability company with its principal place of business in Texas. *Id.* ¶ 2.

14. Defendant Vroom, Inc. is a Delaware corporation with its principal place of business in Texas. *Id.* ¶ 3.

15. As alleged, Defendants are thus citizens of either Texas or Delaware for purposes of diversity jurisdiction. *See* 28 U.S.C. §1332(d).

16. Plaintiff’s Petition establishes that there is minimal diversity as required for CAFA—*i.e.*, at least one “member of a class of plaintiffs is a citizen of a State different from any defendant.” 28 U.S.C. § 1332(d)(2)(A).

C. The Amount In Controversy Exceeds \$5 Million In the Aggregate

17. CAFA provides that “[i]n any class action, the claims of the individual class

members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interests and costs.” 28 U.S.C. §1332(d)(6). The “amount in controversy” is not the amount of damages that the plaintiff will actually recover, but is merely “an estimate of the amount of damages that will be put at issue during the course of the litigation.” *Frederick*, 683 F.3d at 1245 (quoting *McPhail v. Deere & Co.*, 529 F.3d 947, 956 (10th Cir. 2008)). Where, as here, Plaintiff does not allege a specific dollar amount in damages, Defendants need only provide “a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee*, 134 S.Ct. at 554.

18. In his Petition, Plaintiff seeks “[a]ctual, consequential, punitive, and other damages,” as well as attorneys’ fees and costs. Exhibit 2, Prayer for Relief. Additionally, with respect to the alleged OCPA violations, Plaintiff seeks “statutory civil monetary penalties against Defendants for each wrongful or deceptive act as well as attorney fees and costs as set forth in 15 Okl. Stat. § 761.1.” *Id.* ¶ 58. Each form of relief must be considered in determining whether the amount in controversy exceeds the \$5,000,000 jurisdictional threshold.

19. Defendants deny any and all liability and contend that Plaintiff’s allegations are entirely without merit. For purposes of this Notice of Removal, however, taking Plaintiff’s factual and legal allegations on their face, his Petition places well over \$5,000,000 in controversy. *See Frederick*, 683 F.3d at 1247 (CAFA amount in controversy may be shown “by calculation from the complaint’s allegations”).

20. **Damages Under the Oklahoma UCC.** Plaintiff’s claims for

“compensation” under the Oklahoma UCC arise from Defendants’ alleged breach of warranties “regarding selling vehicles with a clean title and delivering clean and marketable title.” *See* Exhibit 2, ¶¶ 44-52. Under the Oklahoma UCC, OKLA. STAT. tit. 12A, § 2-714(2), “[t]he measure of damages for breach of warranty is the difference at the time and place of acceptance between the value of the goods accepted and the value they would have had if they had been as warranted.”

21. Although Plaintiff makes no attempt to quantify any alleged actual or consequential damages arising from the alleged breach of warranties, he claims, among other things, that the vehicles that he and the proposed class members purchased were not “fit for the ordinary purpose” for which “vehicles are used and driven legally in Oklahoma, namely, as a legal and reliable means of transportation without fear of fine or punishment for driving such vehicle.” *See* Exhibit 2, ¶¶ 20, 51.

22. Based on Plaintiff’s assertion that the “proposed class expressly excludes any and all possible questions of law or fact that require specific and/or individualized inquiries,” and that his claims—arising out of his purchase of a motor vehicle for \$47,124.50—are “typical of the claims of the proposed class,” it would only take a class of 107 members for potential actual and consequential damages under the Oklahoma UCC to meet the \$5,000,000 aggregate damages threshold under CAFA ($107 \times \$47,124.50 = \$5,042,321.50$). *See* Exhibit 2, ¶¶ 25, 40-41.

23. **OCPA Statutory Penalties & Attorneys’ Fees.** In addition to damages under the Oklahoma UCC, Plaintiff also seeks “statutory civil monetary penalties against Defendants for each wrongful or deceptive act as well as attorney fees and costs as set forth

in 15 OKLA. STAT. § 761.1.” Exhibit 2, ¶ 58. That statute provides that:

The commission of any act or practice declared to be a violation of the Consumer Protection Act, if such act or practice is also found to be unconscionable, shall render the violator liable to the aggrieved customer for the payment of a civil penalty, recoverable in an individual action only, in a sum set by the court of not more than Two Thousand Dollars (\$2,000.00) for each violation.

OKLA. STAT. tit. 15, § 761.1(B).

24. In his Petition, Plaintiff alleges at least four violations of the OCPA against Defendants: (i) selling vehicles and failing to complete the registration process “as required by law”; (ii) selling vehicles “without clean and marketable and legal title”; (iii) failing to timely furnish “clean and marketable title”; and/or (iv) failing to “disclose or misrepresenting issues” resulting in title or registration transfer delays. Exhibit 2, ¶ 55.

25. Plaintiff’s allegations thus put “at issue” at least \$8,000 in potential OCPA statutory civil penalties against each Defendant per class member, which alone would place over \$5,000,000 in controversy even assuming there are only “hundreds” of class members.³ *Frederick*, 683 F.3d at 1245. When coupled with Plaintiff’s requests for punitive damages and attorneys’ fees, that amount would increase. Exhibit 2, ¶ 58; *Frederick*, 583 F.3d at 1247 (“As a general matter, ‘[p]unitive damages may be considered in determining the requisite jurisdictional amount.’”) (citing *Woodmen of World Life Ins. Soc’y v. Manganaro*, 342 F.3d 1213, 1218 (10th Cir. 2003)).

³ For example, 320 class members asserting \$2,000 in statutory civil penalties for each alleged OCPA violation against each Defendant would far exceed \$5,000,000.

II. REMOVAL IS ALSO APPROPRIATE UNDER 28 U.S.C. § 1441 BASED ON TRADITIONAL DIVERSITY JURISDICTION

26. This case may also be removed pursuant to 28 U.S.C. § 1441 because (i) there is complete diversity of citizenship between the parties, and (ii) the amount in controversy exceeds \$75,000.

A. There Is Complete Diversity Between Plaintiff and Defendants

27. Plaintiff is a citizen of Oklahoma because he resides in Oklahoma. Exhibit 2, ¶ 1.

28. “[I]n determining the citizenship of an unincorporated association for purposes of diversity, federal courts must include all the entities’ members.” *Siloam Springs Hotel, LLC v. Century Sur. Co.*, 781 F.3d 1233, 1237-38 (10th Cir. 2015) (citing *Carden v. Arkoma Assocs.*, 110 S.Ct. 1015 (1990)).

29. Defendant Vroom Automotive, LLC is a Texas limited liability company with its principal place of business in Texas. Exhibit 2, ¶ 2. Vroom Automotive, LLC’s sole member is Vroom, Inc.

30. Defendant Vroom, Inc. is a Delaware corporation with its principal place of business in Texas. *Id.* ¶ 3.

31. Thus, complete diversity of citizenship exists between Plaintiff and Defendants.

B. The Amount In Controversy Exceeds \$75,000

32. “The amount in controversy is ordinarily determined by the allegations in the complaint, or, where they are not dispositive, by the allegations in the notice of removal.”

Laughlin v. Kmart Corp., 50 F.3d 871, 873 (10th Cir. 1995), *abrogated on other grounds* by *Dart Cherokee*, 135 S. Ct. 547. “[A] defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee*, 135 S. Ct. at 554. Further, it is well-established that “a plaintiff cannot avoid removal merely by declining to allege the jurisdictional amount. This would allow frustration of purpose of diversity jurisdiction, which is, after all, to protect the out-of-state defendant.” *McPhail*, 529 F.3d at 955. A defendant seeking removal need only establish jurisdictional facts that make it “possible that \$75,000 [is] in play” *Id.* Once those underlying facts are shown, a defendant “is entitled to stay in federal court unless it is ‘legally certain’ that less than \$75,000 is at stake.” *Id.* at 954.

33. In his Petition, Plaintiff seeks “actual, consequential, punitive, and other damages” arising from alleged delays in obtaining title to a 2020 Kia Telluride that he purchased for \$47,124.50. Exhibit 2, Prayer for Relief; *id.* ¶ 27. As discussed in Section I.C above, Plaintiff’s claims for breach of express and implied warranties under the Oklahoma UCC and violations of the OCPA, along with punitive damages and attorneys’ fees, plainly place over \$75,000 in controversy just on his individual claims. *See McPhail*, 529 F.3d at 955-56 (a “complaint that presents a combination of facts and theories of recovery that may support a claim in excess of \$75,000 can support removal”); *see also* OKLA. STAT. tit. 23, § 9.1; *Woodmen of World Life Ins. Soc’y*, 342 F.3d at 1218 (“[p]unitive damages may be considered in determining the requisite jurisdictional amount.”).

COMPLIANCE WITH REMOVAL STATUTE

34. The Notice of Removal is properly filed in the United States District Court

for the Western District of Oklahoma, because the District Court of Cleveland County, State of Oklahoma is located in this federal judicial district. *See* 28 U.S.C. § 1441(a); 28 U.S.C. § 93(a)(1).

35. The Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure. *See* 28 U.S.C. §1446(a).

36. Pursuant to LCvR81.2(a), attached hereto and marked as Exhibit 1 is a true and correct copy of the state court docket sheet. *See* Exhibit 1.

37. Pursuant to 28 U.S.C. § 1446(a), attached hereto and marked as Exhibits 2-6, are true and correct copies of the Petition and all process, pleadings, and orders served upon Defendants. *See* Exhibit 2, Petition; Exhibit 3, Unopposed Application for Extension of Time to Respond to Petition; Exhibit 4, Order Granting Unopposed Application for Extension of Time to Respond to Petition; Exhibits 5 and 6, Summonses. Defendants have not filed an answer or other response to the Petition in the State Court Action and are not aware of any currently pending motions in that court.

38. The Petition was served on Vroom, Inc. and Vroom Automotive, LLC on July 29, 2022. This Notice of Removal is therefore timely under 28 U.S.C. §1446(b)(1). *See generally* *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 354 (1999) (the earliest the 30-day removal period can begin is the date the original state court pleading was served on the defendant); *Miller v. Waterman*, Case No. 13-CV-759-TCK, 2014 WL 1653245, at *1 (N.D. Okla. Apr. 24, 2014) (“The thirty-day removal period in section 1446(b)(1) only begins to run once a defendant has been served with a summons.”).

39. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal shall be

served on counsel for Plaintiff, and a copy, along with a Notice of Filing of the Notice of Removal, shall be filed with the Clerk of the District Court of Cleveland County, State of Oklahoma.

40. Defendants reserve the right to amend or supplement this Notice of Removal. Defendants further reserve all rights and defenses, including those available under the Federal Rules of Civil Procedure and including all rights to move to compel arbitration and/or to enforce a class waiver provision.

CONCLUSION

Defendants respectfully request that this Court exercise jurisdiction over this action and enter orders and grant relief as may be necessary to secure removal and to prevent further proceedings in this matter in the District Court of Cleveland County, State of Oklahoma. Defendants further request such other relief as the Court deems appropriate.

Dated: August 29, 2022

Respectfully submitted,

**HALL, ESTILL, HARDWICK,
GABLE, GOLDEN & NELSON, P.C.**

s/William W. O'Connor

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**ATTORNEYS FOR DEFENDANTS,
VROOM AUTOMOTIVE, LLC AND
VROOM, INC.**

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of August, 2022, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of Notice of Electronic Filing to the following ECF registrants:

Blake Sonne

PLAINTIFF PRO SE

s/William W. O'Connor

William W. O'Connor

EXHIBIT 1



The information on this page is NOT an official record. Do not rely on the correctness or completeness of this information. Verify all information with the official record keeper. The information contained in this report is provided in compliance with the Oklahoma Open Records Act, 51 O.S. 24A.1. Use of this information is governed by this act, as well as other applicable state and federal laws.

IN THE DISTRICT COURT IN AND FOR CLEVELAND COUNTY, OKLAHOMA

<p>W Blake Sonnie, individually and on behalf of all others similarly situated Plaintiff,</p> <p>v.</p> <p>Vroom Automotive LLC, a Texas limited liability company, d/b/a VROOM; (2) VROOM INC., a Delaware Corporation, d/b/a VROOM Defendant.</p>	<p>No. CJ-2022-822 (Civil relief more than \$10,000: CLASS ACTION)</p> <p>Filed: 07/21/2022</p> <p>Judge: Tupper, Michael D</p>
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PARTIES

Sonnie, W Blake, Plaintiff
Vroom Automotive LLC, Defendant

ATTORNEYS

Attorney	Represented Parties
SONNE, BLAKE (Bar #20341) PO BOX 667 NORMAN, OK 73070	Sonnie, W Blake

EVENTS

None

ISSUES

For cases filed before 1/1/2000, ancillary issues may not appear except in the docket.

Issue # 1. Issue: CLASS ACTION (CLASS)
Filed By:
Filed Date: 07/21/2022

Party Name	Disposition Information
	Pending.

DOCKET

Date	Code	Description	Party	Count	Amount
07-21-2022	[TEXT]	CIVIL RELIEF MORE THAN \$10,000 INITIAL FILING.		#1	
07-21-2022	[CLASS]	CLASS ACTION			
07-21-2022	[DMFE]	DISPUTE MEDIATION FEE			\$ 7.00

CLASS ACTION PETITION

Document Available (#1052652976)  TIFF  PDF

07-21-2022 PFE7	LAW LIBRARY FEE	\$ 6.00
07-21-2022 OCISR	OKLAHOMA COURT INFORMATION SYSTEM REVOLVING FUND	\$ 25.00
07-21-2022 OCJC	OKLAHOMA COUNCIL ON JUDICIAL COMPLAINTS REVOLVING FUND	\$ 1.55
07-21-2022 OCASA	OKLAHOMA COURT APPOINTED SPECIAL ADVOCATES	\$ 5.00
07-21-2022 SSFCHSCPC	SHERIFF'S SERVICE FEE FOR COURTHOUSE SECURITY PER BOARD OF COUNTY COMMISSIONER	\$ 10.00
07-21-2022 CCADMINCSF	COURT CLERK ADMINISTRATIVE FEE ON COURTHOUSE SECURITY PER BOARD OF COUNTY COMMISSIONER	\$ 1.00
07-21-2022 CCADMIN0155	COURT CLERK ADMINISTRATIVE FEE ON \$1.55 COLLECTION	\$ 0.16
07-21-2022 SJFIS	STATE JUDICIAL REVOLVING FUND - INTERPRETER AND TRANSLATOR SERVICES	\$ 0.45
07-21-2022 DCADMIN155	DISTRICT COURT ADMINISTRATIVE FEE ON \$1.55 COLLECTIONS	\$ 0.23
07-21-2022 DCADMIN05	DISTRICT COURT ADMINISTRATIVE FEE ON \$5 COLLECTIONS	\$ 0.75
07-21-2022 DCADMINCSF	DISTRICT COURT ADMINISTRATIVE FEE ON COURTHOUSE SECURITY PER BOARD OF COUNTY COMMISSIONER	\$ 1.50
07-21-2022 CCRMPF	COURT CLERK'S RECORDS MANAGEMENT AND PRESERVATION FEE	\$ 10.00
07-21-2022 CCADMIN04	COURT CLERK ADMINISTRATIVE FEE ON COLLECTIONS	\$ 0.50
07-21-2022 LTF	LENGTHY TRIAL FUND	\$ 10.00
07-21-2022 SMF	SUMMONS FEE (CLERKS FEE)	\$ 20.00
07-21-2022 TEXT	OCIS HAS AUTOMATICALLY ASSIGNED JUDGE TUPPER, MICHAEL D TO THIS CASE.	
07-21-2022 ACCOUNT	<p>RECEIPT # 2022-1235156 ON 07/21/2022.</p> <p>PAYOR: SONNE LAW FIRM, PLLC TOTAL AMOUNT PAID: \$ 262.14.</p> <p>LINE ITEMS:</p> <p>CJ-2022-822: \$183.00 ON AC01 CLERK FEES.</p> <p>CJ-2022-822: \$6.00 ON AC23 LAW LIBRARY FEE CIVIL AND CRIMINAL.</p> <p>CJ-2022-822: \$1.66 ON AC31 COURT CLERK REVOLVING FUND.</p> <p>CJ-2022-822: \$5.00 ON AC58 OKLAHOMA COURT APPOINTED SPECIAL ADVOCATES.</p> <p>CJ-2022-822: \$1.55 ON AC59 COUNCIL ON JUDICIAL COMPLAINTS REVOLVING FUND.</p> <p>CJ-2022-822: \$7.00 ON AC64 DISPUTE MEDIATION FEES CIVIL ONLY.</p> <p>CJ-2022-822: \$0.45 ON AC65 STATE JUDICIAL REVOLVING FUND, INTERPRETER SVCS.</p> <p>CJ-2022-822: \$2.48 ON AC67 DISTRICT COURT REVOLVING FUND.</p> <p>CJ-2022-822: \$25.00 ON AC79 OCIS REVOLVING FUND.</p> <p>CJ-2022-822: \$10.00 ON AC81 LENGTHY TRIAL FUND.</p> <p>CJ-2022-822: \$10.00 ON AC88 SHERIFF'S SERVICE FEE FOR COURT HOUSE SECURITY.</p> <p>CJ-2022-822: \$10.00 ON AC89 COURT CLERK'S RECORDS MANAGEMENT AND PRESERVATION FEE.</p>	

UNOPPOSED APPLICATION FOR EXTENSION OF TIME TO RESPOND TO PETITION

Document Available (#1042350812)  TIFF  PDF

08-19-2022 [O]

ORDER GRANTING UNOPPOSED APPLICATION FOR EXTENSION OF TIME TO RESPOND TO PETITION

Document Available (#1052904200)  TIFF  PDF

EXHIBIT 2



STATE OF OKLAHOMA)
IN THE DISTRICT COURT OF CLEVELAND COUNTY) S.S.
STATE OF OKLAHOMA)
FILED

(1) W. BLAKE SONNE, individually and on)
behalf of all others similarly situated,)

JUL 21 2022

Plaintiffs,)

In the office of the
Court Clerk MARILYN WILLIAMS

v.)

Case No. CJ-2022-822

(1) VROOM AUTOMOTIVE LLC, a Texas)
limited liability company, d/b/a VROOM;)
(2) VROOM INC., a Delaware corporation,)
d/b/a VROOM;)

Defendants.)

CLASS ACTION PETITION

COMES NOW the Plaintiff, W. Blake Sonne, and on behalf of himself and the Class of others similarly situated as defined herein, hereby files this Petition against the Defendants Vroom Automotive LLC and Vroom, Inc. (collectively referred to herein as “Defendants” or “VROOM”), and alleges and states as follows:

PARTIES

1. Plaintiff is and at all relevant times was a resident of Norman, Cleveland County, State of Oklahoma. On or about April 21, 2022, Plaintiff purchased a 2020 Kia Telluride SX bearing VIN number 5XYPHC9LG018338 (the “Vehicle”) from VROOM.

2. Defendant Vroom Automotive LLC, d/b/a Vroom, is a Texas limited liability company with its principal place of business at 12053 Southwest Freeway, Stafford, Texas, 77477. It is the primary operating entity for Defendant Vroom Inc.’s purchases and sales of used vehicles.

It may be served with process by serving its Registered Agent: Corporation Services Company, at 211 E. 7th, Suite 620, Austin, Texas 78701.

3. Defendant Vroom Inc. is a Delaware corporation with its principal place of business at 12002 Southwest Fwy Meadows Place, TX, 77477-3030 United States. Despite doing business in and throughout Oklahoma, Vroom Inc. does not have a registered agent for service of process in Oklahoma. It may be served with process by serving its Registered Agent: Corporation Services Company, at 211 E. 7th, Suite 620, Austin, Texas 78701.

JURISDICTION AND VENUE

4. Plaintiff asserts claims against Defendants under Oklahoma's Uniform Commercial Code for breach of express and implied warranties, 12A Okla. Stat. §§ 2-313 – 2-315 *et al.* and the Oklahoma Consumer Protection Act, 15 Okla. Stat. §§ 751 *et seq.*

5. This Court has subject matter jurisdiction over Plaintiff's claims pursuant to 12 Okla. Stat. § 2004 and § 2023 because this is a class action limited to Oklahoma residents. This Court can exercise personal jurisdiction over Defendants because Defendants do business in Oklahoma, including reaching out to Oklahoma consumers, selling vehicles in Oklahoma, entering into contracts with persons in Oklahoma, delivering vehicles to Oklahoma consumers in Oklahoma, and maintaining a regular business presence in Oklahoma. Defendants have marketed, advertised, and made substantial sales in Oklahoma, and have sufficient minimum contacts with this state and/or sufficiently availed themselves of the markets of this state through its promotion, sales, and marketing within this state to render the exercise of jurisdiction by this Court permissible. Therefore, sufficient minimum contacts between Defendants and Oklahoma exist to support this Court's jurisdiction. *International Shoe v. Washington*, 326 U.S. 310 (1945); *see also* 12 Okla. Stat. § 2004.

6. Venue is proper in this court because a substantial part of the events or omissions giving rise to Plaintiff's claim occurred in Cleveland County, State of Oklahoma.

GENERAL ALLEGATIONS

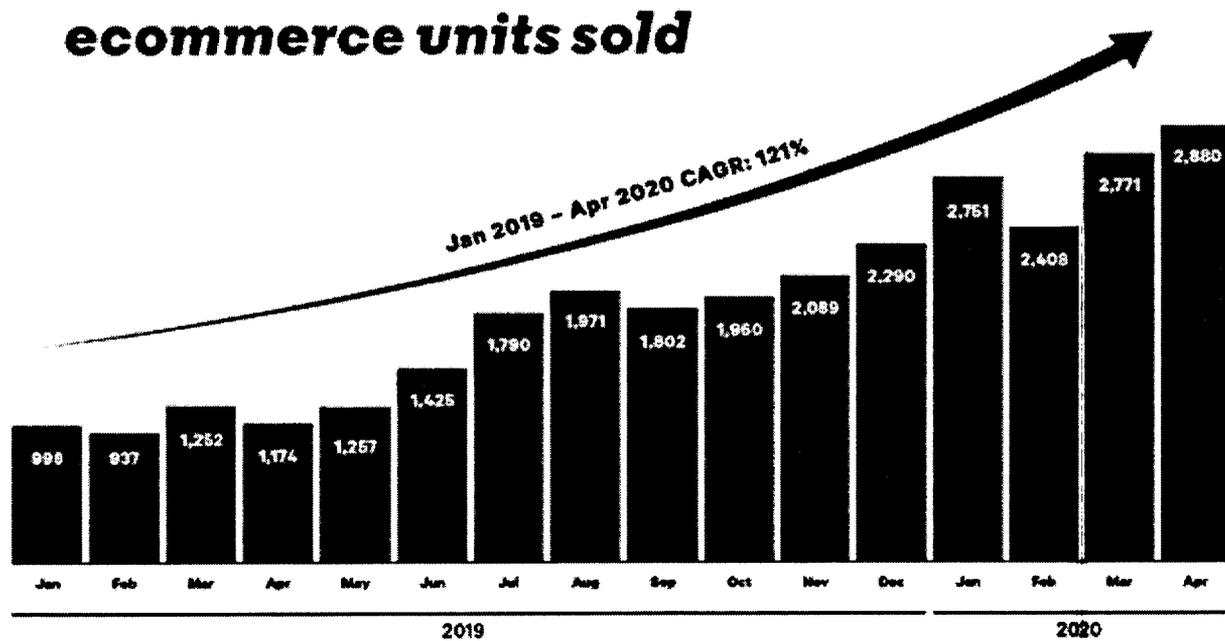
7. In 2013, Defendants launched a website, vroom.com, through which they buy, sell, and trade used vehicles online nationwide. At their launch, Defendants saw the used automotive market as “ripe for disruption as an industry that is notorious for consumer dissatisfaction,” with only 0.9% ecommerce penetration. Defendants see themselves as a “high-volume, low-margin business.” Defendants own and operate vroom.com, an e-commerce platform for buying and selling used cars, which offers an alternative to a traditional car dealer. Defendants operate primarily online, but also buys and sells used vehicles through a physical storefront in Stafford, Texas. Defendants are licensed independent vehicle dealers in Texas and Florida, and most of their transactions are executed under their Texas dealer license.

8. In 2019, Defendants began to aggressively scale their business and accelerate their growth. As a result, Defendants nearly doubled their inventory, doubled their reconditioning capacity, and more than doubled their sales. Since the pandemic began, more and more consumers have been forced to purchase big- ticket items like cars completely online, sight unseen. In addition to a general reluctance to face the crowds of people at a brick-and-mortar auto dealership in a post-pandemic reality, component shortages and sustained demand have led to a spike in used-car prices, of which Defendants have been a beneficiary.

9. In June 2020, Defendants became a public company through an initial public offering and have seen triple-digit year-over-year growth since the start of the COVID-19 pandemic. Over the past three years, numerous consumer complaints have been filed against Vroom. In Texas, for example, the Texas Attorney General recently filed suit against Defendants

as a result of thousands of complaints from Vroom customers. In reality, Defendants have not managed their growth effectively and have allowed inadequate systems and procedures to spiral into violations of consumers’ rights. These violations include misrepresenting that Defendants have obtained clear title before selling vehicles, failing to disclose systemic delays in processing title and registration, and failing to disclose higher insurance premium requirements for non-Texas consumers.

10. In 2018, Defendants sold approximately 10,000 vehicles online. In 2019, Defendants sold nearly 19,000 vehicles online. In 2020, Defendants sold approximately 34,488 vehicles online, an 82% increase year-over-year. In only the first three quarters of 2021, Defendants sold approximately 53,455 vehicles, a 127% year-to-date increase.



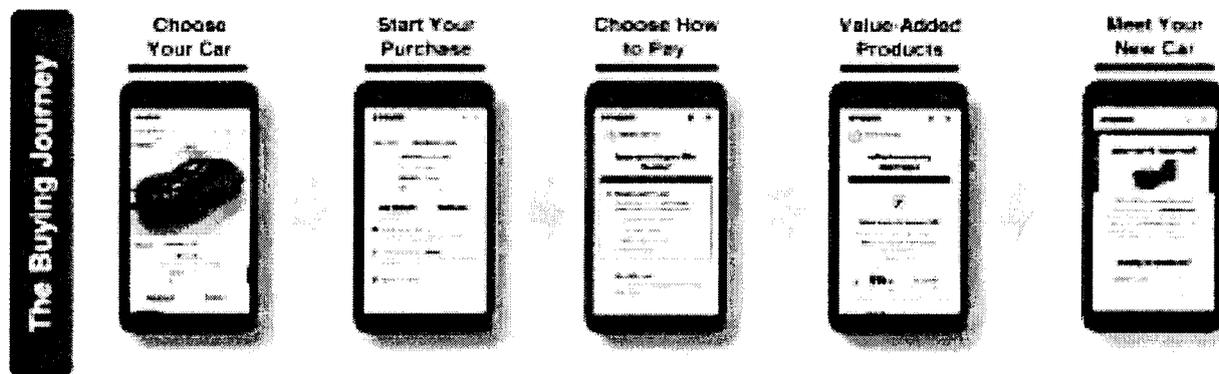
Note: For a description of how we define and calculate the metric, please see "Management's Discussion and Analysis of Financial Condition and Results of Operations."

In short, Defendants’ growth has been exponential in the last three years of operation.

11. For consumers considering a vehicle purchase, Defendants offer an online catalog

of thousands of previously owned vehicles, promising delivery anywhere in the continental United States. Approximately 80% of the used vehicles listed for sale on vroom.com were purchased directly from consumers.

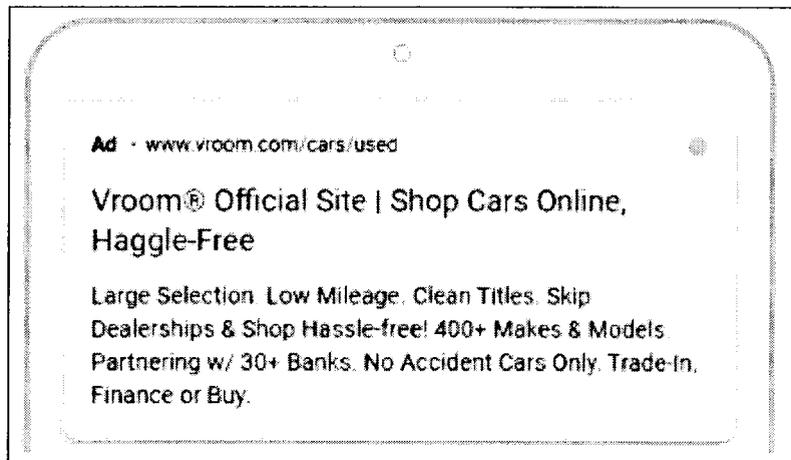
12. Defendants tout a “no haggle, no pressure” experience accessible from any device. Defendants give consumers the ability to filter the selection of vehicles by make, model, mileage, color, and other factors. Once a consumer has selected a vehicle, they can review the vehicle’s profile, which includes approximately 20 photographs of the vehicle, a description of the vehicle and its features, ownership history, and defect disclosures. When a consumer finds the vehicle they want, they can enter their information, select a delivery date, secure financing, add warranty coverage, make a down payment, and upload the necessary identification verifications to finalize the online order. The following shows how Defendants conceptualize the buying process as straightforward and convenient for consumers:



After a vehicle is ordered, Defendants’ system generates the required supporting documents, populates the documents with the details of the transaction, and delivers the completed documents as electronic files. Many of the documents can be presented to the consumer, signed, stored, and transmitted electronically. Defendants aim to convince consumers of how easy it can be to purchase a used vehicle entirely online.

13. Defendants acknowledge that to earn increased market share in the used car industry they must provide consumers with a trustworthy buying and selling experience: “confidence comes standard with every Vroom vehicle.” Trust is even more important in the ecommerce experience because consumers cannot see the car in person prior to purchase. To establish trust before a big purchase, Defendants make representations about the quality, safety, presence of imperfections, accident history, and possessing clean and marketable title for the used vehicles offered for sale. Defendants further promise to furnish and transfer proof of ownership in a timely manner to the buyers as required by law. Through these representations and more, Defendants seek to assure consumers that ecommerce is not only a viable car shopping method, but the preferable one.

14. Defendants advertise and promise that each vehicle offered for sale has a clean and marketable title. Defendants state unequivocally that “Clean Titles” are possessed by the Defendants for vehicles offered for sale.



15. Defendants are not selling a fungible product. It is implied in every transaction that proof of ownership of that vehicle will be provided upon receipt of payment. A title serves as proof of ownership and is essential for selling or registering a vehicle. Registration is necessary to show

that a car is legally permitted on public roads. Driving without a current registration is illegal and will subject buyers in Oklahoma, for example, to fines and fees.

16. As a licensed Texas dealership, Defendants are required by law to process and complete the title and registration process for their Texas customers within 30 days of purchase, or 45 days of purchase if the vehicle is financed. Defendants are required by law to collect the tax, title, and license fees for their Texas customers. Defendants charge consumers a fee for vehicle licensing and registration, which is disclosed as a line item on the final vehicle purchase invoice.

Purchase Details	
Selling Price	\$19,999.00
Dealer's Inventory Tax	\$33.14
<i>The dealer's inventory tax charge is intended to reimburse the dealer for ad valorem taxes on its motor vehicle inventory. The charge, which is paid by the dealer to the county tax assessor-collector, is not a tax imposed on a consumer by the government, and is not required to be charged by the dealer to the consumer.</i>	
State Sales Tax	\$1,249.94
Other State Taxes	\$0.00
Dealer Documentary Fee	\$150.00
<i>A documentary fee is not an official fee. A documentary fee is not required by law, but may be charged to buyers for handling documents relating to the sale. A documentary fee may not exceed a reasonable amount agreed to by the parties. This notice is required by law.*</i>	
Title Fee	\$33.00
License & Registration Fee	\$81.50
Inspection Fee	\$25.50
Other State Fees	\$0.00
Vehicle Service Contract	\$1,447.00
Gap Coverage	\$0.00
Tire & Wheel Coverage	\$471.00
Delivery	\$699.00
Subtotal	\$24,189.08

17. Defendants deliver their vehicles with 60-day temporary tags issued by the DMV in Texas. The 60- day temporary tags allow consumers to drive their vehicles immediately while they

wait for the Defendants to complete the timely transfer of title and registration. The 60-day window is meant to give a reasonable buffer for an auto dealer to transfer their title to the purchaser and complete registration. However, Defendants fail to provide the timely transfer of title to many purchasers, including those in Oklahoma, which are required to register and title their vehicles within 30 days of purchase.

18. Nearly 80% of the vehicles Defendants sold in 2021 were customer sourced. Defendants' pandemic-era growth has been rapid, but they are cutting corners to realize those gains. Defendants are turning over their customer-sourced vehicles so quickly that they are reselling vehicles before they even obtain clear title. In so doing, Defendants are misrepresenting ownership of the vehicles they are listing for sale on their website. Defendants are not disclosing that the sale is subject to their ability to obtain clear title to the offered vehicle. Despite receiving numerous complaints from buyers, Defendants have informed purchasers, who had been hopelessly waiting months for title and registration, that they must return the vehicles because Defendants do not have clear title.

19. Consumers have complained that Defendants failed to timely register the change in ownership, leaving consumers with expired temporary tags and with no evidence of ownership. Defendants designed a system that fails to meet the Oklahoma legal requirements for timely transfer of the title and registration.

20. Defendants reportedly mislead consumers about their current ability to comply with the State's legal requirements for timely transfer of the title and registration. This all but guarantees that consumers do not understand that they are purchasing a good that they will not be able to prove they own. The complaints evidence consumer shock and frustration—they are not given answers by Defendants when they inquire of the delays in processing their titles and registration.

Many consumers have reported waiting as much as a year to receive the title to their purchased vehicle, and sometimes even longer. Consumers have compared their purchases from Defendants to “bricks,” or “driveway ornaments” when it became unlawful for them to operate their vehicles.

21. The failure to secure title and registration is also evident with, and the source of, additional deceptive acts for out-of-state consumers. After the expiration of the initial 60-day temporary tags, Defendants offer to provide their consumers, both in Texas and out-of-state, with a 30-day special temporary tag from the DMV. Defendants are limited to purchasing four 30-day temporary tags per customer.

22. Defendants cannot assure their out-of-state consumers that the 30-day temporary tags are even valid in the consumer’s home state. To the contrary, many out-of-state consumers have complained of multiple citations or impounded vehicles while displaying Texas temporary tags.

23. Worse, Defendants claim they are only allowed to issue a 30-day temporary tag if the vehicle owner has insurance coverage consistent with minimum coverages required by Texas statute. Many states have lesser automobile insurance policy minimums. Defendants have forced out-of-state consumers to seek new insurance policies or change their insurance coverage, often with increased premiums, so Defendants can provide temporary tags to the out-of-state consumer while they try to sort out their own delay issues.

24. Oklahoma consumers did not bargain for this undesirable position. In fact, many Oklahoma consumers may not have purchased vehicles from Defendants if it meant they had to increase their insurance policy’s minimum coverage simply to match Texas requirements and receive multiple 30-day temporary tags or risk driving their recently purchased vehicles illegally in Oklahoma. This issue is not disclaimed by Defendants at the front end of the sales transaction.

ALLEGATIONS SPECIFIC TO PLAINTIFF

25. On or about April 21, 2022, Plaintiff purchased a 2020 Kia Telluride SX bearing VIN number 5XYPHC9LG018338 (the “Vehicle”) from the Defendants via its online website Vroom.com.

26. Defendants represented that they had clean title to the subject Vehicle and it was an express and implied condition of the subject purchase between the Plaintiff and the Defendants.

27. Plaintiff paid \$47,124.50 via wire transfer for the purchase price and fees, which payment was received by Vroom.com.

28. Defendants confirmed they received the wire transfer and that the purchase of the Vehicle was completed.

29. Defendants delivered the Vehicle to the Plaintiff on April 28, 2022. Temporary tags were placed on the Vehicle with an expiration date of June 20, 2022, or 60 days after the delivery date, and promised to deliver title and registration paperwork to the Plaintiff prior to expiration of the temporary tag.

30. Over the course of the next several weeks, Plaintiff made numerous attempts via phone calls and emails to secure the title of the Vehicle. Plaintiff was told on several occasions that a “case” was being opened, but that Plaintiff was never allowed to speak to a supervisor or someone actually in the title department. Defendants claimed they did not allow for such conversations to take place, only that someone would be calling or emailing the Plaintiff within the next 24 hours. Defendants eventually claimed there was a “mistake” in the Vehicle’s title and they were working to correct it.

31. Defendants refused and/or failed to deliver the title to the subject Vehicle. As of the date of this filing, Defendants have still not delivered the Title to the subject Vehicle. The

temporary tag expired on June 20, 2022, which is actually beyond the 30-day requirement under Oklahoma law.

32. Defendants indicated that any additional tags would require certain insurance coverage beyond the legal minimum in Oklahoma, but then refused to provide any additional tags beyond the expiration of the original temporary tag. As a result, Plaintiff paid for a vehicle but risked legal and other negative consequences from failing to register the Vehicle in question, failing to secure the Title in a timely and legal manner, and otherwise possess the Vehicle without any legal title whatsoever.

33. Oklahoma law requires any purchaser of a motor vehicle within thirty (30) days from such purchase to make application to title and register such vehicle and pay required taxes and fees as required by Oklahoma law. Oklahoma provides that any purchase of an out-of-state vehicle must also be registered and titled within Oklahoma within 30 days of the vehicle's entry into Oklahoma. *See* 47 Okla. Stat. §1112.2; OAC 710:60-31.

34. Plaintiff was forced to seek legal relief to obtain a title to legally drive the subject Vehicle. Plaintiff filed an application in the District Court of Cleveland County, State of Oklahoma, Case No. CV-2022-2344, on June 22, 2022, to secure a Court Order to try and get a title based on the evidence of Plaintiff's purchase from Vroom.com.

35. At the time of the filing of this Petition, Defendants have failed to respond to Plaintiff's last attempt to secure the Vehicle's Title for over 6 weeks. At the time of the filing of this Petition, Defendants have still failed or refused to provide clean and marketable title to the subject Vehicle, despite Plaintiff paying the full purchase price to Defendants three months ago.

CLASS ACTION ALLEGATIONS

36. Pursuant to 12 Okla. Stat. § 2023, Plaintiff brings this action on behalf of himself and the following proposed class:

All individuals in the State of Oklahoma who purchased a motor vehicle from Defendants via Vroom.com since July 22, 2017 until June 22, 2022 who failed to receive from Vroom.com the motor vehicle legal title for any such vehicle within 30 days from the date of delivery.

37. Such vehicle owners have been damaged by the Defendant as follows: (1) Defendants have breached the express and implied warranties to all proposed class members; and (2) Defendants' acts and omissions with respect to the failure to sell vehicles with marketable and legal title and/or failure to provide such title to purchasers are and have been contrary to the Oklahoma Consumer Protection Act.

38. This action has been brought and may properly be maintained as a class action under 12 Okla. Stat. § 2023

39. Pursuant to 12 Okla. Stat. § 2023(A)(1), Plaintiff states that the proposed class is so numerous that joinder of all members is impracticable as a matter of law because the proposed class consists of purchasers of any motor vehicle from Vroom.com over the last 5 years. Thus, the class consists, at least, of hundreds or thousands of potential members. The exact number of Oklahoma purchasers should be easily obtainable from Defendants through the discovery process. Therefore, the class is ascertainable.

40. Pursuant to 12 Okla. Stat. § 2023(A)(2) there are questions of law or fact common to the class. The proposed class expressly excludes any and all possible questions of law or fact that require specific and/or individualized inquiries. Rather, the proposed class encompasses any and all practices or policies of Defendant that were generally applicable to all proposed class members including, but not limited to: whether Defendant breached its express and/or implied

warranties to sell a vehicle with clean and marketable title and/or deliver clean and marketable title to the purchaser in a legally timely fashion; whether Defendants actions with respect to proposed class members constituted violations of the Oklahoma Consumer Protection Act.

41. Pursuant to 12 Okla. Stat. § 2023 (A)(3), Plaintiff's claims against Defendants are typical of the claims of the proposed class because the conduct of Defendants with respect to the defect is identical with respect to Plaintiff as it is with respect to all other proposed class members because the issue is selling vehicles with clean title and delivering proof of such clean titles to purchasers in a legally timely manner.

42. Pursuant to 12 Okla. Stat. § 2023 (A)(4), Plaintiff will fairly and adequately protect the interests of the class. Plaintiff's interests do not conflict with those of the class and Plaintiff will fully and effectively represent the interests of the class. Further, Plaintiff, as undersigned counsel, is qualified, experienced, and generally able to conduct this lawsuit and the Plaintiff's interests are not antagonistic to those of the class.

43. Pursuant to 12 Okla. Stat. § 2023 (B)(3), the issues of law and fact common to members of the class predominate over any questions affecting only individual members. Therefore, a class action is superior to other available methods for the fair and efficient adjudication of this controversy. The legal grievances of proposed class members are common to all class members, including Plaintiff. If Defendants are liable to any class member on any of the questions of law outlined herein, they will automatically be liable to all class members. A class action is clearly superior to the many different lawsuits which might be brought, raising the same legal claims against Defendants, burdening the courts, and potentially resulting in unjustly disparate outcomes. *See also* 12 Okla. Stat. § 2023(B)(1)(A).

**COUNT I – Breach of Contract/Violations of the Oklahoma Uniform Commercial Code:
Breach of Express and Implied Warranties.**

44. Plaintiff incorporates by reference all of the allegations pled in the foregoing paragraphs and brings this claim both individually and on behalf of all others similarly situated.

45. Oklahoma has adopted the Uniform Commercial Code, including Article 2 governing sales of goods. 12A Okla. Stat. §§ 2-101 ff.

46. Pursuant to the statutory definitions, Plaintiff and all other proposed class members were “buyers” as defined by 12A Okla. Stat. § 2-103(1)(a); Defendants were a “seller” as defined by 12A Okla. Stat. § 2-103(1)(c) and a “merchant” as defined by 12A Okla. Stat. § 2-104; and the vehicle purchases on Vroom.com by Plaintiff and all other proposed class members were transactions in “goods” as defined by 12A Okla. Stat. § 2-105(1).

47. Pursuant to 12A Okla. Stat. § 2-313, Defendants’ warranties regarding selling vehicles with a clean title and delivering clean and marketable title to purchasers in order for the buyers to register and title the vehicle bought from Defendants constitute an “express warranty” governed by the provisions of the Oklahoma Uniform Commercial Code.

48. Pursuant to 12A Okla. Stat. § 2-314, an implied warranty of merchantability arose by operation of law with respect to vehicles sold to Plaintiff and all other proposed class members. Such warranty included the requirement that Defendants actually owned and possessed clean and marketable title for the vehicles Defendants sell to Oklahoma consumers.

50. Defendants breached their express and implied warranties to Plaintiff and all other proposed class members by not furnishing a vehicle with clean and marketable title and failing to furnish such title in a legally timely manner to allow for timely and legal registration of the vehicles Defendants sold.

51. Defendants also breached the implied warranty of merchantability by furnishing

vehicles that did not “pass without objection” (due to the failure to provide clean and marketable title for any such vehicle sold) and were therefore not “fit for the ordinary purpose” for which vehicles are used and driven legally in Oklahoma, namely, as a legal and reliable means of transportation without fear of fine or punishment for driving such vehicle.

52. Therefore, Plaintiff and all other proposed class members have been damaged by Defendants’ breach of their express and implied warranties and are entitled to compensation for the same.

COUNT II – Oklahoma Consumer Protection Act

53. Plaintiffs restate and incorporate all of the allegations set forth above.

54. Defendants’ wrongful actions toward Plaintiffs constitute deceptive and unfair trade practices under 15 Okla. Stat. §§ 752(13) and 752(14) of the Oklahoma Consumer Protection Act (“OCPA”), 15 Okla. Stat. § 751 *et seq.* Defendants’ deceptive and unfair trade practices are actionable unlawful practices pursuant to 15 Okla. Stat. § 753(20). The Oklahoma Supreme Court has held that “[b]ecause the OCPA is remedial in nature it is to be liberally construed to effectuate its underlying purpose.” *Patterson v. Beall*, 2000 OK 92, ¶ 28 (emphasis added).

55. Plaintiff and prospective class members were all harmed by Defendants’ actions and practice of selling vehicles and failing to complete the vehicle registration process as required by law, selling vehicles without clean and marketable title, failing to furnish clean and marketable title in a legally timely fashion, and/or failing to disclose or misrepresenting issues that will result in title transfer or registration delays as they become apparent. Such conduct was in violation of the Oklahoma Consumer Protection Act’s prohibitions, including, but not limited to, prohibitions against deceptive practices, practices that are contrary to public policy, and practices that are substantially injurious to consumers.

56. Therefore, Defendants should be held liable for its violations of the Oklahoma Consumer Protection Act and Plaintiff and all other proposed class members should be compensated for their damages accordingly.

57. Defendants' unlawful actions as described herein occurred in the course of Defendants' business and involved a consumer transaction as defined in 15 Okla. Stat. § 752(2).

58. Plaintiffs have suffered actual and consequential damages as a direct result of Defendants' deceptive and unfair trade practices and are entitled to an award of actual and punitive damages against Defendants for their willful and wanton conduct. In addition, Plaintiffs are entitled to recover statutory civil monetary penalties against Defendants for each wrongful or deceptive act as well as attorney fees and costs as set forth in 15 Okla. Stat. § 761.1.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendants as follows:

- A. Actual, consequential, punitive, and other damages, in an amount to be proven at trial;
- B. For pre judgment and post interest on such damages;
- C. For expenses of the litigation, including costs and attorney fees;
- D. Certification of the Class;
- E. Appointment of the undersigned as counsel for the Class; and
- F. For such other relief as Plaintiff may be entitled, including any legal remedies that may be appropriate under the claims asserted above.

Respectfully Submitted,



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PLAINTIFF PRO SE

**JURY TRIAL DEMANDED
ATTORNEY LIEN CLAIMED**

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Alleges Vroom Fails to Obtain Clear Title Before Selling Used Cars](#)
