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**SUPERIOR COURT OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO
NORTH COUNTY REGIONAL CENTER**

MICHAEL EADES, an individual.)	Case No.:
)	
Plaintiff,)	
)	
v.)	PLAINTIFF'S MANDATORY
)	SETTLEMENT CONFERENCE BRIEF
CERTIFIED AUTO SALES, INC., a corporation; and)	
DOES 1-25, inclusive,)	
)	
Defendants.)	
)	

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20 Plaintiff MICHAEL EADES respectfully submits this brief in support of their position, that
21 Certified Auto Sales, Inc. violated the Consumer Legal Remedies Act, to be heard at the Mandatory
22 Settlement Conference in the above entitled action.

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25 **STATEMENT OF FACTS**

26 Plaintiff MICHAEL EADES ("EADES" or Plaintiff) is a private in the United States Marine
27 Corps, stationed at Camp Pendleton, in the County of San Diego, State of California. He became a
28 customer of Defendant CERTIFIED AUTO SALES, INC ("Defendant" or "CAS"), a California

1 corporation engaged in the sale of used automobiles in Oceanside, California, on August 28th, 2014.
2 EADES visited CAS'S place of business on that date to inspect their inventory and search for a used
3 car. EADES became enamored with a 1998 Lexus GS400 ("CAR"), which bore the characteristics and
4 aesthetics that EADES desired.

5 Upon being engaged by a salesperson employed by CAS, EADES was able to inspect and test
6 drive the CAR. He found that the vehicle was satisfactory for his needs, that it performed well, that it
7 had style characteristics that he appreciated, and inquired about purchasing CAR. He was informed by
8 the salesperson, an individual no longer in the employ of CAS and unreachable during discovery, that
9 the vehicle had 82,000 miles on the odometer. The same salesperson recommended to EADES that,
10 because of the mileage on the CAR, EADES should purchase a service warranty. EADES was
11 presented with a document listing multiple prices, the lowest of which was \$12, 500 which was the
12 purchase price. The purchase agreement listed the mileage of the CAR as 82,000 miles, and the price of
13 the service warranty as \$400. EADES signed the purchase agreement, procured financing and a check
14 from Navy Federal Credit Union, and took possession of the CAR.

15 One week after purchase, EADES was driving the CAR when it suffered a catastrophic
16 mechanical failure. Only after having the CAR towed to a mechanic for inspection was it discovered
17 that the CAR had a blown engine. It was estimated that the engine would require some \$5,000 in repair
18 and/or replacement to restore function. EADES contacted CAS and the service warranty company to
19 file a claim, only to discover that the odometer on the CAR read 182,200 miles, a full 100,000 miles
20 more than the salesman and contract represented. Because of the mileage on the vehicle, the service
21 warranty company denied EADES claim.

22 Defendant violated the Consumer Legal Remedies Act (Cal. Civ. Code §1750 *et seq.*) when it
23 made false representations to EADES during the purchase transaction. The CAR qualifies as a "good"
24 under the Act, CAS is a "person" for the purposes of the Act, EADES is a "consumer" and the sale of
25 the CAR was a "transaction." 19. Plaintiff served notice to Defendants, via certified mail, a letter
26 notifying Defendants of CAS'S violations of the Consumer Legal Remedies Act on June 21, 2015
27 pursuant to California Civil Code §1782 (a)(1-2). The letter provided CAS with thirty days to remedy
28 or correct its illegal conduct. Defendant declined to provide a remedy. Thereafter, EADES brought this

1 action alleging three violations of the Consumer Legal Remedies Act against Defendant, CERTIFIED
2 AUTO SALES, INC.

3 CAS violated the CLRA by engaging in three separate prohibited acts as defined under
4 California Civil Code §1770(a). CAS violated §1770(a)(5) by making a false representation about a
5 characteristic of the CAR, namely that the mileage was correctly listed as 82,000 miles. CAS violated
6 §1770(a)(7) by representing that the goods possessed a particular standard, or quality, which the CAR
7 plainly did not possess, by representing that the CAR was of the same standard as a CAR with 82,000
8 miles. CAS violated §1770(a)(14) by representing that the transaction rights, remedies or obligations
9 that the transaction did not confer by representing that EADES would have 100,000 miles of service
10 warranty coverage when in fact such rights were not conferred. Each of the violation by CAS of
11 §1770(a) gives rise to an independently actionable claim, and each was plead separately in the
12 COMPLAINT.

13 Pursuant to California Civil Code §1780 (a), any consumer who suffers any damage as a result
14 of the use or employment of any method, act, or practice declared unlawful by Section 1770 may bring
15 an action for damages against that person. Pursuant to California Civil Code § 1780 (a)(4), Plaintiff is
16 entitled to and seeks recovery of punitive damages because the conduct of Defendants was
17 reprehensible, fraudulent, malicious, oppressive, and done with reckless disregard of Plaintiff's rights.
18 CAS has failed to preserve a defense of "mistake" allowable under California Civil Code §1784 by
19 failing to make an appropriate correction, repair or replacement of the goods involved in this action, as
20 is required by §1784(b).

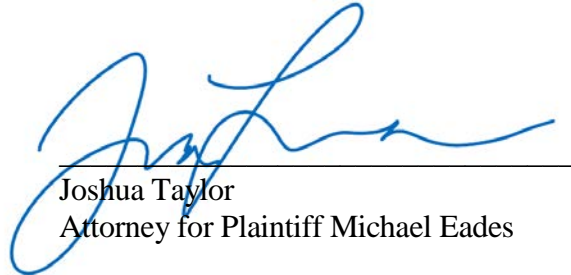
21 **DAMAGES AND GOOD FAITH DEMAND**

22 Arising immediately from the purchase contract entered between CAS and EADES on August
23 28, 2014, EADES has incurred damages to the amount of \$12,500 from the purchase price of the
24 vehicle. Pending completion of discovery, EADES suffered \$400 in damages relating to the towing of
25 the CAR after it suffered its mechanical breakdown. Pending completion of discovery, EADES
26 suffered \$800 in damages relating to the inspection and disassembly of the CAR, including a teardown
27 of the engine required to diagnose the mechanical failure. Pending completion of discovery, EADES
28 suffered \$2,000 in fees relating to the storage of CAR, as CAR is inoperable and remains in a condition

1 of partial disassembly relating to the inspection referenced above. Pending completion of discovery,
2 EADES has suffered damages in the amount of \$1,500 relating to loan servicing fees, loan
3 maintenance, and interest accruing against the principle of the loan that was obtained from Navy
4 Federal to finance the CAR. Pending completion of discovery, EADES has suffered damages in the
5 amount of \$9, 340 relating to attorney fees and court costs, with actual fees and costs increasing
6 commensurate to further action required before this court. In addition, EADES has lost the use and
7 enjoyment of the vehicle he purchase and has endured significant stress and loss of enjoyment of
8 personal life as a result of CAS and their behavior. In total, EADES has been damaged in the amount of
9 \$24,740.

10 Accordingly, EADES' good faith demand is \$21,000.

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12 **Respectfully submitted,**

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15 A handwritten signature in blue ink, appearing to read 'Joshua Taylor', is written over a horizontal line. Below the line, the name and title are printed.

16 Dated: July 25, 2015

17 Joshua Taylor
18 Attorney for Plaintiff Michael Eades
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