

1 Kyle McLean (SBN 330580)
2 kmclean@sirillp.com
3 Lisa R. Considine (*pro hac vice* to be filed)
4 lconsidine@sirillp.com
5 **SIRI & GLIMSTAD LLP**
6 700 S. Flower Street, Suite 1000
7 Los Angeles, CA 90017
8 Main: 213-376-3739

9 *Attorneys for Plaintiffs and the putative classes*

10
11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

13 TAMIKA HUESTON, BUNDY LANEY,
14 CECILY MOODY, JATTIYA DAVIS,
15 and DANIELLE CAINES on behalf of
16 themselves and all others similarly
17 situated,

18 Plaintiffs,

19 v.

20 WESTLAKE PORTFOLIO
21 MANAGEMENT, LLC,

22 Defendant.

Case No.:

- CLASS ACTION COMPLAINT**
1. **UNFAIR COMPETITION LAW**
 2. **BREACH OF CONTRACT**
 3. **UNJUST ENRICHMENT**
 4. **TRUTH-IN-LENDING ACT**
 5. **UNIFORM COMMERCIAL CODE, ARTICLE 9**

[JURY TRIAL DEMANDED]

23 Plaintiff Tamika Hueston, Bundy Laney, Cecily Moody, Jattiya Davis, and
24 Danielle Caines (collectively, "Plaintiffs"), by and through their undersigned
25 attorneys, on behalf of themselves and all others similarly situated, states and alleges
26 matters pertaining to themselves and their own acts, upon personal knowledge, and as
27 to all other matters, upon information and belief, based upon the investigation
28 undertaken by his counsel, as follows:

I. INTRODUCTION

1
2 1. Plaintiffs bring this action for Class Action Complaint for damages and
3 injunctive relief against Defendant Westlake Portfolio Management, LLC
4 (“Westlake”) for Defendant’s common course of unlawful and fraudulent conduct in
5 connection with the motor vehicle financing, servicing of motor vehicle loans, and
6 repossessions of motor vehicles.

7 2. Defendant services motor vehicle finance agreements for consumers that
8 originally purchased and financed vehicles from U.S. Auto Sales, Inc. and/or U.S.
9 Auto Finance, Inc. (collectively “US Auto”).

10 3. Defendant, as a loan servicer, may only collect fees and other amounts
11 authorized by the consumer’s contract or permitted by law. It may not unilaterally
12 change the contract’s terms and conditions, including increasing the amount of
13 principal owed by the consumer or extending the duration of the contract.

14 4. In connection with its servicing of automobile finance contracts,
15 Westlake has routinely made representations to consumers about the principal
16 balance owed. In numerous instances, however, in connection with servicing
17 automobile finance contracts, Westlake has misrepresented the amounts owed by
18 consumers, including the loan’s principal balance. Plaintiffs bring claims under
19 California’s Unfair Competitional Law, Cal. Bus. & Prof. Code 17200, for this
20 unlawful practice.

21 5. In addition, US Auto collected funds for the sale of Dealer Owned
22 Warranty Company Service Agreement (“DOWC”) Contracts from consumers and
23 their lenders, but never actually purchased the service contracts from DOWC on
24 behalf of consumers. As a result, no such service contracts are effective or in force
25 for the thousands of consumers who paid for motor vehicle repair coverage and other
26 protection.

27 6. However, Westlake, upon information and belief as an assignee and
28 servicer of those US Auto loan agreements, has collected, retained, and continues to

1 10. Plaintiff Bundy Laney is, and at all times mentioned herein was, an
2 individual citizen of the State of Georgia residing in Dekalb County. Mr. Laney
3 purchased a 2017 Hyundai Sonata, VIN5NPE24AF5HH571153 April 14, 2023 from
4 a U.S. Auto Sales, Inc. dealership located at 2086 Paul Walsh Drive, Macon, Georgia
5 31206.

6 11. Plaintiff Cecily Moody is, and at all times mentioned herein was, an
7 individual citizen of the State of South Carolina residing in Marion County. Ms.
8 Shivers purchased a 2018 Chevrolet Sonic, VIN1G1JF5SB6J4138045 on June 29,
9 2022 from a U.S. Auto Sales, Inc. dealership located at 1448 North Cashua Drive,
10 Florence, South Carolina, 29501.

11 12. Plaintiff Jattiya Davis and was, at all relevant times here, an individual
12 citizen of the State of North Carolina residing in Guilford County. Ms. Davis
13 purchased a 2013 Hyundai Sonata, VIN5NPEB4AC5DH664805 on January 21, 2023
14 from a U.S. Auto Sales, Inc. dealership located at 1015 Glendale Drive, Apt. 3B,
15 Greensboro, NC 27406.

16 13. Plaintiff Danielle Caines is and was, at all relevant times here, an
17 individual citizen of the State of Alabama residing in Madison County. Ms. Caines
18 purchased a 2012 Chevrolet Equinox, VIN2GNFLEE54C6210848 on October 13,
19 2022 from a U.S. Auto Sales, Inc. dealership located at 2001 Sparkman Drive NW,
20 Huntsville Alabama 35810.

21 14. Defendant Westlake Portfolio Management is a California Limited
22 Liability Companies with principal offices located at 4751 Wilshire Blvd., Suite 100,
23 Los Angeles, CA. Upon information and belief, Defendant Westlake Portfolio
24 Management is a citizen of the State of California.

25 **III. JURISDICTION AND VENUE**

26 15. The Court has subject matter jurisdiction over this action under the Class
27 Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d). There are at least 100 members
28 in the proposed class, the aggregated claims of the individual Class Members exceed

1 the sum or value of \$5,000,000.00 exclusive of interest and costs, and because this a
2 class action in which the members of the classes and Defendant are citizens of
3 different states.

4 16. This Court has personal jurisdiction over Defendant by virtue of their
5 transactions and business conducted in this judicial district, and because Defendant
6 are headquartered in California. Defendant has transacted and done business in the
7 State of California and in this judicial district, and Plaintiffs bring California statutory
8 and common law claims.

9 17. Venue is proper in this District under 28 U.S.C. § 1391(a) because a
10 substantial part of the events or omissions giving rise to Plaintiff's claims occurred in
11 this District. Specifically, Defendant transacts substantial business and is
12 headquartered in this district. Therefore, a substantial part of the events and/or
13 omissions giving rise to the claims occurred, in part, within this district.

14 **IV. BACKGROUND**

15 18. U.S. Auto Sales, Inc. had a principal place of business at 1855 Satellite
16 Blvd, Suite 100, Duluth, Georgia 30097. U.S. Auto Sales was a Georgia-based car
17 dealership that operated approximately 39 locations across six states including
18 Georgia, Florida, Tennessee, South Carolina, North Carolina, and Alabama. U.S.
19 Auto Sales offered in-house financing through its finance arm, U.S. Auto Finance,
20 Inc. on motor vehicles, commonly referred to as a “buy here, pay here” dealership.

21 19. A “buy here, pay here” dealership is a specialized car dealership for
22 buyers who may have a challenging time securing financing to purchase a vehicle.
23 With a buy here, pay here dealership, a consumer can receive “in-house” financing
24 from the dealership itself. These dealerships typically work with car buyers who
25 might not qualify for traditional auto financing, or “subprime” borrowers. As such, it
26 is not uncommon to see them advertised with signs such as “bad credit, no credit, no
27
28

1 problem.”¹

2 20. When financing a car with a buy here, pay here dealer, typically a
3 consumer will not undergo a credit check as one would with a traditional auto lender.
4 Instead, the consumer need just show that they can afford the payments on the loan.
5 Compared to traditional auto loans, loans offered by buy here, pay here dealerships
6 have higher interest rates.²

7 21. On April 24, 2023, US Auto suddenly, and without warning, ceased
8 operations.³

9 **Dealer Owned Warranty Company (“DOWC”) Service Contracts**

10 22. At the time that US Auto ceased operations, it had collected millions of
11 dollars from consumers and lenders through its sale of DOWC’s Service Contracts.
12 However, US Auto did not remit any monies to DOWC for the purchase of those
13 DOWC Service Contracts. By failing to remit payment to DOWC, US Auto caused
14 the DOWC Service Contracts to never become activated, and the coverage that
15 consumers thought they had – and had in fact paid for – never came into effect. As a
16 result, 20,198 DOWC Service Contracts are not “in force” despite the fact that
17 consumers paid US Auto for coverage.

18 23. In other words, consumers were sold something they were never
19 provided.

20 24. Effective May 22, 2023, Westlake Portfolio Management and/or
21 Westlake, announced that the servicing of certain U.S. Auto Sales accounts would be
22 transferred from U.S. Auto Finance to Westlake Portfolio Management.⁴

23 _____

24 ¹ Consumer Financial Protection Bureau, *What is a “no credit check” or “buy here, pay here” auto loan or dealership?*
25 <https://www.consumerfinance.gov/ask-cfpb/what-is-a-no-credit-check-or-buy-here-pay-here-auto-loan-or-dealership-en-887/> (last accessed February 15, 2024).

26 ² *Id.*

27 ³ <https://www.11alive.com/article/news/local/us-auto-sales-temporarily-closing-39-dealerships-across-southeast-employees-sent-home/85-e3f6b829-a201-4b9a-a215-d2506eacb4de#:~:text=US%20Auto%20Sales%20abruptly%20temporarily,borrowers%20with%20low%20credit%20scores>. (last accessed February 15, 2024).

28 ⁴ <https://myaccount.wpmservicing.com/usAutoWelcome/> (last accessed February 15, 2024).

1 25. At the time Westlake took the US Auto accounts, Westlake knew that
2 the DOWC Service Contracts had not been acquired on behalf of US Auto
3 consumers.

4 26. However, Westlake has collected, retained, and continues to collect
5 consumer funds for DOWC Service Contracts that were never purchased on their
6 behalf, and as a result never came into effect.

7 27. In doing so, Westlake has violated Federal lending and disclosure laws.
8 Specifically, the consumer loans which Westlake took are defective consumer loans.
9 Those defects arise from U.S. Auto's misrepresentation on the consumer's Retail
10 Installment Sales Contracts ("RISC") in misrepresenting to consumers, in violation of
11 the Federal Truth-in-Lending Act, that DOWC was a third-party to which payments
12 for the vehicle service contracts were made.

13 28. Westlake knew that it was collecting consumer funds for DOWC Service
14 Agreements itemized on the RISC and that the DOWC Service Contracts were not
15 purchased on consumers' behalf, making those consumer loans facially defective.

16 **Material Alteration of Loan Terms**

17 29. As a loan servicer, Westlake may only collect fees and other amounts
18 authorized by the consumer's contract or permitted by law. It may not unilaterally
19 change the contract's terms and conditions, including increasing the amount of
20 principal owed by the consumer or extending the duration of the contract.

21 30. In connection with its servicing of the U.S. Auto Sales finance contracts,
22 Westlake has routinely made representations to consumers about the principal
23 balance owed.

24 31. In numerous instances in connection with servicing said automobile
25 finance contracts, Westlake has misrepresented the amounts owed by consumers,
26 including the loan's principal balance.

27 32. Specifically, Westlake has refused to credit consumer accounts for any
28 payments made prior to Westlake's assuming the role of servicer, effectively treating

1 the loan as “starting over” once Westlake stepped in. As a result, demand is being
2 made of consumers to pay more than the principal obligation under the loan, as well
3 as additional interest.

4 33. Moreover, Westlake has misrepresented the amounts owed by
5 consumers by disregarding payments consumers made toward the obligation prior to
6 Westlake’s role as servicer and/or assignee, and by insisting that amounts are owed
7 for a DOWC Service Contract which Westlake knew was never secured on a
8 consumer’s behalf.

9 34. Consumers who have paid or continue to pay Westlake have suffered
10 direct financial harm because they are paying amounts not owed. Consumers who
11 have defaulted on their loans have also been harmed, because the amount of the
12 deficiency assessed against them is calculated in part on erroneous information and
13 was therefore higher than it should have been.

14 35. Westlake has lacked a reasonable basis for these representations to
15 consumers because it failed to implement adequate policies and procedures to ensure
16 the accuracy of its representations, or to ensure that it was not seeking amounts not
17 due under the contracts with consumers. Westlake’s inadequate loan servicing
18 policies and procedures cause it to increase the principal amount owed without basis,
19 which in turn caused improper increases in the resulting interest owed.

20 36. Furthermore, Westlake’s increase of the principal amount owed on
21 consumer loans, without basis, causing an improper increase in the resulting interest
22 owed, was unlawful.

23 **Repossession of Vehicles**

24 37. The Uniform Commercial Code imposes on a secured party certain
25 duties and obligations when the secured party retakes or repossesses consumer goods.

26 38. Every aspect of a disposition of collateral, including the method,
27 manner, time, place, and other terms must be commercially reasonable.

28 39. A security party has a duty to safeguard the collateral and to maximize

1 the proceeds of any post repossession sale of the collateral.

2 40. Under the UCC, “[E]very aspect of a disposition of collateral ... must be
3 commercially reasonable.” This includes post-repossession notice.

4 41. Under the UCC, Westlake was required to provide “reasonable
5 authenticated notification of disposition” of the collateral.

6 42. The UCC requires a prompt post-repossession notice to the borrower and
7 any co-borrower advising of the repossession, how many days to act before public or
8 private sale of the goods, the method of intended disposition, an accounting of the
9 unpaid indebtedness, whether the borrower may be liable for a deficiency or entitled
10 to a surplus, and other information.

11 43. Defendant Westlake has failed to provide post-repossession notice to its
12 borrowers.

13 44. As a result of Westlake’s failure to comply with the requirements of the
14 UCC, Plaintiff Caines, Davis, and the members of the Repossession Class are entitled
15 to minimum damages under the UCC.

16 **V. FACTUAL BACKGROUND**

17 **Tamika Hueston**

18 45. Plaintiff Tamika Hueston is, and at all times mentioned herein was, an
19 individual citizen of the State of Florida residing in the County of Alachua. Ms.
20 Hueston purchased a 2017 Nissan Versa, VIN3N1CN7AP9HL894410 on February
21 20, 2023 from a U.S. Auto Sales, Inc. dealership located at 1725 N. Main Street,
22 Gainesville, Florida 32609.

23 46. Included in the Total Cash Price of her vehicle was a fee of \$1,814.00
24 for a DOWC Service Contract.

25 47. Ms. Hueston financed the purchase of her vehicle for 148 bi-weekly
26 payments in the amount of \$211.25. The APR on her purchase was 16.20%, with a
27 finance charge of \$11,114.87.

28

1 48. At the time of purchase, Ms. Hueston received an Itemization of Amount
2 Financed which described that she purchased a Dealer Owned Warranty Company
3 (“DOWC”) Service Contract in the amount of \$1,814.00. This Service Contract was
4 included in the amount financed.

5 49. However, a DOWC Service Contract was never secured by U.S. Auto on
6 her behalf.

7 50. Westlake was aware at the time it was assigned Ms. Hueston’s RISC that
8 a DOWC Service Contract was not secured on her behalf.

9 51. Ms. Hueston remitted payment as agreed under the RISC through U.S.
10 Auto’s website payment portal until she was unable to do so because the website was
11 no longer operative.

12 52. At or around that time, Ms. Hueston saw a notification that she was to
13 remit her payments to Westlake. However, in doing so, Ms. Hueston discovered that
14 Westlake had failed to account for any of the payments she had previously made.

15 53. Ms. Hueston verbally notified Westlake of the failure to credit her
16 account for payments made, and was advised by Westlake to “go get a refund from
17 U.S. Auto.”

18 54. Westlake continued to demand payment from Ms. Hueston in the
19 amount set forth on the RISC.

20 55. Ms. Hueston continued to pay Westlake in the bi-weekly amounts due
21 under the RISC until approximately July 2023.

22 56. In or about August 2023, Westlake took repossession of the Vehicle.

23 57. Ms. Hueston contacted Westlake by telephone regarding the
24 repossession of the Vehicle and Westlake verbally demanded \$1,257.93 in exchange
25 for return of the Vehicle.

26 58. Ms. Hueston paid the demanded \$1,257.93 to obtain possession of her
27 Vehicle again.

28

1 59. At all relevant times herein, Westlake knew that the amounts due from
2 Ms. Hueston included an amount financed for a DOWC Service Contract that was
3 never secured on Ms. Hueston's behalf, and was therefore not lawfully owed.

4 **Bundy Laney**

5 60. Plaintiff Bundy Laney is, and at all times mentioned herein was, an
6 individual citizen of the State of Georgia residing in Dekalb County. Mr. Laney
7 purchased a 2017 Hyundai Sonata, VIN5NPE24AF5HH571153 April 14, 2023 from
8 a U.S. Auto Sales, Inc. dealership located at 2086 Paul Walsh Drive, Macon, Georgia
9 31206.

10 61. Included in the Total Cash Price of his vehicle was a fee of \$3,595.00 for
11 a Service Contract.

12 62. Mr. Laney financed the purchase of his vehicle for 130 bi-weekly
13 payments in the amount of \$249.65. The APR on his purchase was 20.43%, with a
14 finance charge of \$12,482.50.

15 63. At the time of purchase, Mr. Laney received an Itemization of Amount
16 Financed which described that he purchased a DOWC Service Contract in the amount
17 of \$3,595.00. This Service Contract was included in the amount financed.

18 64. However, a DOWC Service Contract was never secured by U.S. Auto on
19 his behalf. Indeed, Mr. Laney contacted DOWC on or about July 14, 2023 and to his
20 surprise, was advised that he does not have a DOWC Service Contract because U.S.
21 Auto never funded the contract.

22 65. Westlake was aware at the time it was assigned Mr. Laney's RISC that a
23 DOWC Service Contract was not secured on his behalf.

24 66. Mr. Laney remitted payment as agreed under the RISC to U.S. Auto and,
25 thereafter, Westlake.

26 67. At all relevant times herein, Westlake knew that the amounts due from
27 Mr. Laney included an amount financed for a DOWC Service Contract that was never
28 secured on Mr. Laney's behalf, and was therefore not lawfully owed.

1 **Cecily Moody**

2 68. Plaintiff Cecily Moody is, and at all times mentioned herein was, an
3 individual citizen of the State of South Carolina residing in Marion County. Ms.
4 Shivers purchased a 2018 Chevrolet Sonic, VIN1G1JF5SB6J4138045 on June 29,
5 2022 from a U.S. Auto Sales, Inc. dealership located at 1448 North Cashua Drive,
6 Florence, South Carolina, 29501.

7 69. Included in the Total Cash Price for her vehicle was a fee of \$1,995.00
8 for a Service Contract.

9 70. Ms. Moody financed the purchase of her vehicle for 154 bi-weekly
10 payments in the amount of \$264.69. The APR on his purchase was 14.95%, with a
11 finance charge of \$14,107.91.

12 71. At the time of purchase, Ms. Moody received an Itemization of Amount
13 Financed which described that she purchased a DOWC Service Contract in the
14 amount of \$1,995.00. This Service Contract was included in the amount financed.

15 72. However, a DOWC Service Contract was never secured by U.S. Auto on
16 her behalf.

17 73. Ms. Moody remitted payment as agreed under the RISC through U.S.
18 Auto’s website payment portal until she was unable to do so because the website was
19 no longer operative.

20 74. At or around that time, Ms. Moody saw a notification that she was to
21 remit her payments to Westlake. However, in doing so, Ms. Moody discovered that
22 Westlake had failed to account for any of the payments she had previously made.

23 75. In or about June 2023, Ms. Moody verbally notified Westlake of the
24 failure to credit her account for payments made, and was advised by Westlake that
25 they were still in the process of “having everything transferred from U.S. Auto” and
26 that was the reason for the discrepancy, and that it would eventually be corrected.

27
28

1 76. On or about July 28, 2023, Ms. Moody contacted DOWC to request
2 service of her Vehicle. It was at that time that Ms. Moody learned that she did not
3 have a DOWC Service Contract because U.S. Auto did not fund the contract.

4 77. Approximately two months passed before Ms. Moody contacted
5 Westlake again and inquired as to the incorrect amount due on her loan. Westlake
6 advised that they still did not have all of the information on her account to know if it
7 was properly credited.

8 78. In or about September 2023, Ms. Moody contacted Westlake and
9 Westlake advised her that they did not have a record or acknowledgement of any
10 payments she had previously made on her loan.

11 79. During this call, Ms. Moody requested of Westlake the opportunity to
12 submit proof of her payments to U.S. Auto to credit her loan. She was advised, in
13 turn, that Westlake would not accept proof of those payments and that if she had
14 made any payments to U.S. Auto, she should dispute those amounts directly with her
15 bank in an effort to get a refund.

16 80. Westlake continues to demand payment from Ms. Moody in the amount
17 set forth on the RISC.

18 81. Ms. Moody continues to pay Westlake in the bi-weekly amounts due.

19 82. At all relevant times herein, Westlake knew that the amounts due from
20 Ms. Moody included an amount financed for a DOWC Service Contract that was
21 never secured on Mr. Moody's behalf, and was therefore not lawfully owed.

22 **Jattiya Davis**

23 83. Plaintiff Jattiya Davis is and was, at all relevant times here, an individual
24 citizen of the State of North Carolina residing in Guilford County. Ms. Davis
25 purchased a 2013 Hyundai Sonata, VIN5NPEB4AC5DH664805 on or about January
26 21, 2023 from a U.S. Auto Sales, Inc. dealership located at 1015 Glendale Drive, Apt.
27 3B, Greensboro, NC 27406.

28

1 84. Included in the Total Cash Price of her vehicle was a fee of \$3,595.00
2 for a Service Contract.

3 85. Ms. Davis financed her vehicle purchase for 144 bi-weekly payments in
4 the amount of \$242.00. The APR on her purchase was approximately 20%.

5 86. At the time of purchase, Ms. Davis received an Itemization of Amount
6 Financed which described that she purchased a Dealer Owned Warranty Company
7 (“DOWC”) Service Contract in the amount of \$3,595.00. This Service Contract was
8 included in the amount financed.

9 87. However, a DOWC Service Contract was never secured by U.S. Auto on
10 her behalf.

11 88. Westlake was aware at the time it was assigned Ms. Davis’ RISC that a
12 DOWC Service Contract was not secured on her behalf. Indeed, Westlake confirmed
13 to Ms. Davis that it was “initially told that all warranties from US Auto were no
14 longer valid upon boarding.”

15 89. Ms. Davis remitted payment as agreed under the RISC directly to U.S.
16 Auto until she was no longer able to do so. Upon transfer of her account to Westlake,
17 Ms. Davis discovered that her account had not been credited for payments she had
18 made. Ms. Davis brought this to Westlake’s attention by filing a complaint with the
19 Consumer Financial Protection Bureau.

20 90. In response to that complaint, Westlake advised that her account was
21 reported closed by US Auto, but that the account was not paid in full. Westlake
22 confirmed that as of August 2023, her total amount due actually higher than the initial
23 principal balance owed, despite payments made.

24 91. In January 2024, Westlake repossessed her vehicle.

25 92. Plaintiff has not received any post-repossession notices from Westlake in
26 connection with the repossession of her vehicle.

27
28

1 93. At all relevant times herein, Westlake knew that the amounts due from
2 Ms. Davis included an amount financed for a DOWC Service Contract that was never
3 secured on Ms. Davis' behalf.

4 **Danielle Caines**

5 94. Plaintiff Danielle Caines is and was, at all relevant times here, an
6 individual citizen of the State of Alabama residing in Madison County. Ms. Caines
7 purchased a 2012 Chevrolet Equinox, VIN2GNFLEE54C6210848 on October 13,
8 2022 from a U.S. Auto Sales, Inc. dealership located at 2001 Sparkman Drive NW,
9 Huntsville Alabama 35810.

10 95. Included in the Total Cash Price of her vehicle was a fee of \$3,595.00
11 for a Service Contract.

12 96. Ms. Caines financed the purchase of her vehicle for 151 bi-weekly
13 payments in the amount of \$242.98. The APR on her purchase was 17.44%, with a
14 finance charge of \$13,994.46.

15 97. At the time of purchase, Ms. Caines received an Itemization of Amount
16 Financed which described that she purchased a Dealer Owned Warranty Company
17 ("DOWC") Service Contract in the amount of \$3,595.00. This Service Contract was
18 included in the amount financed.

19 98. However, a DOWC Service Contract was never secured by U.S. Auto on
20 her behalf.

21 99. Westlake was aware at the time it was assigned Ms. Caines' RISC that a
22 DOWC Service Contract was not secured on her behalf.

23 100. Ms. Caines remitted payment as agreed under the RISC directly to U.S.
24 Auto through their IVR Telephone Payment System until May 2023. In or about May
25 2023, Ms. Caines tried to make her payment through U.S. Auto's IVR Telephone
26 Payment System and she was automatically transferred to Westlake. Ms. Caines
27 made her payment.
28

1 101. The next time Ms. Caines contacted U.S. Auto’s IVR Telephone
2 Payment System, she was again transferred to Westlake. This time, instead of making
3 payment, Ms. Caines decided to contact Westlake directly to find out who they were
4 and why she was being directed to pay them.

5 102. Upon being connected to Westlake, Ms. Caines was advised that
6 Westlake was a debt collector. Ms. Caines spoke with a live representative who said
7 that she owed approximately \$21,000 – nearly the full amount of the purchase price
8 of her vehicle. Ms. Caines asked how she could possibly owe that amount when she
9 been making payments directly to U.S. Auto on her loan. Westlake replied that they
10 did not have any record of any payments made to U.S. Auto and continued to insist
11 that she pay them.

12 103. On October 19, 2023, Westlake repossessed her Vehicle.

13 104. Plaintiff has not received any post-repossession notices from Westlake in
14 connection with the repossession of her vehicle.

15 105. At all relevant times herein Westlake knew that the amounts due from
16 Ms. Caines included an amount financed for a DOWC Service Contract that was
17 never secured on Ms. Caines’ behalf, and therefore were not lawfully owed.

18 **VI. ESTOPPEL FROM PLEADING AND**
19 **TOLLING OF APPLICABLE STATUTES OF LIMITATIONS**

20 106. Plaintiffs and the members of the DOWC and Altered Loan Classes had
21 no way of knowing about US Auto and Defendant Westlake’s conduct concerning the
22 failure and/or refusal to purchase DOWC Service Contracts on their behalf.

23 107. Neither Plaintiff nor any other members of the DOWC and Altered Loan
24 Classes, through the exercise of reasonable care, could have discovered the conduct
25 by Defendant alleged herein. Further, Plaintiffs and members of the DOWC and
26 Altered Loan Class did not discover and did not know facts that would have caused a
27 reasonable person to suspect that Defendant was engaged in the conduct alleged
28 herein. For these reasons, all applicable statutes of limitation have been tolled by the

1 discovery rule concerning claims asserted by Plaintiffs and the DOWC and Altered
2 Loan Classes.

3 108. Further, by failing to advise Plaintiffs and the members of the DOWC
4 Class that they were or are, in fact, financing a DOWC Service Contract that was
5 never obtained on their behalf, Defendant Westlake concealed its conduct and the
6 existence of the claims asserted herein from Plaintiffs and the DOWC Class
7 Members.

8 109. Moreover, by failing to advise Plaintiffs and the members of the Altered
9 Loan Class that they were or are, in fact, not credited and will not be credited for
10 payments made against their loan, thereby altering the principal balance due and
11 amount financed, Defendant Westlake concealed its conduct and the existence of the
12 claims asserted herein from Plaintiffs and the Altered Loan Class Members.

13 110. Westlake further actively concealed its conduct by collecting and
14 attempting to collect amounts that unlawfully included amounts relating to DOWC
15 Service Contracts, and that are not owed.

16 111. Upon information and belief, Defendant intended its acts to conceal the
17 facts and claims from Plaintiffs and Class members and intended that Plaintiffs and
18 the Classes rely on Defendant's conduct acts of concealment. Westlake was made
19 aware that DOWC Service Contracts were never obtained on behalf of Plaintiffs and
20 the DOWC Class Members, but Westlake did not notify Plaintiffs and Class
21 Members of same and continued to collect money from Plaintiffs and Class Members
22 for the financed DOWC Service Agreements. Westlake was also aware that it was
23 seeking to collect monies not owed from Plaintiffs and the DOWC and Altered Loan
24 Class Members.

25 112. Westlake actively misled and/or concealed from Plaintiffs and the
26 DOWC Class Members that they were paying for a DOWC Service Contract that
27 they did not have.

28 113. Westlake actively misled and/or concealed from Plaintiffs and the

1 Altered Loan Class Members that they were not being credited for payments made
2 and that therefore the principal balance and interest due on the loan was increasing.

3 114. Furthermore, Plaintiffs and the members of the DOWC and Altered
4 Loan Class exercised reasonable diligence in investigating and bringing the claims.

5 115. Westlake, upon taking assignment of the RISCs, advised consumers that
6 the servicing of their US Auto loans with Westlake would not alter or amend any of
7 the terms of their loan agreements.

8 116. Plaintiffs and the DOWC and Altered Loan Class members were
9 unaware of the facts alleged herein without any fault or lack of diligence on their part
10 and could not have reasonably discovered Defendant's conduct. For this reason, any
11 statute of limitations that otherwise may apply to the claims of Plaintiff or Class
12 members should be tolled.

13 117. As a factual matter, Plaintiffs did not learn that they did not have a
14 DOWC Service Contract in place until just prior to filing suit. Once Plaintiffs,
15 learned of it, they promptly acted to preserve her rights, filing this action. Similarly,
16 Plaintiffs did not and could not learn that Westlake had altered the terms of their loan
17 until Westlake took the US Auto loans. Defendant is estopped from asserting any
18 statute of limitation defense that might otherwise apply to the claims asserted herein.

19 **VII. CLASS ALLEGATIONS**

20 118. Plaintiffs bring this action on their own behalf and on behalf of all other
21 similarly situated pursuant to Federal Rules of Civil Procedure 23(a), (b)(2) and
22 (b)(3). This action satisfies the numerosity, commonality, typicality, adequacy,
23 predominance, and superiority requirements of Rule 23.

24 119. Subject to confirmation, clarification, and/or modification based on
25 discovery to be conducted in this action, the classes that Plaintiffs seek to represent
26 shall be defined as follows:
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Altered Loan Class:

All individuals who had automobile loans directly with U.S. Auto Sales, Inc. that were serviced by Westlake Portfolio Management and who were not credited for payments made toward their loan.

DOWC Class:

All individuals who financed the purchase of a Dealer Owned Warranty Company Service Contract in connection with their purchase of a motor vehicle from a U.S. Auto Sales, Inc. dealership during the period November 1, 2021 through the present.

Repossession Class:

All individuals who financed a motor vehicle purchase with U.S. Auto Finance, Inc. and had the servicing of their motor vehicle transferred to Westlake Portfolio Management and subsequently had their motor vehicle repossessed during the period May 2023 through the present and were not provided with any post-repossession notices.

120. **Numerosity:** The Class members are so numerous that joinder of all members is impractical under Fed. R. Civ. P. 23(a)(1). While the exact number of Class Members is unknown to Plaintiffs at this time and can only be determined by appropriate discovery, membership in the class is ascertainable based upon the records maintained by Defendant. Upon information and belief, the DOWC Class includes 20,198 individuals. The Altered Loan and Repossession Classes are believed to each number over 40 persons and is so numerous that joinder of all members is impractical.

121. **Typicality:** Plaintiffs’ claims are typical of the claims of the members of the Classes because they arise out of the same policies and practices as alleged herein, and all members of the Classes are similarly affected by Defendants’ wrongful conduct. Plaintiffs and all Class Members seek identical remedies under

1 identical legal theories, and Plaintiffs' claims do not conflict with the interests of any
2 other Class members in that the Plaintiffs and the other Class members were subject
3 to the same conduct and suffered the same harm.

4 122. **Commonality and Predominance**: There are questions of law and fact
5 common to the Classes, which predominate over questions affecting only individual
6 Class members. Common legal and factual questions include, but are not limited to:

- 7 A. Whether Plaintiffs and the members of the Altered Loan Class were not
8 credited for payments made toward their loans;
- 9 B. Whether Westlake's refusal to credit Plaintiffs and the members of the
10 Altered Loan Class for payments made is a violation of the California
11 Unfair Competition Law, Cal. Bus. & Prof. Code § 17200;
- 12 C. Whether Plaintiffs and the DOWC Class obtained financing for DOWC
13 Service Contracts through US Auto;
- 14 D. Whether Plaintiffs and the DOWC Class have DOWC Service Contracts
15 that are in force;
- 16 E. Whether the Westlake Defendants collected and/or retained monies from
17 consumers' U.S. Auto finance agreements that include the purchase of
18 DOWC Service Contracts;
- 19 F. Whether Westlake's collection and retention of monies not owed for a
20 DOWC Service Contract is a violation of the Truth-in-Lending Act, 15
21 U.S.C. §1601 *et seq*;
- 22 G. Whether Westlake repossessed the financed motor vehicles of Plaintiffs
23 and the Repossession Class or ordered them repossessed;
- 24 H. Whether Westlake failed to send proper notice of disposition of
25 collateral, as called for under the UCC;
- 26 I. The damages provided for such misconduct;

27 123. **Adequacy**: Plaintiffs will fairly and adequately represent the Classes
28 because they have no interests antagonistic to those of other Class members and the

1 adjudication of her claims will necessarily decide the identical issues for all other
2 Class Members. Plaintiffs are committed to the vigorous prosecution of this action.

3 124. **Adequate Representation**: Plaintiffs have retained counsel competent
4 and experienced in consumer class action litigation.

5 125. Plaintiffs do not anticipate any difficulty in management of this matter as
6 a class action.

7 126. The requirements of Rule 23(b)(1)(A) are satisfied because prosecution
8 of separate actions by the members of the Class would create a risk of establishing
9 incompatible standards of conduct for Defendant.

10 127. The class members are consumer debtors who may be unable to locate or
11 afford to hire attorneys, particularly in light of the size of any individual recovery.

12 128. The requirements of Rule 23(b)(1)(B) are satisfied because prosecution
13 of separate actions by the members of the Class would create a risk of adjudications
14 with respect to individual members of the Class that, as a practical matter, would be
15 dispositive of the interests of other members not parties to this action, or that would
16 substantially impair or impede their ability to protect their interests.

17 129. Class action status is also warranted under Rule 23(b)(2) because
18 Defendant has acted or refused to act on grounds generally applicable to the Class,
19 thereby making appropriate final injunctive, declaratory, or other appropriate
20 equitable relief with respect to the Class as a whole.

21 130. **Superiority**: If Certification is also appropriate under Rule 23(b)(3)
22 because the questions of law or fact common to the members of the Class
23 predominate over any questions affecting only individual members. A class action is
24 superior to other available methods for the fair and efficient adjudication of the
25 controversy because the damages suffered by each individual Class Member are
26 relatively modest compared to the expense and burden of individual litigation. It
27 would be impracticable for each Class Member to seek redress individually for the
28 wrongful conduct alleged herein. There will be no difficulty in the management of

1 this litigation as a class action as the legal issues affect standardized conduct by
2 Defendant, and class actions are commonly used in such circumstances. Furthermore,
3 since joinder of all members is impracticable, a class action will allow for an orderly
4 and expeditious administration of the claims of the Class. It will foster economies of
5 time, effort, and expense.

6 **VIII. CLAIMS FOR RELIEF**

7 **COUNT I**

8 **VIOLATION OF THE CALIFORNIA UNFAIR COMPETITION LAW**

9 **(Cal. Bus. & Prof. Code 17200)**

10 ***(On behalf of all Plaintiffs and the Altered Loan Class)***

11 131. Plaintiffs, on behalf of themselves and the DOWC Class, hereby
12 incorporate the allegations of Paragraphs 1 – 130 as set forth in the preceding
13 paragraphs of the complaint as if fully set forth at length herein.

14 132. The California Unfair Competition Law (“UCL”) prohibits acts of
15 “unfair competition,” including any “unlawful, unfair or fraudulent business act or
16 practice” and “unfair, deceptive, untrue or misleading advertising.” Cal. Bus. & Prof.
17 Code § 17200.

18 133. Defendant engaged in unfair competition and unfair, unlawful or
19 fraudulent business practices through the conduct, statements, and omissions
20 described herein, and by knowingly and intentionally seeking to collect amounts not
21 due from Plaintiffs and the members of the Classes. Defendant sought to collect
22 monies for DOWC Service Contracts that it knew were not in force and that were
23 never purchased and sought to collect monies from Plaintiffs and members of the
24 Classes in amounts not due under their RISCs.

25 134. In assuming the role of assignee and/or servicer of US Auto’s loans,
26 Defendant was required to account for all payments and credits that had previously
27 been paid against those loans.
28

1 135. Moreover, Defendant was required to refrain from collecting monies it
2 knew or should have known were not owed.

3 136. Defendant should have disclosed to Plaintiffs and the Class Members
4 that monies were not owed for the DOWC Service Contracts, and disclosed to
5 Plaintiffs and the Altered Loan Class Members that they did not owe monies which
6 were paid but not credit to their loans, because they were in a superior position to
7 know the true facts related to the loans, and Plaintiffs and Altered Loan Class
8 Members could not reasonably have learned or discovered the true facts related to US
9 Auto's failure to secure a DOWC Service Contract or to Westlake's material
10 alteration of their loan terms to increase the principal balance due.

11 137. Defendant, as a loan servicer, may only collect fees and other amounts
12 authorized by the consumer's contract or permitted by law. It may not unilaterally
13 change the contract's terms and conditions, including increasing the amount of
14 principal owed by the consumer or extending the duration of the contract.

15 138. In connection with its servicing of automobile finance contracts,
16 Westlake has routinely made representations to consumers about the principal
17 balance owed.

18 139. In numerous instances in connection with servicing automobile finance
19 contracts, Westlake has misrepresented the amounts owed by consumers, including
20 the loan's principal balance.

21 140. Specifically, Westlake has misrepresented the amounts owed by
22 consumers by disregarding payments consumers made toward the obligation prior to
23 Westlake's role as servicer and/or assignee, and by insisting that amounts are owed
24 for a DOWC Service Contract which Westlake knew was never secured on a
25 consumer's behalf.

26 141. Westlake has refused to credit consumer accounts for any payments
27 made prior to Westlake's role as servicer, effectively treating the loan as "starting
28

1 over” once Westlake stepped in. As a result, demand is being made of consumers to
2 pay more than the principal obligation under the loan, as well as additional interest.

3 142. Furthermore, Westlake has collected, retained, and continues to collect
4 consumer funds for DOWC Service Contracts that were never purchased on their
5 behalf, and as a result never came into effect.

6 143. Plaintiffs and the Altered Loan Class Members who have paid or
7 continue to pay Westlake have suffered direct financial harm because they are paying
8 amounts not owed. Similarly, Plaintiffs and the Altered Loan Class Members who
9 have defaulted on their loans have also been harmed, because the amount of the
10 deficiency assessed against them is calculated in part on erroneous information and
11 was higher than it should have been. Westlake has lacked a reasonable basis for these
12 representations to consumers because it failed to adopt adequate policies and
13 procedures to ensure the accuracy of its representations, or to ensure that it was not
14 seeking amounts not due under the contracts with consumers. Westlake’s inadequate
15 loan servicing policies and procedures cause it to increase the principal amount owed
16 without basis, which in turn caused improper increases in the resulting interest owed.

17 144. Defendant’s acts and practices have deceived Plaintiffs and the Altered
18 Loan Class Members and are likely to deceive the public. In suppressing these
19 material facts from Plaintiff and the Altered Loan Class Members, Defendant
20 breached their duties to disclose these facts, violated the UCL, and caused injuries to
21 Plaintiffs and the Altered Loan Class Members. Defendant’s omissions and
22 concealment pertained to information that was material to Plaintiffs and the Altered
23 Loan Class Members, as it would have been to all reasonable consumers.

24 145. The injuries suffered by Plaintiffs and the Altered Loan Class Members
25 are not greatly outweighed by any potential countervailing benefit to consumers or to
26 competition, nor are they injuries that Plaintiff and the Altered Loan Class Members
27 should have reasonably avoided.

28

1 146. Defendant’s acts and practices are unlawful because they violate
2 California Civil Code sections 1668, 1709, and 1710, *et seq.*, and California
3 Commercial Code Section 2313. Plaintiff and the other Altered Loan Class Members
4 have suffered an injury in fact, including the loss of money or property, as a result of
5 Defendant’s unfair, unlawful, and/or deceptive practices.

6 147. Plaintiffs seek to enjoin further unlawful, unfair, and/or fraudulent acts
7 or practices by Defendant, to obtain restitutionary disgorgement of all monies and
8 revenues generated because of such practices, and all other relief allowed under
9 California Business & Professions Code Section 17200.

10 **COUNT II**
11 **BREACH OF CONTRACT**
12 ***(On behalf of all Plaintiffs and the DOWC Class and the Altered Loan Class)***

13 148. Plaintiffs, on behalf of themselves and the DOWC and Altered Loan
14 Classes, hereby incorporate the allegations of Paragraphs 1 – 147 as set forth in the
15 preceding paragraphs of the complaint as if fully set forth at length herein.

16 149. Plaintiffs and US Auto were parties to a Retail Installment Sales
17 Contract (“RISC”) for the financing of motor vehicles.

18 150. Westlake is a servicer and/or assignee of the RISC.

19 151. Pursuant to the RISC, Plaintiffs and all others similarly situated
20 purchased a DOWC Service Contract.

21 152. In exchange for the coverage promised through the DOWC Service
22 Contracts, Plaintiffs and other similarly situated were obligated to pay between at
23 least \$1,814.00 and \$3,995.00 for DOWC Service Contracts.

24 153. Pursuant to the RISC, Plaintiffs and all others similarly situated were
25 obligated to make payments, and did in fact make payments, in accordance with the
26 terms thereof.

27 154. Between November 2021 and April 2023, US Auto failed to remit
28 payment to DOWC for the DOWC Service Agreements. As a result, those DOWC

1 Service Contracts were never in effect, and consumers never had the protection they
2 are paying for.

3 155. Defendant Westlake breached the RISC by failing to secure the DOWC
4 Service Contracts on behalf of Plaintiffs and those similarly situated.

5 156. Defendant Westlake, as the servicer and assignee of the RISCs that is
6 now collecting monies for the non-existent DOWC Service Contracts, is liable to
7 Plaintiffs and the DOWC Class for damages.

8 157. Pursuant to the RISC, Plaintiffs and all others similarly situated were
9 obligated to make payments, and did in fact make payments, in accordance with the
10 terms thereof.

11 158. In turn, Defendant, as a loan servicer, may only collect fees and other
12 amounts lawfully authorized by the RISCs of Plaintiffs and all others similarly
13 situated.

14 159. Defendant Westlake may not unilaterally change the contract's terms
15 and conditions, including increasing the amount of principal owed by the consumer.

16 160. Similarly, Defendant Westlake may not collect monies related to the
17 non-existent DOWC Service Contracts, which Westlake knows were never provided
18 to Plaintiffs and the Class.

19 161. Defendant Westlake breached the contract of Plaintiffs and those
20 similarly situated by increasing the amount of principal owed and, by extension,
21 increasing the amount of interest due, by failing to properly credit Plaintiffs and those
22 similarly situated for payments made.

23 162. As a result, Defendant Westlake is liable to Plaintiffs and those similarly
24 situated for damages.

25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT III (in the alternative to Count II)
UNJUST ENRICHMENT
(On behalf of all Plaintiffs and the DOWC and Altered Loan Classes)

163. Plaintiffs, on behalf of themselves and those members of the DOWC Class, hereby incorporate the allegations of Paragraphs 1 – 162 as set forth in the preceding paragraphs of the complaint as if fully set forth at length herein.

164. In or around May 22, 2023, Westlake announced that it was taking over the servicing of U.S. Auto loans.

165. The loans that Westlake is servicing includes loans in which: (1) US Auto Sales sold DOWC Service Agreements to consumers as evidenced on the RISC that US Auto Sales prepared; (2) the DOWC Service Agreements were financed as part of the loan transaction; (3) the payment was never made to DOWC for the DOWC Service Agreements and (4) the Service Agreements are not in force.

166. Westlake’s retention, through assignment and loan servicing, of consumer funds paid for DOWC Service Agreements that were never purchased from DOWC, unjustly enriches Westlake.

167. As a result of the retention of the funds of Plaintiffs and the DOWC Class, Plaintiffs and the DOWC Class Members have been harmed.

168. As a result of the actions by Westlake, Plaintiff and the DOWC Class Members have been damaged.

169. Westlake’s retention, through assignment and loan servicing, of consumer funds not due under the terms of the RISC, unjustly enriches.

170. As a result of the retention of the funds of Plaintiffs and the Altered Loan Class, Plaintiffs and the members of the Altered Loan class have been harmed.

171. As a result of the actions by Westlake, Plaintiff and the Altered Loan Class Members have been damaged.

1 **COUNT IV**
2 **VIOLATION OF THE TRUTH-IN-LENDING ACT, 15 U.S.C. §1601 *ET SEQ.***
3 ***(On behalf of all Plaintiffs and the DOWC Class)***

4 172. Plaintiffs, on behalf of themselves and the DOWC Class, hereby
5 incorporate the allegations of Paragraphs 1 – 171 as set forth in the preceding
6 paragraphs of the complaint as if fully set forth at length herein.

7 173. The Truth in Lending Act, 15 U.S.C. §1601 (“TILA”) applies to any car
8 sale in which the amount financed is \$55,800 or less, and the regulations promulgated
9 thereunder, govern the timing, content and form of disclosures for many credit
10 transactions.

11 174. Specifically, Regulation Z, 12 C.F.R. §1026.17, requires that certain
12 disclosures must be made by a creditor in a clear and conspicuous manner in writing.

13 175. Under the Official Interpretation of Regulation Z, §1026.17(a)(1), “clear
14 and conspicuous” generally requires that the disclosures be made in a “reasonably
15 understandable form.”

16 176. Those required disclosures include the amount financed (§1026.18(b))
17 and the itemization of the amount financed (§1026.18(c)).

18 177. Plaintiffs are “persons” as defined by 15 U.S.C. 1601(e).

19 178. Defendant is a “creditor” as defined by 15 U.S.C. 1601(g). Upon
20 information and belief, Defendant is or was at all relevant times herein an assignee of
21 the loans held by Plaintiffs and the DOWC Class members.

22 179. Here, Defendant failed to accurately disclose the itemization of the
23 amount financed in violation of 12 C.F.R. §1026.17(a)(1) and 12 C.F.R.
24 §1026.18(c)(1)(ii) by disclosing that Plaintiffs were financing a DOWC Service
25 Contract when that simply was not true.

26 180. Defendant’s failure to accurately disclose the Itemization of Amount
27 Financed is a violation of TILA and Regulation Z.

28

1 181. Plaintiffs and others similarly situated suffered actual damages and
2 monetary harm as a result of Defendant’s violation of TILA, in that Plaintiffs were
3 never made aware of the accurate financial terms of his transaction.

4 182. As a result of Defendant’s conduct, Plaintiffs and those similarly situated
5 have suffered a concrete and legally cognizable injury by not receiving accurate
6 disclosures mandated by Congress under TILA and Regulation Z. Defendant is liable
7 to Plaintiff for statutory damages pursuant to 15 U.S.C. §1640(a).

8 **COUNT V**
9 **VIOLATION OF THE UNIFORM COMMERCIAL CODE, ARTICLE 9**
10 ***(On behalf of Plaintiffs Caines, Davis, and the Repossession Class)***

11 183. Plaintiffs Caines and Davis, on behalf of themselves and the
12 Repossession Class, hereby incorporate the allegations of Paragraphs 1 – 181 as set
13 forth in the preceding paragraphs of the complaint as if fully set forth at length herein.

14 184. The Uniform Commercial Code imposes on a secured party certain
15 duties and obligations when the secured party retakes or repossesses consumer goods.

16 185. Every aspect of a disposition of collateral, including the method,
17 manner, time, place, and other terms must be commercially reasonable. *See* U.C.C. §
18 9-610. This includes post-repossession notice.

19 186. A security party has a duty to safeguard the collateral and to maximize
20 the proceeds of any post repossession sale of the collateral.

21 187. Under the UCC, Westlake was required to provide reasonable
22 authenticated notification of disposition of the collateral. *See* U.C.C. § 9-611-614.

23 188. The UCC requires a prompt post-repossession notice to the borrower and
24 any co-borrower advising of the repossession, how many days to act before public or
25 private sale of the goods, the method of intended disposition, an accounting of the
26 unpaid indebtedness, whether the borrower may be liable for a deficiency or entitled
27 to a surplus, and other information. *See* U.C.C. § 9-623.

28 189. A post-repossession notification that lacks any of the information set

1 forth in this regard is insufficient as a matter of law.

2 190. Defendant Westlake failed to provide post-repossession notices to its
3 borrowers.

4 191. As a result of Westlake's failure to comply with the requirements of the
5 UCC, Plaintiffs and those similarly situated are entitled to damages under the UCC.
6 Specifically, Plaintiffs and those similarly situated are entitled to actual and statutory
7 damages in accordance with Section 9-625.

8 **IX. PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiffs, individually and on behalf of all others similarly
10 situated members of the Classes, respectfully requests that the Court enter judgment
11 against Defendant on all claims and requests that the Court awards the following
12 relief:

- 13 A. An Order certifying this action as a class action pursuant to Rule 23 of
14 the Federal Rules of Civil Procedure, appointing Plaintiffs as Class
15 representatives, and appointing the undersigned to act as Class Counsel;
- 16 B. Awarding actual, consequential, punitive, and statutory damages;
- 17 C. Awarding applicable pre-judgment and post-judgment interest on any
18 amounts awarded to Plaintiffs and the Classes pursuant to law;
- 19 D. For disgorgement and restitution to Plaintiff and the Class and/or Sub-
20 class members of all monies received or collected from Plaintiff and the
21 Class and/or Sub-class members and all other forms of equitable relief;
- 22 E. An award of Plaintiff's attorneys' fees, expenses, and taxable costs, as
23 provided by the common fund doctrine, 15 U.S.C. §1640(a)(3), and all
24 applicable law;
- 25 F. For actual and statutory damages under the UCC at § 9-625;
- 26 G. Any other relief the Court determines is just and proper.

27 **X. DEMAND FOR JURY TRIAL**

28 Plaintiffs demand a trial by jury on all triable issues.

1
2 DATED: February 16, 2024

Respectfully submitted,

3
4 /s/Kyle D. McLean

Kyle McLean (SBN 330580)

5 kmclean@sirillp.com

6 Lisa R. Considine (*pro hac vice* to be filed)

lconsidine@sirillp.com

7 **SIRI & GLIMSTAD LLP**

8 700 S. Flower Street, Suite 1000

Los Angeles, CA 90017

9 Main: 213-376-3739

10 *Attorneys for Plaintiffs and the putative classes*

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28