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15 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
16 FOR THE COUNTY OF SAN MATEO

17 THE PEOPLE OF THE STATE OF  
18 CALIFORNIA,

19 Plaintiff,

20 v.

21 FOX RENT A CAR, INC., a California  
corporation; PAY LOW RENT A CAR, INC., a  
22 California corporation; MAM HOLDING, LLC, a  
Nevada company; CERTIFIED AUTO BODY,  
23 INC., a California corporation; BAYPORT CAR  
RENTAL, INC., a California corporation; MARK  
24 (MASOUD) MIRTORABI, an individual; MIKE  
(MANSOUR) JABERI, an individual; and ALLEN  
25 (ALI) REZAPOUR, an individual,

26 Defendants.

27 Plaintiff People of the State of California through Bill Lockyer, Attorney General, and James  
28

11/8/06  
**ENDORSED FILED**  
**SAN MATEO COUNTY**

NOV 09 2006

Clerk of the Superior Court  
By M. YOUNG  
DEPUTY CLERK

CASE NO.: CIV 458851

~~PROPOSED~~  
JUDGMENT AND CONSENT  
DECREE INCLUDING  
PERMANENT INJUNCTION

Date Action Filed:  
November 8, 2006

1 P. Fox, District Attorney of the County of San Mateo, and defendants Fox Rent A Car, Inc., Pay  
2 Low Rent a Car, Inc., MAM Holding, LLC, Certified Auto Body, Inc., Bayport Car Rental, Inc.,  
3 Mark (Masoud) Mirtorabi, Mike (Mansour) Jaber, and Allen (Ali) Rezapour (hereafter collectively  
4 "Defendants"), appearing through their attorney Mark R. Mittelman, having stipulated to the entry  
5 of this Judgment without the taking of proof or trial; this Judgment not constituting evidence of or  
6 an admission regarding any issue alleged in the Complaint, or an adjudication of any issue of fact  
7 or law; the Court having considered the Stipulation to Entry of Judgment executed by the parties and  
8 filed herewith; and good cause appearing,

9 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that:

10 **JURISDICTION AND VENUE**

11 1. This Court has jurisdiction of the subject matter of this action and of the parties. Venue  
12 as to all matters between the parties relating to this action is proper in this Court.

13 **INJUNCTION**

14 2. Pursuant to Business and Professions Code section 17203, Defendants Fox Rent A Car,  
15 Inc., Pay Low Rent a Car, Inc., MAM Holding, LLC, Certified Auto Body, Inc., Bayport Car Rental,  
16 Inc., Mike (Mansour) Jaber, Mark (Masoud) Mirtorabi, and Allen (Ali) Rezapour, as well as their  
17 agents, employees, officers, representatives, successors, partners, assigns, and all persons acting in  
18 concert or participating with any of them (hereafter collectively "Fox"), are hereby immediately and  
19 permanently enjoined and restrained:

20 A. With respect to **Global Positioning System (GPS) Devices and Geographical**  
21 **Restrictions**, from directly or indirectly:

22 1. Obtaining, accessing or using any information relating to a renter's use of a  
23 vehicle when that information was secured using GPS or other electronic  
24 surveillance technology in any manner, except as follows:

25 a. When the equipment is used by Fox only for the purpose of locating a  
26 stolen, abandoned, or missing rental vehicle after one of the following:

27 i. The renter or law enforcement has informed Fox that the vehicle has  
28 been stolen or abandoned or is missing;

- 1                   ii. The rental vehicle has not been returned within a week after the  
2                   contracted return date plus any extension of that return date; or  
3                   iii. Fox has discovered that the rental vehicle has been stolen or  
4                   abandoned and, if the vehicle has been stolen, Fox has reported the  
5                   vehicle stolen to law enforcement by filing a stolen vehicle report.  
6                   (The last part of the previous sentence shall not apply if law  
7                   enforcement, per paragraph 1.A.i. above, has already informed Fox  
8                   that the vehicle has been stolen or abandoned or is missing.)  
9                   b. In response to a specific request from law enforcement pursuant to a  
10                  subpoena or search warrant.  
11                  c. As otherwise set forth in section 1936(o)(3)-(6) of the Civil Code.  
12                  2. Using GPS or other electronic surveillance technology to track a renter in order  
13                  to impose surcharges, fines, penalties or any other charge relating to the renter's  
14                  use of the vehicle.  
15                  3. Failing to keep records (in a manner at least as complete as that set forth in  
16                  section 1936(o)(1)(B) of the Civil Code) of each time Fox uses GPS or other  
17                  electronic surveillance technology to contact a vehicle, or failing to keep these  
18                  records for three years from the time of such contact, or failing to make these  
19                  records available to the offices of the Attorney General and District Attorney  
20                  within seven days after receipt of a request for inspection.  
21                  4. Failing to ensure, if Fox uses GPS or other electronic surveillance technology,  
22                  that renters are clearly and conspicuously informed, at every stage of the rental  
23                  process other than telephone conversations – in advertisements (including all  
24                  statements on Fox's website(s)), during the reservation process, and at the rental  
25                  counter or self-service kiosk – (1) that GPS or similar devices may be present  
26                  in Fox's cars, and (2) of the ways in which those devices may be used by Fox.  
27                  In a telephone conversation, Fox must inform a renter about the presence of the  
28                  devices if the renter raises the issue. If Fox lacks decisionmaking authority

1 over a particular stage or portion of a stage of the rental process, then, with  
2 respect to that stage or portion of a stage, Fox shall make best efforts to ensure  
3 that renters are clearly and conspicuously informed about the presence of the  
4 devices.

- 5 5. Failing to ensure, if Fox places geographical restrictions on where renters may  
6 drive Fox's vehicles, that renters are clearly and conspicuously informed, at  
7 every stage of the rental process – in advertisements, during the reservation  
8 process, and at the rental counter or self-service kiosk – that there are  
9 geographical restrictions on where a driver may take Fox's vehicle, and of what  
10 those restrictions are. If Fox lacks decisionmaking authority over a particular  
11 stage or portion of a stage of the rental process, then, with respect to that stage  
12 or portion of a stage, they shall make best efforts to ensure that renters are  
13 clearly and conspicuously informed of the existence and nature of these  
14 geographical restrictions.

15 B. With respect to **Renter's Liability Protection (RLP)**, from directly or indirectly:

- 16 1. Requiring renters to purchase RLP, or any other insurance or similar product  
17 (including but not limited to Collision Damage Waiver (CDW) or Loss Damage  
18 Waiver (LDW)), as a condition of rental;
- 19 2. Offering for sale RLP or any other optional insurance or similar product  
20 (including but not limited to CDW or LDW), unless Fox ensures that renters are  
21 clearly and conspicuously informed, at every stage of the rental process – in  
22 advertisements (including all statements on Fox's website(s)), during the  
23 reservation process, and at the rental counter or self-service kiosk – (1) that they  
24 do not need to purchase RLP or any other insurance or similar product from Fox  
25 in order to rent a vehicle from Fox, and (2) that they may wish to check with  
26 their own insurance company and/or credit card company to determine whether  
27 they already possess the relevant coverage. That is, Fox must inform its  
28 customers and potential customers that the purchase of these products is

1 optional, and Fox is prohibited from using such statements as "Proof of Auto  
2 Liability Insurance must be produced at time of rental." If Fox lacks  
3 decisionmaking authority over a particular stage or portion of a stage of the  
4 rental process, then, with respect to that stage or portion of a stage, Fox shall  
5 use best efforts to ensure that renters are clearly and conspicuously informed  
6 that the purchase of these products is optional.

7 3. Offering for sale RLP or any other optional insurance or similar product  
8 (including but not limited to CDW or LDW) without requiring renters to  
9 affirmatively sign or initial the rental contract (or the electronic equivalent at  
10 a self-service kiosk) next to a clear and conspicuous description of the  
11 insurance or similar product being purchased, its price, and the fact that buying  
12 the coverage is optional, in order to purchase the product.

13 4. Failing to develop, maintain and employ either (1) a script or (2) an outline  
14 which Fox must use in presenting insurance and similar products to all renters  
15 (including those at self-service kiosks). The script or outline must convey  
16 clearly and conspicuously to all renters that the purchase of any insurance or  
17 similar product from Fox is entirely optional and that Fox will rent the vehicle  
18 to the renter even if the renter declines to purchase the products offered. The  
19 script or outline must also provide that if a customer communicates that he or  
20 she does not wish to purchase a particular type of coverage or coverages, Fox  
21 (including at its self-service kiosks) may not continue to discuss that type of  
22 coverage or coverages and may not raise the issue again later in the transaction.  
23 This provision shall not prevent Fox from later discussing the issue if (but only  
24 if) the renter or another member of the renter's party raises the issue. If a  
25 regular Fox customer at the rental counter informs a counter agent that he or she  
26 does not wish to hear the script or outline, the agent may terminate the  
27 presentation at that point.

28 5. Failing to maintain "CUSTOMER NOTICE" signs prominently displayed at all

1 rental locations, and clearly and conspicuously visible to all renters who come  
2 to all rental locations, that state under the heading "UNDER CALIFORNIA  
3 LAW" as follows:

- 4 a. As a first bullet point: "You do not have to purchase any insurance in  
5 order to rent a car.";
- 6 b. As a second bullet point: "The insurance we offer may duplicate coverage  
7 already provided by your auto insurance policy or your credit card. Feel  
8 free to use our telephone to check.";
- 9 c. As a third bullet point: "Fox Rent-A-Car rental agents are not qualified or  
10 authorized to evaluate the adequacy of your existing insurance  
11 coverage/policy."

- 12 6. Varying employees' or agents' compensation in any way directly or solely  
13 based on either (1) the number of renters to whom the employees or agents sell  
14 RLP or any other optional insurance or similar product (including but not  
15 limited to CDW or LDW), or (2) the amount of such coverage (i.e. premiums)  
16 sold.

17 C. With respect to **Damage to Vehicles**, from directly or indirectly:

- 18 1. Charging or making a claim against a renter for damage to a vehicle unless all  
19 of the following are true:
  - 20 a. The damage is of a type for which the renter may be held liable;
  - 21 b. The renter was explicitly given the opportunity to inspect the vehicle for  
22 damage at the commencement and after the completion of the rental –  
23 specifically, prior to taking possession of the rental vehicle, the renter was  
24 informed clearly and conspicuously, both orally and in a written statement  
25 on the vehicle-damage diagram sheet, of his or her right to inspect the  
26 vehicle for damage, and best efforts were made to inform the renter orally  
27 of this right at the time he or she returned the vehicle;
  - 28 c. Fox inspected and can document the vehicle's condition immediately prior

1 to and immediately after the rental;

- 2 d. Fox pointed out the asserted damage to the renter at the time the renter  
3 returned the vehicle, and notified the renter of the cost of repair within  
4 twenty days of the end of the rental.

5 D. With respect to **Other Violations of Law**, from:

6 Otherwise violating section 17200 of the Business & Professions Code as to the  
7 conduct described herein, or section 1936 of the Civil Code.

8 3. Fox is additionally immediately and permanently enjoined as follows:

9 A. With respect to **Retention of Records**, to:

10 Continue to retain rental records for each renter, including the rental contract  
11 and copies of all written correspondence (U.S. Mail, electronic mail, etc.) and  
12 records of telephone conversations if any, for three years from completion of  
13 the rental period. Records must be kept in such a way that they can be made  
14 available to the offices of the District Attorney and Attorney General within  
15 seven days of the date of a request for inspection.

16 B. With respect to **Handling of Complaints**, to:

- 17 1. Maintain a system of handling complaints that ensures that complaints are  
18 addressed promptly and effectively, such that any complaint is investigated and  
19 the result of the investigation communicated to the complaining renter within  
20 seven days after Fox is made aware of the complaint;
- 21 2. Maintain records of (1) all complaints, including complaints sent directly to  
22 corporate headquarters of Payless Car Rental, Inc. and forwarded to Fox, and  
23 (2) all correspondence, including electronic correspondence, and all records of  
24 telephone conversations, regarding those complaints, in a customer's file for at  
25 least three years from completion of the rental period;
- 26 3. Make records of complaints available to the offices of the District Attorney and  
27 Attorney General within seven days of the date of a request for inspection.

28 C. With respect to **Compliance with the Terms of This Judgment as to Third-Party**

1                   **Providers, to:**

- 2                   1.   Ensure that any information or statement about Fox's policies or practices that
- 3                         is provided by Fox to a "third party provider" – i.e., any business that provides
- 4                         consumers links to or information about Fox – conforms with the terms of this
- 5                         Judgment.
- 6                   2.   Use best efforts to ensure that any information or statement about Fox's policies
- 7                         or practices that is provided by a "third-party provider" conforms with the terms
- 8                         of this Judgment – and to promptly notify counsel for the People if Fox learns
- 9                         of any nonconforming information or statement that Fox's best efforts have not
- 10                        been able to correct.

11                   D.   With respect to **Distribution of the Terms of this Judgment**, to:

- 12                   1.   Ensure that a copy of the injunctive terms of this Judgment (together with at
- 13                         least the first two pages and the last page of the Judgment) is provided to
- 14                         Payless Rental Car Systems, Inc., and that a copy of the injunctive terms of the
- 15                         Judgment that relate to the use of GPS (or similar) technology is provided to
- 16                         Air IQ U.S., Inc./Aircept.com, LLC, and to any other provider or former
- 17                         provider of GPS (or similar) tracking services to Fox.
- 18                   2.   Ensure that a copy of the injunctive terms of this Judgment or a training manual
- 19                         containing these terms is, on at least an annual basis, made available to and
- 20                         required to be read by each employee and representative, and each new hire, of
- 21                         Fox Rent A Car, Inc., Pay Low Rent a Car, Inc., MAM Holding, LLC, Bayport
- 22                         Car Rental, Inc., or Certified Auto Body, Inc., who has or will have direct
- 23                         contact with Fox's rental car customers, and that each employee or
- 24                         representative is given sufficient time, resources and opportunity at work to
- 25                         become familiar with and understand the injunctive terms of the Judgment.
- 26                         Fox, through its internal auditor, shall ensure that the terms of this Judgment are
- 27                         complied with on an ongoing basis, and at least annually with respect to each
- 28                         employee or other representative of Fox.



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1 in covering an accident that occurred during the rental). Any questions as to  
2 eligibility for or amount of restitution due a renter shall be determined by the People  
3 in their sole discretion, after consultation with Defendants.

4 C. All those customers who have submitted a complaint about Fox – on a subject other  
5 than geographical restrictions – to the California Attorney General’s Office, to the  
6 San Mateo District Attorney’s Office, to the Better Business Bureau, to Payless  
7 Corporate, or to Fox (including to Fox corporate headquarters, to any Fox office, or  
8 to Payless Rent A Car), at any time between January 1, 2003 and the date of entry  
9 of this Judgment, or who submit a complaint about Fox that is received by Fox or by  
10 counsel for the People within ninety (90) days of the date of entry of this Judgment  
11 – on a subject other than geographical restrictions or RLP – within 90 days after the  
12 date of entry of this Judgment (the “Miscellaneous Restitution Period”), shall be  
13 eligible to have restored to them all amounts not previously restored (including any  
14 taxes paid) that were obtained in violation of Business and Professions Code section  
15 17200, as determined by the People in their sole discretion after consultation with  
16 Defendants. This restitution shall be carried out as set forth in paragraph 6.B.1.  
17 below.

18 5. Defendants shall provide funds for the foregoing restitution as follows:

19 A. On or before the date of entry of this Judgment, Defendants shall provide to counsel  
20 for the People (1) a certified check or cashier’s check in the amount of \$89,000.00,  
21 (eighty-nine thousand dollars) made payable to the “California Attorney General’s  
22 Office,” to be applied toward restitution of geographical surcharges as set forth in  
23 paragraph 4.A. above, (2) a certified check or cashier’s check in the amount of  
24 \$161,000.00 (one hundred sixty-one thousand dollars), made payable to the  
25 “California Attorney General’s Office,” to be applied toward restitution of RLP  
26 charges as set forth in paragraph 4.B. above, and (3) documents establishing that  
27 Defendants have opened a separate bank account, containing at least \$25,000.00  
28 (twenty-five thousand dollars), to be applied toward restitution of miscellaneous

1 charges that were the subject of customer complaints as set forth in paragraph 4.C.  
2 above.

- 3 B. On or before January 15, 2007, Defendants shall provide to counsel for the People  
4 an additional certified check or cashier's check in the amount of \$189,000.00 (one  
5 hundred eighty-nine thousand dollars), made payable to the "California Attorney  
6 General's Office," to be applied toward restitution of RLP charges.

7 SETTLEMENT ADMINISTRATION

8 6. Restitution shall be effected (1) in part by a third-party Settlement Administrator selected  
9 by Plaintiff and engaged and compensated by Defendants, and (2) in part directly by Defendants.

10 A. The Settlement Administrator shall administer restitution as follows:

11 1. Geographic Restrictions

12 All Fox customers who, through the use of a GPS device in Fox's vehicles,  
13 were assessed a surcharge for assertedly violating geographical restrictions  
14 shall have restored to them the full amount of the surcharge (including any tax  
15 thereon) that they paid and have not recovered.

16 a. The California Attorney General's Office will transfer the \$89,000.00 paid  
17 by Defendants, plus any applicable interest, to an interest-bearing account  
18 established by the Settlement Administrator to handle restitution related  
19 to surcharges for geographical violations (the "GPS Restitution Account").

20 b. The Settlement Administrator shall send a notice (the "GPS Notice") to  
21 each customer who was assessed a surcharge for assertedly violating  
22 geographical restrictions during the GPS Restitution Period, informing the  
23 customer that s/he may be entitled to restitution pursuant to this Judgment.  
24 The notice shall be printed on a "double postcard" and shall contain  
25 substantially the following language:

26 "The California Attorney General and the San Mateo County District  
27 Attorney have filed a judgment against Fox Rent A Car. The Judgment  
28 requires Fox Rent A Car to refund money to Fox customers who were  
charged extra for driving outside California, Nevada and Arizona. It is  
illegal under California law to charge a renter a "penalty" unrelated to the

1 cost to the company of the supposed violation. Fox's records show that  
2 you were charged \$[AMOUNT] as this type of penalty when you returned  
your rented car to the company.

3 "Please sign and return the card below – and correct the address if  
4 necessary – so that we can ensure that we send your refund to the right  
5 person at the right address. If you return your card, you will receive a  
6 refund in the extra amount that you were charged (and have not already  
been reimbursed). This is true even if you did drive outside the three-state  
area.

7 "To find out more about this case, you can go to the Attorney General's  
8 website at <http://ag.ca.gov/>[ \_\_\_\_ ]. If you have any questions, you can call  
the Settlement Administrator, Rosenthal & Co., at 1-800-237-0343."

9 The Settlement Administrator shall provide the telephone support services  
10 referred to on the postcard. The postcard shall contain substantially the  
11 statement "COURT-ORDERED REFUND NOTICE TO FOX RENT A  
12 CAR CUSTOMERS (*PEOPLE v. FOX RENT A CAR*)" on the side of the  
13 postcard that contains the customer's address. General background  
14 information about the case, including copies of the settlement documents  
15 and a list of responses to FAQs, will be made available on the Attorney  
16 General's website.

- 17 c. Defendants shall provide the Settlement Administrator, within fourteen  
18 (14) days from the date of Entry of Judgment, with a database containing  
19 the name, amount paid as a surcharge for alleged geographic violation,  
20 address, telephone number, driver's license issuer and number, and email  
21 address (if available) of each Fox customer eligible to receive the GPS  
22 Notice. Prior to sending any GPS Notice, the Settlement Administrator  
23 shall check the name and address information supplied by Defendants  
24 against at least the National Change of Address database or an equivalent  
25 database and make all appropriate changes. If the Settlement  
26 Administrator cannot locate a current address for a given Notice recipient,  
27 the Settlement Administrator shall promptly notify the parties of this fact  
28 and shall, if supplied by either party with a current address, promptly mail

1 the Notice to that address.

2 d. The GPS Notification and Payment Schedule shall be as follows:

3 i. Notice to all recipients of the GPS Notice shall be sent no later than  
4 30 days after entry of this Judgment (the "Mailing Date"). Any  
5 notices returned as undeliverable with a change of address  
6 notification shall be re-sent to the new address. Any notices returned  
7 as undeliverable without a change of address notification shall be  
8 checked by the Settlement Administrator using standard address-  
9 search resources, and remailed to eligible recipients for whom new  
10 addresses are found. The Settlement Administrator shall promptly  
11 notify the parties of any eligible recipient for whom a valid address  
12 has not been found and shall, if supplied by either party with a  
13 current address, promptly mail the Notice to that address.

14 ii. GPS Notice recipients shall be instructed to respond by the date 60  
15 days after the Mailing Date (the "Claim Deadline"). Notwithstanding  
16 any other provision of this Judgment, a response received by the date  
17 90 days after the Mailing Date shall be deemed timely.

18 iii. The Settlement Administrator shall send all checks for GPS  
19 restitution by the date 120 days after the Mailing Date.

20 e. If the amount in the "GPS Restitution Fund" account is insufficient fully  
21 to effect restitution to all customers entitled to restitution of geographical-  
22 violation surcharges, the Settlement Administrator shall promptly notify  
23 Defendants of the amount of the deficiency, and Defendants shall pay that  
24 amount into the GPS Restitution Fund within 14 days of receiving such  
25 notification.

26 2. Renter's Liability Protection

27 All Fox customers who believed they were compelled to purchase Renter's  
28 Liability Protection (RLP) coverage in order to rent a car from Fox, and who

1 purchased the coverage, with respect to rentals ending at any time between  
2 March 1, 2004 and August 31, 2005 inclusive (the "RLP Restitution Period"),  
3 shall have restored to them an amount up to that which they paid for RLP  
4 coverage (and have not recovered), as follows:

- 5 a. The California Attorney General's Office will transfer the amounts paid  
6 by Defendants toward restitution for RLP (a total of \$350,000.00) to an  
7 interest-bearing account established by the Settlement Administrator to  
8 handle restitution related to unlawful sales of RLP coverage (the "RLP  
9 Restitution Account").
- 10 b. The Settlement Administrator shall send a notice (the "RLP Notice") to  
11 each person who purchased RLP during the RLP Restitution Period,  
12 informing the purchaser that s/he may be entitled to restitution pursuant to  
13 this Judgment. The notice shall be printed on a double-postcard and shall  
14 contain substantially the following language:

15 "The California Attorney General and the San Mateo County District  
16 Attorney have filed a judgment against Fox Rent A Car. The Judgment  
17 requires Fox to refund money to consumers who thought they had to pay  
18 for "Renter's Liability Protection" (RLP) insurance in order to rent a car.  
19 It is illegal under California law for a car rental company to require  
20 someone to purchase this kind of optional insurance. Fox's records show  
21 that you were charged \$[AMOUNT] for RLP coverage when you rented  
22 from the company.

23 "If you purchased RLP because you thought you were required to, please  
24 fill out and send in the attached card. If you return your card with a check  
25 in the "Yes" box, you will be eligible for a refund, up to the amount that  
26 you paid for RLP (and have not already had refunded to you). This is true  
27 even if you made an insurance claim under the RLP coverage.

28 "To find out more about this case, you can go to the Attorney General's  
website at <http://ag.ca.gov/> [ ]. If you have any questions, you can  
call the Settlement Administrator, Rosenthal & Co., at 1-800-237-0343."

The Settlement Administrator shall provide the telephone support services  
referred to on the postcard. The postcard shall contain substantially the  
statement "COURT-ORDERED REFUND NOTICE TO FOX RENT A  
CAR CUSTOMERS (*PEOPLE v. FOX RENT A CAR*)" on the side of the

1 postcard that contains the customer's address. General background  
2 information about the case, including copies of the settlement documents  
3 and a list of responses to FAQs, will be made available on the Attorney  
4 General's website.

- 5 c. A Fox customer who was both surcharged for allegedly violating  
6 geographical restrictions and charged improperly for RLP shall be entitled  
7 to payment for each charge.
- 8 d. Defendants shall provide the Settlement Administrator, within fourteen  
9 (14) days from the date of entry of this Judgment, with a database  
10 containing the name, amount paid for RLP, address, phone number,  
11 driver's license number, and email address (if available) of each Fox  
12 customer eligible to receive the RLP Notice. Prior to sending any RLP  
13 Notice, the Settlement Administrator shall check the name and address  
14 information supplied by Defendants against at least the National Change  
15 of Address database or an equivalent database and make all appropriate  
16 changes. If the Settlement Administrator cannot locate a current address  
17 for a given Notice recipient, the Settlement Administrator shall promptly  
18 notify the parties of this fact and shall, if supplied by either party with a  
19 current address, promptly mail the Notice to that address.
- 20 e. The RLP Notification and Payment Schedule shall be as follows:
- 21 i. Notice to all recipients of the RLP Notice shall be sent no later than  
22 the Mailing Date set forth in paragraph 6.A.1.d.i above (i.e., 30 days  
23 after entry of this Judgment). Any notices returned as undeliverable  
24 with a change of address notification shall be re-sent to the new  
25 address. Any notices returned as undeliverable without a change of  
26 address notification shall be checked by the Settlement Administrator  
27 using standard address-search resources, and remailed to eligible  
28 recipients for whom new addresses are found. The Settlement

1 Administrator shall promptly notify the parties of any eligible  
2 recipient for whom a valid address has not been found and shall, if  
3 supplied by either party with a current address, promptly mail the  
4 Notice to that address.

5 ii. RLP Notice recipients shall be instructed to respond by the date 60  
6 days after the Mailing Date (the "Claim Deadline"). Notwithstanding  
7 any other provision of this Judgment, a response received by the date  
8 90 days after the Mailing Date shall be deemed timely.

9 iii. Restitution of RLP charges shall be in an amount up to the full  
10 amount paid for RLP (including tax) by responding recipients of the  
11 RLP notice. If the total claims by responding RLP Notice recipients  
12 do not exceed the amounts available from the RLP Restitution Fund  
13 (i.e., \$350,000.00 plus applicable interest) then each responding  
14 claimant shall receive in restitution the full amount paid for RLP  
15 during the applicable rental(s). If the total claims by responding RLP  
16 Notice recipients exceed the amounts available from the RLP  
17 Restitution Fund, then each responding claimant shall receive in  
18 restitution a pro rata share of the amount available for distribution  
19 after applicable taxes, fees and other costs have been paid.

20 iv. Restitution checks shall be sent to responding RLP Notice recipients  
21 on or before the date 120 days after the Mailing Date.

22 3. The Settlement Administrator shall keep ongoing records of the name, address,  
23 phone number, driver's license number, email address (if available), date(s)  
24 notice sent to, date(s) response(s) received from, and date(s) restitution check(s)  
25 mailed to, all potential recipients of GPS and/or RLP restitution. No later than  
26 90 days after the RLP Claim Deadline, the Settlement Administrator shall  
27 provide to Defendants and to Plaintiff a Report containing a final database of  
28 these data – i.e., including identifying and contact information for each claimant



1 paid, the date of payment, and the amount of the claim – as well as the  
2 Settlement Administrator’s certification of its compliance with the procedures  
3 set forth in this Judgment except to the extent of any specifically described  
4 deficiencies in compliance.

- 5 4. Defendants shall be responsible for all costs incurred for administration of  
6 restitution under this Judgment.
- 7 5. Each check issued by the Settlement Administrator shall bear substantially the  
8 notation that “This check is void if not cashed within six months from the date  
9 printed on the check.” Each check issued by the Settlement Administrator shall  
10 be accompanied by a Check Transmittal Letter setting out a brief description of  
11 the reasons for which restitution is being made and containing a clear and  
12 conspicuous reference to the “must-cash-by” date on the check. Within seven  
13 months after the date of issuance of the final restitution checks, the Settlement  
14 Administrator shall provide Plaintiff and Defendants with a report of the names  
15 and addresses of all claimants whose checks were not cashed within six months  
16 of issuance.
- 17 6. Any money remaining from the amounts paid by Defendants for restitution after  
18 reasonable attempts have been made to provide restitution to all eligible  
19 customers (the “Residual Amount”) – including amounts contained in checks  
20 not cashed for six months – shall be distributed as set forth below. The money  
21 shall be paid to the Consumer Protection Prosecution Trust Fund previously  
22 created by the Stipulated Final Judgment and Permanent Injunction, filed on  
23 September 21, 1989, in the case of *People v. ITT Consumer Financial*  
24 *Corporation* (Alameda County Superior Court case number 656038-0). The  
25 Settlement Administrator shall deliver by express mail a bank check or certified  
26 check made out to “Consumer Protection Prosecution Trust Fund” to Seth E.  
27 Mermin, California Attorney General’s Office, 455 Golden Gate Ave., 11<sup>th</sup>  
28 Floor, San Francisco, CA 94102.

1 B. Defendants shall administer restitution directly as follows:

2 1. Miscellaneous claims

3 All Fox customers who submitted a valid complaint about the company – on a  
4 subject other than geographical violations – to the California Attorney  
5 General’s Office, to the San Mateo District Attorney’s Office, to the Better  
6 Business Bureau, to Payless Corporate, or to Fox (including to Fox corporate  
7 headquarters, to any Fox office, or to Payless Rent A Car) at any time between  
8 January 1, 2003 and the date of entry of this Judgment, or who submit a valid  
9 complaint about Defendants – on a subject other than geographical violations  
10 or RLP – that is received by Fox or by counsel for the People within ninety (90)  
11 days of the date of entry of this Judgment, shall have restored to them all  
12 amounts not previously restored that were obtained in violation of Business and  
13 Professions Code section 17200.

- 14 a. Eligibility for this “Miscellaneous Restitution” shall be determined by  
15 counsel for the People in their sole discretion after consultation with  
16 Defendants.
- 17 b. Miscellaneous Restitution payments shall be made by check directly by  
18 Defendants to those customers, and in those amounts, determined by  
19 counsel for the People. Defendants shall make best efforts to locate all  
20 customers entitled to Miscellaneous Restitution, including but not limited  
21 to checking the National Change of Address database or an equivalent  
22 database, calling any available telephone numbers, and making use of any  
23 other reasonable means proposed by counsel for the People.
- 24 c. On at least a monthly basis, Defendants shall provide counsel for the  
25 People with the name, address, telephone number, driver’s license number,  
26 and email address (if available), along with the amount and date of  
27 Miscellaneous Restitution paid to, each recipient of Miscellaneous  
28 Restitution. Defendants shall further provide to counsel for the People, on

1 at least a monthly basis, a bank statement showing the balance and activity  
2 of the separate bank account maintained for the purpose of effecting  
3 Miscellaneous Restitution. Defendants shall provide to counsel for the  
4 People a Final Miscellaneous Restitution Report containing a final  
5 compilation of this information no later than 150 days after the date of  
6 entry of this Judgment (i.e., 60 days after the date by which complaints  
7 must be received in order to be eligible for Miscellaneous Restitution).

8 d. Defendants shall ensure that the amount in the separate account is  
9 sufficient to effect restitution to all customers entitled to Miscellaneous  
10 Restitution. If at any time counsel for the People, in their sole discretion,  
11 determine that additional amounts must be paid into the separate account  
12 in order to effect full payment of Miscellaneous Restitution, Defendants  
13 shall pay those amounts into the separate account within 14 days of  
14 receiving notice from Plaintiff of the insufficiency.

15 e. Each check issued by Defendants in payment of Miscellaneous Restitution  
16 shall bear substantially the notation that "This check is void if not cashed  
17 within six months from the date printed on the check" and shall be  
18 accompanied by a Check Transmittal Letter setting out a brief description  
19 of the reasons for which restitution is being made and containing a clear  
20 and conspicuous reference to the "must-cash-by" date on the check.

21 CIVIL PENALTIES AND COSTS OF INVESTIGATION

22 7. Defendants shall pay civil penalties pursuant to Business and Professions Code section  
23 17206. Defendants shall pay \$200,000.00 in civil penalties and an additional \$50,000.00 in costs  
24 of investigation and expenses. On or before January 15, 2007, Defendants shall provide to counsel  
25 for the People (1) certified checks or cashier's checks made out to the "Attorney General of  
26 California" in the amount of \$25,000 (twenty-five thousand dollars) in payment of costs of  
27 investigation and expenses, and in the amount of \$30,500 (thirty thousand five hundred dollars) in  
28 partial payment of civil penalties, and (2) certified checks or cashier's checks made out to the "San

1 Mateo County District Attorney” in the amount of \$25,000 (twenty-five thousand dollars) in  
2 payment of costs of investigation and expenses, and in the amount of \$30,500 (thirty thousand five  
3 hundred dollars) in partial payment of civil penalties.

4 8. On or before March 15, 2007, Defendants shall provide to counsel for the People (1) a  
5 certified check or cashier’s check made out to the “Attorney General of California” in the amount  
6 of \$69,500 (sixty-nine thousand five hundred dollars), and (2) a certified check or cashier’s check  
7 made out to the “San Mateo County District Attorney” in the amount of \$69,500 (sixty-nine  
8 thousand five hundred dollars), each in payment of the remaining amount of civil penalties.

9 SECURITY

10 9. On or before the date of entry of this Judgment, Defendants shall provide to counsel  
11 for the People two letters of credit (in a form approved by counsel or the People), one in the  
12 amount of \$211,000.00 (two hundred eleven thousand dollars) and one in the amount of  
13 \$139,000.00 (one hundred thirty-nine thousand dollars), as security for those amounts to be paid  
14 in January 2007 and March 2007 under the terms of this Judgment.

15 OTHER PROVISIONS

16 10. Defendants shall pay all court costs associated with their appearance in this  
17 action, including any fee for the filing of the Stipulation to Entry of Judgment. Except as  
18 otherwise provided herein, each party shall bear its own costs and expenses.

19 11. This Judgment shall be binding and effective upon entry by the Court, and the clerk is  
20 ordered to enter the Judgment immediately upon filing. This Judgment resolves the  
21 above-captioned action, and is meant to resolve all and only those matters set forth in the  
22 allegations of the Complaint filed in this action.

23 12. Any amount that Defendants owe under this Judgment, but which is not paid in  
24 accordance with the provisions of this Judgment, shall earn interest at the rate of 10 percent per  
25 annum commencing on entry of this Judgment, and (in addition to the People’s rights under the  
26 Letters of Credit) is subject to all post-judgment remedies provided by law.

27 13. Neither Defendants nor anyone acting on their behalf shall state or imply or cause to  
28 be stated or implied that the Attorney General of California or the District Attorney of San

1 Mateo County or any state agency or officer has approved, sanctioned, or authorized any  
2 practice, act or conduct of the Defendants.

3 14. In the event that the Defendants, or any of them, fail to deliver any payment by the  
4 date and in the amount specified herein, the entire unpaid balance of all amounts due under the  
5 terms of this Judgment shall be immediately due and payable.

6 15. This Court shall retain jurisdiction over this matter for the purpose of enabling any  
7 party to this Judgment to apply to the Court at any time for such further orders or directions as  
8 may be necessary or appropriate for the construction or carrying out of this Judgment, for  
9 modification of the injunctive provisions of this Judgment, and for the People to apply at any  
10 time for enforcement of any provisions of this Judgment or for punishment of any violations of  
11 this Judgment.

12 *In addition to the foregoing, the Court*  
13 *also retains its Settlement Enforcement Jurisdiction*  
*under Calif. Code of Civil Procedure, § 664.6*

14 Dated: 8 November, 2006

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17 Gerald J. Buchwald  
18 JUDGE OF THE SUPERIOR COURT  
19 GERALD J. BUCHWALD  
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