

D-1-GN-22-001809

CAUSE NO. _____

STATE OF TEXAS,
Plaintiff,

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IN THE DISTRICT COURT OF

v.

TRAVIS COUNTY, TEXAS

VROOM AUTOMOTIVE LLC,
and VROOM INC.,
Defendants.

455TH, DISTRICT COURT
_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE DISTRICT JUDGE:

Plaintiff, STATE OF TEXAS, acting by and through the Attorney General of Texas, KEN PAXTON (the "State,") complains of Defendants, VROOM AUTOMOTIVE LLC and VROOM INC., (collectively "Defendants," or "Vroom,") and would respectfully show Vroom has engaged in deceptive trade practices, including by failing to satisfy certain terms of sale, by failing to disclose certain vehicle history or qualities/characteristics, and by misrepresenting the work done on sold vehicles, in violation of Texas Deceptive Trade Practices – Consumer Protection Act, Texas Business and Commerce Code § 17.41 et seq. ("DTPA").

INTRODUCTION

In 2013, Defendants launched a website, vroom.com, through which they buy, sell, and trade used vehicles online nationwide. At their launch, Defendants saw the used automotive market as "ripe for disruption as an industry that is notorious for consumer dissatisfaction," with only 0.9% ecommerce penetration. Defendants see themselves as a "high-volume, low-margin business." In 2019, Defendants began to aggressively scale their business and accelerate their growth. As a result, Defendants nearly doubled their inventory, doubled their reconditioning capacity, and more than doubled their sales.

As Defendants continued to aggressively scale in early 2020, COVID-19 took hold across the globe. Rather than suffering a decline, with new car production down due to microchip shortages and supply chain issues caused by the pandemic, the used-car market for ecommerce retailers like Vroom has boomed. In June 2020, Defendants became a public company through an initial public offering and have seen triple-digit year-over-year growth since the start of the pandemic.

Over the past three years, Consumers have filed nearly **5,000 complaints** with the Better Business Bureau and Office of the Attorney General of Texas. Approximately 4,000 of these complaints have come in the past 12 months. As this petition will show, Defendants have not managed their growth effectively and have allowed inadequate systems and procedures to spiral into violations of the DTPA. These violations include misrepresenting the condition and characteristics of the vehicles they sell, misrepresenting financing approval, misrepresenting that Defendants have obtained clear title before selling vehicles, subjecting consumers to spot delivery scams,¹ failing to disclose systemic delays in processing title and registration, and failing to disclose higher insurance premium requirements for non-Texas consumers.

I. DISCOVERY

1. The discovery in this case should be conducted under Level 3 pursuant to Texas Rule of Civil Procedure 190.4.
2. This case is not subject to the restrictions of expedited discovery under Texas Rule of Civil Procedure 169 because the State's claims include non-monetary injunctive relief.

¹ The Texas Department of Motor Vehicles defines spot deliveries as a fraudulent practicing consisting of "selling and delivering a consumer a car after signing a Retail Installment Contract and then calling the consumer back into the dealership to sign a new contract with higher interest, higher payments or to put more money down."

3. In addition to the claims for non-monetary injunctive relief, the State seeks monetary relief of \$1,000,000 or more, including civil penalties, attorneys' fees, restitution, and costs.

II. JURISDICTION

4. This action is brought by the Attorney General Ken Paxton in the name of the State of Texas through his Consumer Protection Division and in the public interest under the authority granted by section 17.47 of the DTPA upon the grounds that Defendants have engaged in false, deceptive, and misleading acts and practices in the course of trade and commerce as defined in, and declared unlawful by, subsections 17.46(a) and (b) of the DTPA. In enforcement suits filed pursuant to section 17.47 of the DTPA, the Attorney General is further authorized to seek civil penalties, redress for consumers, and injunctive relief. The Attorney General may also seek reasonable attorneys' fees and court costs for prosecuting this action, as authorized by Texas Government Code section 402.006(c).

III. DEFENDANTS

5. Defendant Vroom Automotive LLC, d/b/a Texas Direct Auto and Vroom, is a Texas limited liability company with their principal place of business at 12053 Southwest Freeway, Stafford, Texas, 77477. It is the primary operating entity for Defendant Vroom Inc.'s purchases and sales of used vehicles. It may be served with process by serving their Registered Agent: Corporation Services Company, at 211 E. 7th, Suite 620, Austin, Texas 78701. SERVICE OF PROCESS IS HEREBY REQUESTED.

6. Defendant Vroom Inc. is a Delaware corporation with its principal place of business at 1375 Broadway, 11th Floor, New York, New York, 10018. It may be served with process by serving their Registered Agent: Corporation Services Company, at 211 E. 7th, Suite 620, Austin, Texas 78701. SERVICE OF PROCESS IS HEREBY REQUESTED.

IV. VENUE

7. Venue of this suit lies in Travis County, Texas, pursuant to DTPA subsection 17.47(b), because transactions forming the basis of this suit occurred in Travis County, Texas, and Defendants have done business in Travis County, Texas.

V. PUBLIC INTEREST

8. Plaintiff has reason to believe that Defendants are engaging in, have engaged in, or are about to engage in, the unlawful acts or practices set forth below. Plaintiff has further reason to believe Defendants have caused injury, loss, and damage to the State of Texas, and have caused adverse effects to the lawful conduct of trade and commerce, thereby directly or indirectly affecting the people of this State. Therefore, the Consumer Protection Division of the Office of the Attorney General of the State of Texas is of the opinion that these proceedings are in the public interest.

VI. TRADE AND COMMERCE

9. Defendants have, at all times described below, engaged in trade and commerce as defined by subsection 17.45(6) of the DTPA.

VII. ACTS OF AGENTS

10. Whenever in this Petition it is alleged that a Defendant did any act, it is meant that Defendant performed or participated in the act or Defendants' officers, agents, or employees performed or participated in the act on behalf of and under the authority of Defendants.

VIII. NOTICE BEFORE SUIT

11. The Consumer Protection Division informed Defendants in general of the alleged unlawful conduct described below at least seven days before filing suit, as may be required by subsection 17.47(a) of the DTPA.

IX. APPLICABLE LAW

12. The DTPA prohibits “false, misleading, or deceptive acts or practices in the conduct of any trade or commerce” DTPA § 17.46 (a).

13. Section 17.47 of the DTPA authorizes the Consumer Protection Division to bring an action for temporary and permanent injunction whenever it has reason to believe that any person is engaged in, has engaged in, or is about to engage in any act or practice declared unlawful by the DTPA.

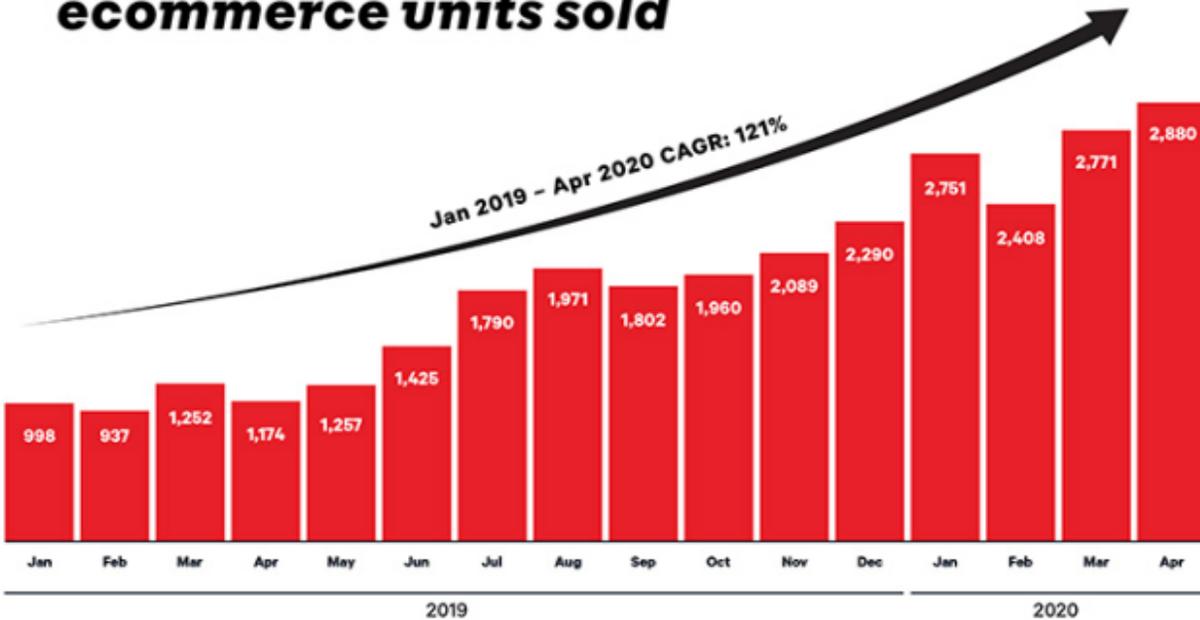
X. FACTUAL ALLEGATIONS

14. Defendants own and operate vroom.com, an e-commerce platform for buying and selling used cars, which offers an alternative to a traditional car dealer. Defendants operate primarily online, but also buys and sells used vehicles through a physical storefront in Stafford, Texas. Defendants are licensed independent vehicle dealers in Texas and Florida, and most of their transactions are executed under their Texas dealer license.

15. Since the pandemic began, more and more consumers have been forced to purchase big-ticket items like cars completely online, sight unseen. In addition to a general reluctance to face the crowds of people at a brick-and-mortar auto dealership in a post-pandemic reality, component shortages and sustained demand have led to a spike in used-car prices, of which Defendants have been a beneficiary.

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

ecommerce units sold



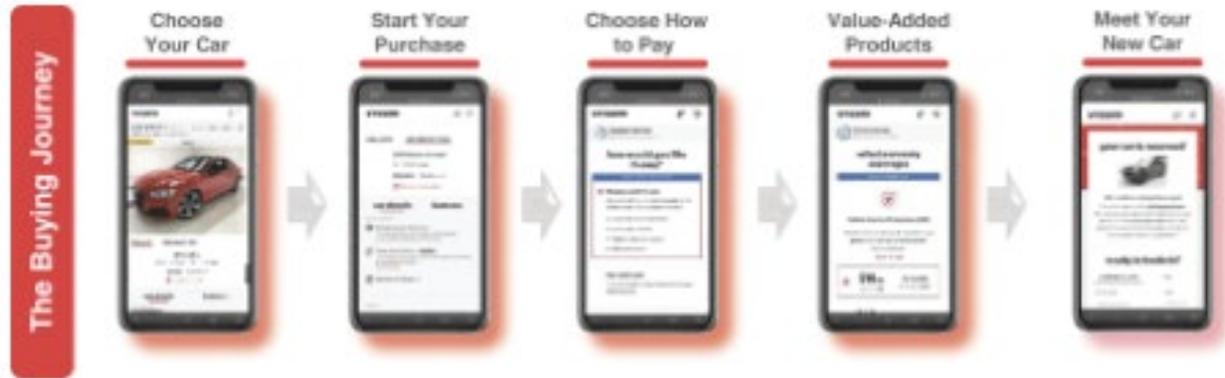
Note: For a description of how we define and calculate this metric, please see "Management's Discussion and Analysis of Financial Condition and Results of Operations."

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

17. For consumers considering a vehicle purchase, Defendants offer an online catalog of thousands of previously owned vehicles, promising delivery anywhere in the continental United States. Defendants offer cars from a spectrum of manufacturers, including Tesla, BMW, Honda, Toyota, Ford, and Chevrolet with prices ranging from \$11,000.00 to \$106,999.00. Approximately 80% of the used vehicles listed for sale on vroom.com were purchased directly from consumers.

18. Defendants tout a "no haggle, no pressure" experience accessible from any device. Defendants give consumers the ability to filter the selection of vehicles by make, model, mileage, color, and other factors. Once a consumer has selected a vehicle, they can review the vehicle's profile, which includes approximately 20 photographs of the vehicle, a description of the vehicle and its features, ownership history, and defect disclosures. When a consumer finds the vehicle they want, they can enter their information, select a delivery date, secure financing, add warranty

coverage, make a down payment, and upload the necessary identification verifications to finalize the online order. The following shows how Defendants conceptualize the buying process as straightforward and convenient for consumers:



After a vehicle is ordered, Defendants’ system generates the required supporting documents, populates the documents with the details of the transaction, and delivers the completed documents as electronic files. Many of the documents can be presented to the consumer, signed, stored, and transmitted electronically. Where wet ink signatures are mandated, Defendants mail printed contracts to the consumer via overnight delivery to execute. Defendants aim to convince consumers of how easy it can be to purchase a used vehicle entirely online.

Defendants Representations for Buying/Selling Experience

19. Defendants acknowledge that to earn increased market share in the used car industry they must provide consumers with a trustworthy buying and selling experience: “confidence comes standard with every Vroom vehicle.” Trust is even more important in the ecommerce experience because consumers cannot see the car in person prior to purchase. To establish trust before a big purchase, Defendants make representations about the quality, safety, presence of imperfections, and accident history for the used vehicles offered for sale. Defendants also promise to transfer proof of ownership in a timely manner and as required by law. Through these representations and

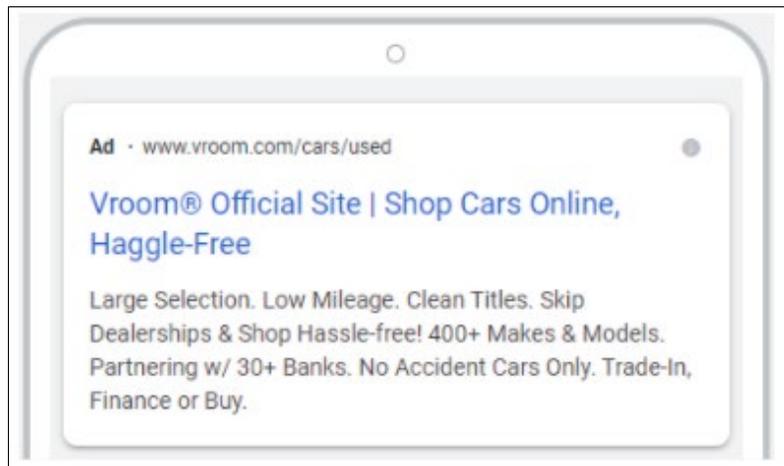
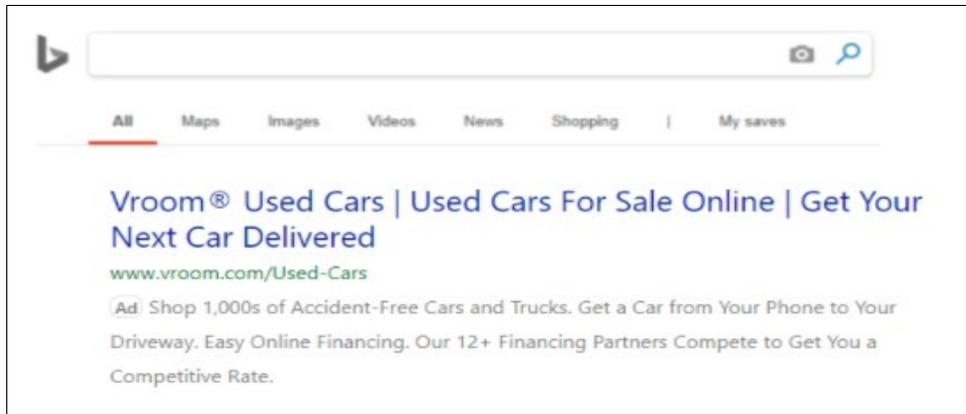
more, Defendants seek to assure consumers that ecommerce is not only a viable car shopping method, but the preferable one.

20. Whether purchased from a consumer, an auction, or a national rental car company, Defendants transport purchased cars to one of Defendants' reconditioning facilities. Upon arrival at a reconditioning facility, Defendants claim that their proprietary reconditioning management software platform tracks every cosmetic and mechanical defect, as well as progress towards remediation, and that every vehicle allegedly goes through these rigorous inspections. If they cannot make the vehicle safe and serviceable, Defendants claim that the vehicle is flagged for wholesale auction, even if it cuts into their profits. To that end, Defendants represent that every car listed for sale is a "high-quality Vroom-reconditioned vehicle" that has passed multiple cosmetic, mechanical, and safety inspections, and that vehicles that do not meet their standards will not be listed for sale.

21. Defendants provide a set of photos taken from multiple angles, both interior and exterior, and list specifications about every vehicle. Defendants promise that if vehicle imperfections are not repaired during the reconditioning process, they will include a disclosure and photographs of the imperfections, so consumers are aware before ordering and paying for non-refundable delivery.

22. In addition to promises of reconditioning of each vehicle for any cosmetic, mechanical and safety issues, Defendants promote their complimentary 90-day limited warranty with every purchase. This limited warranty is meant to minimize unexpected costs associated with mechanical breakdowns, repairs, parts, and labor. A reasonable consumer would expect such mechanical breakdowns to be a rare and unexpected occurrence after the reconditioning process.

23. In the past, Defendants advertised that each vehicle has a clean title and has not been in an accident. *See:*



Defendants have since changed these advertisements: instead of “No Accident Cars Only,” or “Shop 1,000s of Accident-Free Cars and Trucks,” Defendants now offer a CARFAX auto history report with each vehicle. The distinction is subtle—rather than advertising accident-free vehicles, Defendants now advertise an “accident-free CARFAX vehicle history report at the time of purchase and sale.” Defendants disclaim any responsibility for the accuracy of the information contained in the CARFAX reports and make no representation or warranty on whether the vehicle has been in an accident. As detailed below, some consumers were sold vehicles with apparent damage consistent with a prior accident.

24. Defendants are not selling a fungible product. It is implied in every transaction that proof of ownership of that vehicle will be provided upon receipt of payment. A title serves as proof of

ownership and is essential for selling or registering a vehicle. Registration is necessary to show that a car is legally permitted on public roads. Driving without a current registration is illegal.

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

Purchase Details

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

26. Defendants deliver their vehicles with 60-day temporary tags issued by the DMV. The 60-day temporary tags allow consumers to drive their vehicles immediately while they wait for the

Defendants to complete the timely transfer of title and registration. The 60-day window is meant to give a reasonable buffer for an auto dealer to transfer their title to the purchaser and complete registration.

Defendants' False Promises Mislead and Deceive Consumers:

A. Conditions, Characteristics, and Vehicle History

27. Consumers who relied on the Defendants' representations and purchased a vehicle have, in the last three years, filed over 5,000 complaints with the Better Business Bureau and the Office of the Attorney General of Texas. According to these complaints, Defendants have woefully failed to live up to their representations.

28. Defendants mislead consumers to believe that every car they sell is in good condition. They advertise a rigorous inspection process, claiming each vehicle passes a minimum of four inspections, to reassure the weary consumer before ordering and paying for delivery fees. Consumer complaints, however, tell another story.

29. Consumers complain that upon third-party inspection, they discovered that the vehicles received had sustained unreported damage. The examples are numerous. In one case, within hours of delivery, a Texas consumer reportedly noticed that the oil change and engine service lights came on, and there was an irregularity in the windshield and scratches on the wheel. The consumer took the vehicle to a nearby dealership, and after an inspection was told it needed spark plugs, new filters, an oil change, and a radiator leak to be repaired.

30. In another case, a Texas consumer complained that when Defendants delivered the vehicle, the consumer immediately noticed a strong odor in the interior that she described as similar to being near a boat. She noted that the interior carpet looked as if it had been completely replaced. The next day, she took it to a mechanic for a standard inspection. The inspection identified several areas of internal rust that could only be caused by sitting in water for an extended amount of time,

as well as other conditions that indicated flood damage. The consumer stated that Defendants never disclosed the rusted areas or the other evidence of flooding. Defendants accepted a return, but the consumer reported that the same vehicle was relisted by Defendants shortly thereafter without any disclaimer regarding the flood damage.

31. Another Texas consumer reported that when he took his delivered vehicle to a local Cadillac dealership for inspection, they found many issues with the car, including a damaged tire and rim, a cracked spoiler and windshield, several bolts missing from the undercarriage, and even evidence of a prior accident. The consumer complained that he was quoted \$8,000 to fully repair issues that were not disclosed and should have been identified and addressed during the “rigorous inspection process.” The consumer stated that he then spent several hours on the phone for over a month trying to get a refund and his traded vehicle back from Defendants.

32. In another example, a Texas consumer complained that she attempted to drive her new vehicle for the first time, but the driver’s seat was pushed all the way back. When she attempted to slide the front seat forward, it would not budge because the rail underneath the seat was damaged. At the direction of Defendants, she reportedly obtained an estimate from a Honda dealership of approximately \$1,700.00 to repair the damaged seat. The consumer reported that this damage was not disclosed to her when she purchased the vehicle.

33. Shortly after delivery, another Texas consumer complained that he noticed the check engine light was on, the air conditioning did not work, and the vehicle shook when braking. The consumer received a dealership estimate of approximately \$2,369.00, plus a \$152.00 diagnosis fee the consumer had to pay. After wasting hours on the phone with customer service, Defendants reportedly only offered \$1,000.00 for the repairs.

34. There are many more examples: A consumer reported that Defendants attempted to deliver a vehicle to the consumer that could not even be removed from the trailer due to a failed parking

brake pump. Defendants reportedly insisted that the vehicle be taken to a dealership and then tried to make the consumer pay for the parking brake pump repairs. Defendants have also reportedly delivered vehicles to Texas consumers with undisclosed hail damage, and even undisclosed structural damage. In the case of the undisclosed structural damage, the consumer was told by a mechanic that the axel of the vehicle he was sold had rusted so thoroughly, it would eventually snap while operating.

35. Consumers have reported that the vehicle they received was not as depicted on the website. One Texas consumer complained that he purchased a Tesla with a specific trim package and was delivered a completely different Tesla with a cheaper trim package. Another Texas consumer reportedly received a 2020 GMC Yukon XL that did not include all the features described on the website.

36. Despite making the representations that they only sold accident-free vehicles, consumers' complaints show they have received vehicles with prior accident damage. One Texas consumer stated that he refused delivery from Defendants because the vehicle was delivered in substantially worse condition than advertised—there were multiple locations of body repair work on the car that demonstrated that it had been involved in an accident and poorly repaired.

37. Another Texas consumer complained that he purchased a vehicle that he later learned Defendants purchased from a Florida auction with a salvage title.²

38. Though Defendants generally offer refunds for the issues described above, one cannot overlook the time and upfront costs that consumers spend dealing with what appear to be obvious

² A salvage title indicates that the vehicle suffered some kind of significant damage in the past. In general, the Department of Motor Vehicles issues a “salvage” or “junk” title when the vehicle was damaged to the extent that the costs of repair exceed the value of the vehicle before it was damaged.

and often critical vehicle issues. In some cases, consumers put themselves in danger by driving these faulty vehicles to a local mechanic or dealership for an initial inspection.

B. Terms of Financing and Approval to Consumers

39. Defendants have also misrepresented financing approval to consumers. Defendants wait until after consumers enter retail purchase contracts, receive delivery of the vehicle, and drive for several weeks before telling some consumers that they failed to obtain financing. Defendants then threaten consumers with repossession if they do not agree to new (and often more expensive) terms, to pay in full, or to obtain their own financing.

40. In one such instance, a Texas consumer was contacted by Defendants—several weeks after entering a contract, making a down payment, and vehicle delivery—claiming that they did not have bank approval. The consumer reported that Vroom has subsequently run her credit through multiple lenders in search of financing.

41. Further, Defendants misrepresent financing approval while collecting a nonrefundable \$249 fee. One consumer complained that after he selected a vehicle to purchase online, he input his personal information into Vroom’s website and was immediately informed that he qualified for financing through Defendants. The consumer reported that he was shown which lender would finance the loan and was even allowed to review the terms of the loan. To continue with his purchase, Defendants required him to pay a \$249 fee to cover the cost of removing the vehicle listing from their website. The consumer, under the impression that he was already approved for financing and that this was indeed the car he wanted, chose to pay the fee and proceed. The consumer complained that he was later contacted by a Vroom representative to inform him that his financing application had been denied and that his order was cancelled. When he asked about the \$249 fee, the representative informed him that the fee was nonrefundable. Defendants have

also refused to refund the \$249 fee when the purchase order was cancelled for no apparent reason and by no fault of the consumer.

C. Title and Registration

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

43. Hundreds of consumers have complained that Defendants failed to timely register the change in ownership, leaving consumers with expired temporary tags and with no evidence of ownership.

44. Defendants designed a system that fails to meet the Texas legal requirements for timely transfer of the title and registration. Other online auto-dealers who comply with Texas's legal requirements for timely transfer of title and registration are at a disadvantage in the marketplace.

45. To date, the Texas Department of Motor Vehicles has issued five Notices of Department Decision after an investigation which determined that Defendants failed to timely register change in ownership on 168 occasions and offered to sell or sold vehicles without having a certificate of title on at least nine occasions.

46. Defendants reportedly mislead consumers about their current ability to comply with the State's legal requirements for timely transfer of the title and registration. This all but guarantees that consumers do not understand that they are purchasing a good that they will not be able to

prove they own. The complaints evidence consumer shock and frustration—they are not given answers by Defendants when they inquire of the delays in processing their titles and registration. Many consumers have reported waiting as much as a year to receive the title to their purchased vehicle, and sometimes even longer. Consumers have compared their purchases from Defendants to “bricks,” or “driveway ornaments” when it became unlawful for them to operate their vehicles.

47. One Texas consumer stated that she purchased her vehicle in February 2021 and had been unable to obtain the title and registration from Defendants as of the date of her complaint to the Office of the Attorney General—nearly a year later—on January 15, 2022. She received numerous temporary tags and excuses ranging from DMV delays caused by the pandemic to title errors.

48. Another Texas consumer also complained that he purchased a vehicle in February 2021 and has yet to receive the title as of March 2022. The consumer was contacted in September 2021 by the Fort Bend County Tax Assessor’s office to inform him that they could not transfer title because of a discrepancy in the chain of title of the vehicle. The consumer opened a case with Defendants’ customer support service and has yet to reach a resolution through them.

49. Yet another Texas consumer reportedly received a letter from the tax accessor’s office over three months after she purchased her vehicle from Defendants claiming there was an odometer discrepancy on the title application. The consumer claimed that Defendants assured her they would correct the problem and get her the title and registration. Three months later she received the same letter. When she filed her complaint to the Office of the Attorney General it had been over a year since she had her vehicle delivered and still did not have title and registration. The consumer finally received her title from Defendants on March 10, 2022, over a year and three weeks after she purchased the car in full.

D. Insurance Coverage for Temporary Tags

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

51. Defendants cannot assure their out-of-state consumers that the 30-day temporary tags are even valid in the consumer's home state. To the contrary, many out-of-state consumers have complained of multiple citations or impounded vehicles while displaying Texas temporary tags. One consumer's temporary tag had expired and her pleas for help were ignored by Defendants. She wrote: "they act like I'm asking for something I don't justly deserve," and "I have two children that I can't pick up from school if they are sick—I have doctors' appointments I can't drive myself to."

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

53. Consumers did not bargain for this undesirable position. Many consumers who live outside of Texas may not have purchased vehicles from Defendants if it meant they had to increase their insurance policy's minimum coverage simply to match Texas requirements and receive multiple 30-day temporary tags or risk driving their recently purchased vehicles illegally in their home states. This issue is not disclaimed by Defendants at the front end of the sales transaction.

XI. DTPA VIOLATIONS

54. Plaintiff incorporates Paragraphs 1 through 53, as is fully set forth herein.
55. Defendants have engaged in false, misleading, or deceptive acts or practices in the conduct of trade or commerce, in violation of DTPA § 17.46(a).
56. Defendants represented that their goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have, in violation of DTPA § 17.46(b)(5).
57. Defendants represented that the agreement confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law, in violation of DTPA § 17.46(b)(12).
58. Defendants represented that work or services have been performed on, or parts replaced in, goods when the work or services were not performed or the parts replaced, in violation of DTPA § 17.46(b)(22).
59. Defendants failed to disclose information concerning goods or services which was known at the time of the transaction, and such failure to disclose this information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed, in violation of DTPA § 17.46(b)(24).

XII. INJURY TO CONSUMERS

60. Defendants have, by means of these unlawful acts and practices, obtained money or property from consumers who are entitled to restitution, or in the alternative, have caused actual damages to identifiable persons who are entitled to compensation.

XIII. PRAYER

61. WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendants be cited according to the law to appear and answer herein; that after due notice and hearing, a

TEMPORARY INJUNCTION be issued; and that after due notice and trial, a PERMANENT INJUNCTION be issued. Plaintiff prays that the Court will issue an ORDER enjoining Defendants, their officers, agents, servants, employees, and any other persons in active concert or participation with Defendants from the following:

- A. Posting pictures and specifications of vehicles on their website that do not represent the vehicle being offered for sale;
- B. Failing to identify imperfections, including what would be deemed minor cosmetic imperfections or normal wear and tear, in a clear and conspicuous written disclosure before a consumer purchases the vehicle;
- C. Failing to provide photographs of any imperfections, including what would be deemed minor cosmetic imperfections or normal wear and tear before a consumer purchases the vehicle;
- D. Selling or delivering a vehicle to a consumer with a VIN number that does not match the VIN number of the vehicle listed for sale;
- E. Representing that a vehicle previously possessed features, characteristics, or benefits that it does not;
- F. Representing that they conduct a safety, mechanical, and cosmetic inspection to ensure that the vehicle meets all safety requirement when they have not;
- G. Representing that a vehicle has not been in an accident when the vehicle has been in an accident;
- H. Failing to clearly and conspicuously state that an accident-free CARFAX report is not a guarantee that the vehicle is indeed accident-free;
- I. Misrepresenting or failing to disclose financing terms and approval status;
- J. Failing to complete the vehicle registration process as required by law;

- K. Failing to disclose or misrepresenting issues that will result in title transfer or registration delays as they become apparent;
 - L. Advertising or selling vehicles without having clear title in Defendants' possession;
 - M. Misrepresenting financing terms and approval to consumers; and
 - N. Failing to disclose or misrepresenting that obtaining temporary tags may result in higher insurance premiums.
62. Plaintiff further requests that this Court award money damages and restitution of monies paid by consumers.
63. Plaintiff further requests that Defendants be ordered to pay to the State of Texas:
- A. Civil penalties of up to \$10,000.00 per violation of the DTPA;
 - B. Civil penalties of up to \$250,000.00 per violation of the DTPA, when the act or practice that acquired or deprived money or other property from consumers who were 65 years of age or older when the act or practice occurred;
 - C. Pre-judgment and post-judgment interest on all awards of restitution, damages, or civil penalties, as provided by law;
 - D. All costs of Court, costs of investigation, and reasonable attorney's fees pursuant to Texas Government Code section 402.006(c); and
 - E. Decree that all of Defendants' fines, penalties or forfeitures are not dischargeable in bankruptcy. *See* 11 U.S.C. Section 523(a)(7).
64. Plaintiff prays for all further relief, at law or inequity, to which it is justly entitled.

Respectfully submitted,

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Attorney General of Texas

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First Assistant Attorney General

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