

[Homepage](#) [Email](#) [Calendar](#) [Files](#)
[Check Email](#) [Compose](#) [Address Book](#) [Calendar](#) [Settings](#) [Tools](#) [Help](#)

Search Inbox...

Go

[Adv. Search](#)

Unlimited Usage: 83843MB

Inbox (76047)  
 Bulk Mail [\[ purge \]](#) (390)  
 Drafts (2408)  
 Templates (1)  
 Send Later  
 Sent Items (61)  
 Trash

- archive (16186)  
 - archive since 10311 (2157)  
 - archive since 11101 (9937)  
 - archive since 11215  
 - archive since 1914 (3337)  
 - archive since 2 27 1 (15207)  
 - archive since 7916 (6631)  
 - archive since 91613 (16978)  
 - archive since 62716  
 Abraham (1)  
 Abraham Estate  
 Advertising  
 Airlines (2)  
 American Express  
 aneshansel  
 Archive  
 Bell  
 Billotte (2)  
 Blue Sky Graphics  
 Branan  
 Carcella  
 Carlin  
 Carter

Copyright © 2003-2020. All rights reserved.

[...ve since 1914](#)[Move](#)**Inbox > Message Detail** ☐ Entire thread

**Subject:** Confirmation of your E-Filing #2006047069  
**From:** <cp-efiling@courts.phila.gov> [\(Add as Preferred Sender\)](#)  
**Date:** Tue, Jun 30, 2020 11:07 pm  
**To:** <ismith@shenkanlaw.com>



Dear Richard Shenkan,

The legal paper you electronically presented for filing has been received by the Office of Judicial Records. The following information will assist you in tracking the status of the pleading:

**Caption:**  
 KELLY ETAL VS SANTANDER CONSUMER USA INC.

**Date Presented to the Office of Judicial Records for Filing:**  
 June 30, 2020 11:07 pm EDT/DST

**Type of Pleading/Legal Paper:**  
 COMPLAINT

**E-File No.:** 2006047069  
**Confirmation No.:** 4B40D4E51  
**Personal Reference No.:**

**Filing Fee:** \$ 597.17

The requisite filing fees will only be charged to your credit card upon acceptance of your legal paper by the Prothonotary. No charge will be posted to your credit card if your legal paper is rejected.

Please be advised that the above legal paper will not be deemed to have been "filed" until it has been reviewed and accepted by the Prothonotary. You will be notified by email when your legal paper has been approved or rejected by the Prothonotary. If you do not receive an approval or rejection email within two (2) business days you may contact the Office of Judicial Records at (215) 686-8645 to determine the status of your electronic filing.

At any time, you may check the status of your electronic filing by logging in to the Electronic Filing Web Site at <http://courts.phila.gov> using the Court-issued User Name and Password.

You are reminded that Pa.R.C.P. No. 205.4 requires that a hard copy of the legal paper you have filed electronically be signed and, as



## NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

You should take this paper to your lawyer at once. If you do not have a lawyer or if you cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Philadelphia Bar Association Lawyer  
Referral and Information Service  
One Reading Center  
Philadelphia, Pennsylvania 19107  
(215) 238-6333  
TTY (215) 451-6197

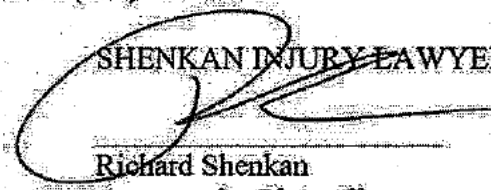
## AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta ascantar una comparecía escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

Lleve esta demandas a un abogado inmediatamente. Si no tiene abogado o si no tiene el dinero suficiente de pagar tal servicio, Vaya en persona o llame por teléfono a la oficina cuya dirección se encuentra escrita abajo para averiguar donde se puede conseguir asistencia legal.

Asociación De Licenciados  
De Filadelfia  
Servicio De Referencia E  
Información Legal  
One Reading Center  
Filadelfia, Pennsylvania 19107  
(215) 238-6333  
TTY (215) 451-6197

SHENKAN INJURY LAWYERS, LLC.

  
Richard Shenkan  
Attorney for Plaintiffs

## **CLASS ACTION COMPLAINT**

Representative Plaintiffs Hugh and Christine Kelly, on behalf of themselves and all others similarly situated, hereby file this Class Action Complaint against Defendant Santander Consumer USA, Inc. and allege as follows:

### **INTRODUCTION**

1. Plaintiffs bring this consumer class action on behalf of themselves and similarly situated people who have had their vehicle repossessed in Pennsylvania. This action seeks monetary relief in the form of minimum statutory damages, which is expressly permitted “regardless of any injury that may have resulted”, through the Uniform Commercial Code (“UCC”), independently, and in *pari materia* with the Motor Vehicle Sales Finance Act (“MVSFA”),<sup>1</sup> due to Defendant’s systematic failure to comply with the strict statutory requirements relating to Post-Repossession Consumer Disclosure Notices a/k/a “Notices of Repossession.”

### **PARTIES**

2. Hugh and Christine Kelly are adult individuals who at all relevant times resided at 114 Opal Ct, Cranberry Township, PA 16066.

3. Santander Consumer USA Inc. (“Santander”) is a corporation with its headquarters in Dallas, Texas.

4. All Representative Plaintiffs purchased their subject vehicle in Pennsylvania.

5. Santander caused all Representative Plaintiffs’ and (putative) class members’ vehicles to be repossessed in Pennsylvania.

---

<sup>1</sup> The MVSFA was originally found in Chapter 7 of Title 69 of Purdon’s Statutes. In 2014, it was repealed and recodified in Chapter 62 of Title 12 of Pennsylvania Consolidated Statutes.

6. Santander is a nationally chartered bank which purchases retail installment sales contracts through vehicle dealerships, including Chrysler franchise dealerships under the name of “Chrysler Capital.”

#### **VENUE PROPER IN PHILADELPHIA COUNTY**

7. Santander regularly and systematically conducts business throughout Pennsylvania, including Philadelphia County.

#### **JURISDICTION LIMITED TO STATE COURT**

**Plaintiffs crafted complaint to avoid Federal Jurisdiction, deliberately failing to plead facts sufficient to meet the requirements set forth in *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540 (2016); *Ashcroft v. Iqbal*, 556 US 662, 129 S. Ct. 1937 (2009); and F.R.C.P. Rule 8**

8. As masters of their complaint, Plaintiffs are permitted to craft their complaint to avoid federal jurisdiction. *Standard Fire Ins. Co. v. Knowles*, 568 U.S. 588, 595–96 (2013). This complaint is crafted to comply with the Pennsylvania Rules of Civil Procedure. They do not and are not intended to satisfy the Federal Court jurisdiction and pleading requirements.

9. As said masters of their complaint, Plaintiffs explicitly and intentionally limit their relief to statutory minimum damages pursuant to 13 Pa.C.S. §9625(c)(2) which expressly permits a recovery to consumers as a result of a secured creditor’s non-compliance *regardless of whether or not any Representative Plaintiff or any Class Member suffered any harm*, capping the recovery to a formulaic figure as determined by a sum determined by adding the finance charge plus 10% of the amount financed.

10. Plaintiffs are not alleging that they or any of the putative class members suffered any actual, particularized, concrete injury-in-fact or material risk of harm to confer Federal jurisdiction. *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540 (2016).

11. Plaintiffs have deliberately not drafted this pleading so that it does not satisfy the

requirement of F.R.C.P. Rule 8 which requires that the pleading clearly state that Plaintiffs has sustained an ascertainable injury as set out in *Ashcroft v. Iqbal*, 556 US 662, 129 S. Ct. 1937 (2009); *See also, Hudson v. Eaglemark Sav. Bank*, 475 Fed.Appx. 423, 427 (3d. Cir. 2012).

12. Plaintiffs and all (putative) class members are not making any claim for a loss or seeking actual damages pursuant to 13 Pa. C.S. §9625(c)(1) or for any other relief pursuant to §9625(a).

13. Plaintiffs are not challenging Santander's act of repossessing its chattel.

14. Rather, Plaintiffs challenge Santander's concealed wrongdoings including, *inter alia*, Santander's systematic sending of statutorily non-compliant Post-Repossession Disclosure Notices ("Notices of Repossession") which list an itemization for a Storage Expense which Santander did not incur nor was obligated to incur.

15. This complaint does not, and is not intended to, include any allegations or inferences that any Representative Plaintiff or (putative) class member paid any Redemption Fee, Personal Property Fee or Storage Fee, or suffered any actual injury-in-fact or material risk of harm as a result of any Redemption Fee, Personal Property Fee or Storage Fee, or as a result of an inaccurate Redemption amount stated in the challenged Notices of Repossession.

#### **UNENFORCEABLE ARBITRATION AGREEMENTS**

16. As part of loan extension agreements, Santander employed a deceptive business practice to have some (putative) Class Members (purportedly) electronically sign a document containing a class action waiver and an arbitration provision. These documents are unenforceable, contracts of adhesion because, *inter alia*:

- A. They violate the Single Document Rule, 12 Pa.C.S. §6221(a), which mandated Santander to the confines of the terms of the retail installment sale contract (RISC) which it purchased.<sup>2</sup> The RISCs

---

<sup>2</sup> See, *Gregory v. Metro Auto Sales, Inc.*, 158 F.Supp.3d 302 (E.D. Pa. 2016).

entered into by the Representative Plaintiffs and all (putative) Class Members contained no provision requiring or allowing for arbitration; and/or,

- B. The arbitration and/or class action waiver provision(s) is/are unenforceable due to procedural and/or substantive unconscionability, lack of consideration, lack of informed consent, lack of privity, lack of mutuality, ambiguity, and/or for violation of public policy.

### **DEFINITIONS**

17. **Debtor**: The term "Debtor" is "A: (1) person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor ..." *See*, 13 Pa. C.S.A. §9102.

18. **Good Faith**: The term "Good Faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing. 13 Pa.C.S.A. §1201; *See*, "Obligation of Good Faith" below.

19. **Motor Vehicle**: Except as otherwise stated, the terms "Motor Vehicle" and "Vehicle" mean a device in which, upon which, or by which a person or property is or may be transported or drawn upon a public highway, including an automobile, a truck, a sports utility vehicle, a van, a minivan, a camper, a recreational vehicle, a motorcycle, or a truck. The term is not intended to include a semitrailer or manufactured home.

20. **Notice of Repossession**: The term "Notice of Repossession" refers to a post-repossession consumer disclosure notice and has the same meaning as the term "notification of disposition," in 13 Pa.C.S.A. §§9611, 9613, and 9614 and as "Notice of Repossession" in 12 Pa.C.S. §6254. Santander used at least one standardized, uniform form throughout the Class Period. The only information modified in the Notices of Repossession that is unique to each customer consists of amounts, personally identifiable information, unique data pertaining to the repossessed vehicle, the customer's loan information, and dates.

21. **Obligation of Good Faith:** The term “Obligation of Good Faith” refers to the requirement that “Every contract or duty within this title imposes an obligation of good faith in its performance and enforcement.” 13 Pa. C.S.A. §1304.

22. **Obligor:** The term “Obligor” refers to A person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral: (1) owes payment or other performance of the obligation; (2) has provided property other than the collateral to secure payment or other performance of the obligation; or (3) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include any issuer or nominated person under a letter of credit.

23. **Personal Property Fee:** The term “Personal Property Fee” refers to a fee (not an incurred expense) which Representative Plaintiffs and (putative) class members were required to pay Santander and/or a third party reposessor, and/or the auction selling the repossessed vehicle in order: (a) to regain possession of their personal belongings left in the repossessed vehicle; and/or, (2) to redeem their repossessed vehicle.

24. **Post-Sale Notice:** The term “Post-Sale Notice” is a post-sale consumer disclosure notice which has the same meaning as the term “Explanation of Calculation of Surplus or Deficiency” in 13 Pa.C.S.A. §9616. This term also refers to the “deficiency notice” as required by 12 Pa.C.S. §6261(d).

25. **Redeem/Redemption:** Unless stated otherwise, the terms “Redeem” and “Redemption” mean a “buy back” of the repossessed vehicle by terminating the contract upon payment of the unpaid portion of the amount financed and the finance charge, plus late charges, costs of retaking, repairing and storing the vehicle, and any other amounts lawfully due under the contract. 12 Pa.C.S.A. §6259.



26. **Redemption Fee:** The term "Redemption Fee" refers to a fee (not an incurred expense by Santander), which Representative Plaintiffs and (putative) class members were required to pay Santander and/or a third party reposessor, and/or the auction selling the repossessed vehicle, as a precondition to redeem (buy back) their repossessed vehicle.

27. **Schumer Box:** The term "Schumer box" is a table with a standardized format that discloses the rates, fees, terms and conditions of a credit card or other lending agreement as required under the federal Truth in Lending Act (TILA).

28. **Storage Expense or Storage Fee:** The term "Storage Expense" or "Storage Fee" is a fee/expense listed on the Notices of Repossession purportedly for the storage of the repossessed vehicle.

#### **FACTUAL BACKGROUND**

29. In approximately June 2017, Santander caused Hugh and Christine Kelly's 2006 Chrysler Pacifica to be repossessed. Santander then sent them a Notice of Repossession (**Exhibit 1** and **Exhibit 2**) dated June 16, 2017. After Santander sold the vehicle, Santander sent them a Post-Sale Notice dated June 24, 2018. (**Exhibit 3** and **Exhibit 4**).

30. Santander sent a substantially similar template Notice of Repossession and Post-Sale Notice to all Representative Plaintiffs, excluding only differing personally identifiable information and unique information regarding the vehicle / loan data.

31. While some Notices of Repossession sent by Santander listed the sender as "Santander Consumer USA Inc.," and others listed the sender as "Chrysler Capital," all were caused to be sent by the Defendant, who was the holder, owner, and servicer of all subject loans at issue.

32. At all relevant times, FCA US LLC (formerly Chrysler Group LLC) permitted Santander to use the Chrysler Capital trade name when providing financing services to its dealers and retail customers.

33. The Notices of Repossession sent to the Plaintiffs and all class members had the following identical or substantially similar language:

**As of the date of this notice, you can redeem the Vehicle by paying us the following:**

- |  |                  |
|--|------------------|
| 1) Unpaid balance:   | \$ xxx.xx        |
| 2) Accrued Interest:   | \$ xxx.xx        |
| 3) Unpaid default charges due:   | \$ xxx.xx        |
| 4) Repossession expenses:  | \$ xxx.xx        |
| 5) Storage expenses incurred through date of this Notice (@ \$25.00 per day) | \$ 25.00         |
| 6) Other: [specify]_____   | \$ <u>xxx.xx</u> |

**Total sum required to redeem as of date of this Notice\*** \$ xxx.xx

34. Santander, however, as a matter of policy and practice, did not pay to any third party or otherwise incur *any* expense<sup>3</sup> for storing the repossessed vehicles of the Representative Plaintiffs as of the date of the Notice of Repossession.

35. Santander did not pay any fee, cost, or expense associated with the storage of any of the Representative Plaintiffs' repossessed vehicles.

36. The Post-Sale Notices attached hereto as Exhibits 3 and Exhibit 4 each reflect \$0 for the "cost of storing the vehicle," thereby evidencing that the itemization of the Storage Expense on the Notices of Repossession was systematically wrong.

37. Santander systematically listed an itemization for an un-incurred and unreasonable Storage Expense, which inflated the "Total sum required to redeem as of date of this Notice," rendering such inaccurate as a matter of policy and practice.

---

<sup>3</sup> An "expense" is "an expenditure of money...." *Black's Law Dictionary Abridged*, 7<sup>th</sup> Ed. at 473.

38. In the alternative, if Santander did incur any Storage Expense, the amount it paid was less than the purported daily rate as it itemized on the Notices of Repossession it caused to be sent to Representative Plaintiffs and (putative) class members.

39. The Notices of Repossession sent to Plaintiffs and class members also systematically failed to disclose a Redemption Fee and/or a Personal Property Fee, rendering the "Total sum required to redeem as of date of this Notice" to be inaccurate as a matter of practice.

40. Redemption Fees and/or Personal Property Fees are not actual, reasonable, and/or necessary because they were (are) not incurred by Santander and, thereby, do not constitute reimbursable expenses as permitted by statute [13 Pa. C.S. 9615(a)(1)].

41. At all relevant times, Santander had an secretive arrangement with its repossessionors, repossession brokers, and/or auctions to permit it/them to assess Redemption Fees, Storage Expenses, and/or Personal Property Fees on Representative Plaintiffs and (putative) class members in order for them to redeem their vehicle and/or regain possession of any of their personal belongings left in the repossessed vehicle.

#### **LEGISLATIVE INTENT OF THE MVSFA**

42. The Pennsylvania Legislature explained in the enactment of the MVSFA that its purpose is to safeguard consumers relating to the repossession of motor vehicles and collection practices. In this connection, the Legislature explained:

Finding and declarations of policy:

- (a) That an exhaustive study by the Joint State Government Commission discloses unjustifiably detrimental to the consumer and inimical to the public welfare. ...
- (b) That consumers, because of these legal technicalities and because of their unequal bargaining position, are at the mercy of unscrupulous persons and are being intolerably exploited in the instalment purchase of motor vehicles. **Such exploitation is evident in...collection, repossession and other charges, unconscionable practices respecting ...repossession and redemption.** 69 P.S. 602(c)(Emphasis added).

### THE UCC AND MVSFA MUST BE READ IN PARI MATERIA

43. Santander, as a secured creditor who elects to exercise self-help repossession of motor vehicles is required to comply with both the UCC and MVSFA, 12 Pa.C.S.A. §6201, *et seq.*, which must be applied in *pari materia*. *Industrial Valley Bank & Trust Co. v. Nash*, 349 Pa. Super. 27, 502 A.2d 1254 (1985); *Coy v. Ford Motor Credit Co.*, 422 Pa. Super. 76, 79, 618 A.2d 1024, 1025 (1993); *Cosgrove v. Citizens Auto. Finance, Inc.*, 2011 WL 3740809 (E.D. Pa. 2011); *Whiteman v. Degnan Chevrolet, Inc.*, 217 Pa. Super 424, 272 A.2d 244 (1970); *Maszgay v. First Commonwealth Bank*, 686-2015 (Jefferson Cty. 2015); *Langer v. Capital One, N.A.*, 2:16-CV-06130-HB (E.D. Pa. 2018); and *McCall v. Drive Financial Services, L.P., et al.*, January Term, 5 (2009).

44. “Statutes or parts of statutes are in *pari materia* when they relate to the same persons or things or to the same class of persons or things.” 1 Pa. C.S. §1932(a). “Statutes in *pari materia* shall be construed together, if possible, as one statute.” 1 Pa. C.S. §1932(b).

45. The MVSFA sets forth notice requirements for secured parties who repossess other than by legal process. Likewise, the UCC sets forth the notice requirements for secured parties who repossess other than by legal process. Therefore, these statutes clearly relate to the same persons or things and/or to the same class of persons or things, debtors whose vehicles were repossessed outside the judicial process.

46. Further, Comment 9 to 13 Pa.C.S.A. §9620 states:

**Applicability of Other Law.** This section does not purport to regulate all aspects of the transaction by which a secured party may become the owner of collateral previously owned by the debtor. For example, a secured party’s acceptance of a motor vehicle in satisfaction of secured obligations may require compliance with the applicable motor vehicle certificate-of-title law. State legislatures should conform those laws so that they mesh well with this section and Section 9-610, and courts should construe those laws and this

section harmoniously. A secured party's acceptance of collateral in the possession of the debtor also may implicate statutes dealing with a seller's retention of possession of goods sold.

47. Comment 9 specifically directs courts to construe UCC provisions "harmoniously," i.e. in *pari materia*, with other laws that regulate secured transactions. The MVSFA is such a law.

## **STATUTORY VIOLATIONS**

### **Deficiencies in Notices of Repossession**

48. In the course of the repossession and disposition process, Santander had a statutory obligation to provide a "reasonable authenticated notification of disposition" (i.e. "Notice of Repossession") of the collateral, containing important mandatory information about the repossession and intended disposition of the vehicle. 13 Pa.C.S.A. §9611, §9614 and 12 Pa.C.S.A. §6254.

49. A Notice of Repossession that lacks **any** of the required information is *insufficient as a matter of law*. 13 Pa.C.S.A. §9614, comment 2.

50. Section 9623(b) of the UCC states:

"...[t]o redeem the collateral, a person shall tender ... (2) the reasonable expenses and attorney fees described in section 9615(a)(1)(relating to application of proceed)." (emphasis added).

51. Thus, Santander's Notices of Repossession, which claims to inform the vehicle owner how much he/she will have to tender to Redeem the vehicle, can only include in that Redemption Amount those expenses listed in Section 9615(a)(1).

52. Section 9615(a)(1) limits these expenses to:

"the **reasonable expenses** of retaking, holding, preparing for disposition, processing and disposing...**incurred by the secured party**." (emphasis added).

53. Further, the MVSFA states that a secured party can only be reimbursed for expenses

that are “actual, necessary and reasonable.” 12 Pa.C.S. §6256.

54. Santander did not incur the amount it listed in the Notices of Repossession as a Storage Expense. Therefore, it could not include that amount in its Notices of Repossession.

55. Santander did not incur that amount because at all relevant times during the Class Period, Santander had a secretive agreement with its repossessionors and/or repossession brokers whereby Santander would be insulated from any storage expense associated with any repossession for approximately the first 10 to 15 days after repossession; only thereafter, Santander would be charged a small fee for storage. In most instances, Santander did not incur any expense associated with the storage of repossessed vehicles because Santander would transport the repossessed vehicle from the repossessionor’s lot to an auto auction before it would incur any expense.

56. Consequently, the Storage Expense (i.e., the listing of “Storage expenses incurred through date of this Notice”) in the Notices of Repossession is not accurate and/or was not incurred by Santander. This fact is evidenced by the Post-Sale Notices sent to the Representative Plaintiffs which, as a matter of course, list “\$0.00” as the “Costs of storing the Vehicle.” See, ¶42 above.

57. Further, as a matter of policy and/or practice, Santander, did not incur any expenses relating to Redemption Fees and/or Personal Property Fees – both of which are not expenses permitted in Section 9615(a)(1).

58. The Notices of Repossession Santander sent to Plaintiffs and the Class Members violated the UCC, independently (13 Pa.C.S.A. §§9611, 9614, 9615, and 9623), and the UCC and MVSA in *pari materia* (13 Pa.C.S.A. §§9611, 9614, 9615, and 9623 and 12 Pa.C.S. §§6254(c)(2) and 6256) by stating an inaccurate amount required to redeem the vehicle, and permitting the assessment of expenses that had not been incurred by Santander (in violation of 12 Pa.C.S. §6254)

because, *inter alia*:

- (a) The Notices of Repossession listed a fictitious Storage Expense as part of the itemized expenses comprising the purported total amount required to redeem the repossessed vehicle, which rendered the amount required to redeem inaccurate; and/or,
- (b) The Notices of Repossession failed to disclose a Redemption Fee that were required in order for the Representative Plaintiffs and (putative) class members to redeem their vehicle; and/or,
- (c) The Notices of Repossession failed to disclose that there would be a Personal Property Fee as a precondition to redeem their vehicle and/or to recover their personal belongings left in the repossessed vehicle and/or to redeem their vehicle.

59. Santander permitted the assessment of Redemption Fees and/or a Personal Property Fees on Representative Plaintiffs and (putative) class members – in order for them to redeem their vehicle and/or get their personal belongings back from their repossessed vehicle if they so desired – although neither were expenses that were incurred by Santander.

**Commercial Unreasonableness/Violation of Good Faith**

60. There are two overarching principles that must guide a secured creditor's conduct in repossessing and selling a financed vehicle. First, all aspects of its conduct must be "commercially reasonable," as required by Section 9610(b). Second, a secured creditor must fulfill its Obligation of Good Faith to conduct itself honestly and observe reasonable commercial standards of fair dealing. *See*, 13 Pa. C.S §1201 and §1304.

61. Santander violated its Obligation of Good Faith and its requirement to proceed in a commercially reasonable manner by violating the UCC, independently, and the MVSFA in *pari materia*, as set forth in this Complaint.

62. Santander also violated its requirement to proceed in a commercially unreasonable manner because, when it repossessed the Representative Plaintiffs' and Class Members' vehicles,

it became a bailor with fiduciary duties owed to Plaintiffs and Class Members alike, as a matter of course. Santander violated those fiduciary duties by sending deficient post-repossession disclosure notices, and permitting third parties to assess Redemption Fees and Personal Property Fees, as set forth in this Complaint. Plaintiffs are not claiming any damages for a breach of fiduciary duty. Rather, the existence of a bailor/bailee relationship at the time Santander sent the Notices of Repossession is relevant to underscore Santander's commercially unreasonable conduct.

### **DAMAGES**

63. 13 Pa. C.S.A. §9625(c)(2) allows consumer Debtors/Obligors such as Plaintiffs and Class Members to recover statutory damages equal to the credit service charge (finance charge) plus 10% of the principal amount of the obligation (amount financed). These figures are readily determinable simply by a review of the Schumer Box of each Class Members' retail instalment sales contract.

64. The Official Comments to the UCC are entitled to great weight under Pennsylvania law. Comment 4 to Section 9625 makes clear that these statutory damages are intended to establish a secured party's liability for violations of, *inter alia*, the notice provisions in consumer goods transactions, regardless of whether any injury resulted. That comment states in pertinent part:

**4. Minimum Damages in Consumer-Goods Transactions.** Subsection (c)(2) provides a minimum, statutory, damage recovery for a debtor and secondary obligor in a consumer-goods transaction. It is patterned on former Section 9507(1) and is designed to ensure that every noncompliance with the requirements of Part 6 in a consumer-goods transaction results in liability, *regardless of any injury that may have resulted.* Official Comment to §9625(c)(2)(Emphasis added).

65. Plaintiffs and Class Members seek the minimum statutory damages pursuant to 13 Pa. C.S. §9625(c)(2).



## CLASS ALLEGATIONS

66. Plaintiffs bring this action on their own behalf and on behalf of the following class of individuals designated pursuant to Rules 1701-1717 of the Pennsylvania Rules of Civil Procedure.

67. Plaintiffs propose the "Notice of Repossession Class" defined as: All Debtors, Obligors, and Co-Obligors:

- (a) who entered into a retail installment sales contract, in Pennsylvania, for the financing of the purchase of a Motor Vehicle primarily used for personal, family or household use; and,
- (b) from whom Santander, as secured party, repossessed the vehicle or ordered it to be repossessed; and,
- (c) whose Motor Vehicle was repossessed in Pennsylvania; and,
- (d) who were caused to be sent a Notice of Repossession by Santander which listed an amount (other than \$0) for "Storage expenses incurred through date of this Notice" or substantially similar language which Santander did not incur; or,
- (e) who were sent a notice with an identification of "PA-NOI-420," "PA-NOI-450," or "PA-NOI-420\_2799\_050713."

68. The Class Period is May 14, 2014 through the date of class certification.<sup>4</sup>

69. Alternatively, due to the Defendant's affirmative concealment and/or self-concealing nature of this wrongdoing(s) in the Notices of Repossession, the Class Period extends back to the date when the Defendant first instituted the deceptive business practice(s):

- (a) To list un-incurred Storage Expenses in the Notice of Repossession; or,
- (b) To employ the use of Redemption and/or Personal Property Fees.

---

<sup>4</sup> The claims of the Representative Plaintiffs and class members are tolled pursuant to *American Pipe and Construction Company v. Utah*, 414 U.S. 538 (1974). If it is held that the Court will not permit tolling pursuant to *American Pipe*, *supra*. or equitable tolling due to Santander's concealment of its wrongdoing (§74 above), then Plaintiffs seek a Class Period from June 30, 2014 through the date of class certification.

70. Plaintiffs reserve the right to amend the Class Definition and/or the Class Period to conform with facts revealed in discovery.

71. Plaintiffs believe that there are at least 39 members of this (putative) class. This class is sufficiently numerous that joinder of all members would be impractical.

72. The classes and any trial would be readily manageable as the claims relate to standardized policies and practices and notices based on standardized template forms.

73. Questions of law which are common to all Plaintiffs and Class Members include but are not limited to the following:

- (a) Whether each Class Member had his/her vehicle repossessed in Pennsylvania;
- (b) Whether Santander was the secured creditor of each Class Member's subject vehicle loan at the time of repossession;
- (c) Whether the subject Notice of Repossession complied with the UCC, independently, and MVSFA *in pari materia*; and,
- (d) What the minimum statutory damages for the class is.

74. Questions of fact which are common to all Plaintiffs and Class Members include but are not limited to the following:

- (a) Whether Santander repossessed the financed vehicle of each class member;
- (b) Whether the storage expense itemized on the Notice of Repossession sent to Representative Plaintiffs and (putative) class members, constituted a reasonable expense (given that it was not incurred by Santander) and/or whether its inclusion in the Notices of Repossession rendered the redemption amount stated therein to be systematically inaccurate;
- (c) Whether, as of the date of the Notice of Repossession sent to the Representative Plaintiffs and (putative) class members, Santander had paid or was obligated to pay the amount of the Storage Expense listed on each Notice of Repossession; and,

- (d) Whether the Redemption Fee and/or Personal Property Fee constituted reasonable expenses (given that they were not incurred by Santander), and whether the failure to list the Redemption and/or Personal Property Fee in the Notices of Repossession rendered the redemption amount stated therein to be systematically inaccurate;

75. The Representative Plaintiffs' claims are typical of those of the class. All are based on the same factual and/or legal theories. Santander was the secured creditor on Plaintiffs' and Class Members' consumer vehicle loans. Santander declared a default on all Plaintiffs' and Class Members' loans. Additionally, Santander repossessed their vehicle(s), and sent Notices of Repossession to them based on the same or substantially similar forms and with the same or substantially similar deficiencies.

76. Plaintiffs will fairly and adequately represent and protect the interests of the classes.

77. The Plaintiffs are represented by counsel competent and experienced in both consumer protection and class action litigation.

78. Plaintiffs have no conflict with Class Members in the maintenance of this action, and their respective claims are identical to or at least typical of claims of the Class Members.

79. A class action is superior to other available means for the fair and efficient adjudication of this controversy since individual joinder of all Class Members is impracticable. This class action represents the fairest and most efficient method of adjudicating this controversy.

80. Plaintiffs and the Class Members have substantive claims that are similar, if not identical, in all material respects and will require proof of the same kind and application of the same law.

81. Santander has acted or refused to act on grounds generally applicable to the class.

82. There are no unusual legal or factual issues that would cause management problems not normally and routinely handled in class actions.

83. Minimum statutory damages can be calculated easily and with mathematical precision and can be easily determined, *inter alia*, by accessing the electronically stored records of Santander.

84. Because most Class Members either do not know that Santander did not meet the consumer notice requirements related to their vehicle repossession, could not economically justify the effort and expense required to litigate their individual claims, or have little interest in or ability to prosecute an individual action, due to the complexity of the issues involved in this litigation, a class action is the most practical proceeding in which they can recover.

85. The questions of law and fact common to the class predominate over any questions affecting only individual members.

86. The prosecution of several separate actions by the members of the class would create a risk of inconsistent or varying adjudications. A class action will serve the goals of judicial economy and ensure uniformity of decision.

#### **COUNT 1 – UCC**

87. Plaintiffs incorporate all preceding paragraphs as if fully set forth herein.

88. Santander systematically violated the UCC in the following ways:

- (a) The Notices of Repossession listed a fictitious Storage Expense as part of the itemized expenses comprising the purported total amount required to redeem the repossessed vehicle, which rendered the amount required to redeem inaccurate; and/or,
- (b) The Notices of Repossession failed to disclose a Redemption Fee that were required in order for the Representative Plaintiffs and (putative) class members to redeem their vehicle; and/or,
- (c) The Notices of Repossession failed to disclose that there would be a Personal Property Fee as a precondition to redeem their vehicle and/or to recover their personal belongings left in the repossessed vehicle and/or to redeem their vehicle.

89. Santander permitted (and ratified) the conduct of its repossession agents, and auctions to assess a Redemption Fee and/or a Personal Property Fee on the Representative Plaintiffs and (putative) class members in order for them to redeem their vehicle and/or get their personal property left in the repossessed vehicle (if they so desired), even though neither were disclosed in the Notices of Repossession, and even though the expenses were never incurred by Santander.

90. These systematic violations, independently and/or collectively, were commercially unreasonable.

91. As a result of the foregoing, Santander violated the following UCC statutes [13 Pa.C.S. §9610(b), 13 Pa. C.S.A. §1304, §9610(b), §9614, §9615(a)(1), and §9623(b)].

92. The sample form Notice of Repossession a/k/a Notification of Disposition provided by the UCC at 13 Pa. C.S.A. 9614(3) includes explicit language which shows that the secured creditor is only permitted to be reimbursed for actual expenses incurred.

**COUNT 2 – UCC and MVSFA in *Pari Materia***

93. Plaintiffs incorporate all preceding paragraphs as if fully set forth herein.

94. Santander violated the UCC and MVSFA in *pari materia* in the following ways:

- (a) The Notices of Repossession listed a fictitious Storage Expense as part of the itemized expenses comprising the purported total amount required to redeem the repossessed vehicle, which rendered the amount required to redeem inaccurate; and/or,
- (b) The Notices of Repossession failed to disclose a Redemption Fee that were required in order for the Representative Plaintiffs and (putative) class members to redeem their vehicle; and/or,
- (c) The Notices of Repossession failed to disclose that there would be a Personal Property Fee as a precondition to redeem their vehicle and/or to recover their personal belongings left in the repossessed vehicle and/or to

redeem their vehicle.

95. Santander permitted (and ratified) the conduct of its repossession agents, and auctions to assess a Redemption Fee and/or a Personal Property Fee on the Representative Plaintiffs and (putative) class members in order for them to redeem their vehicle and/or get their personal property left in the repossessed vehicle (if they so desired), even though neither were disclosed in the Notices of Repossession, and even though the expenses were never incurred by Santander.

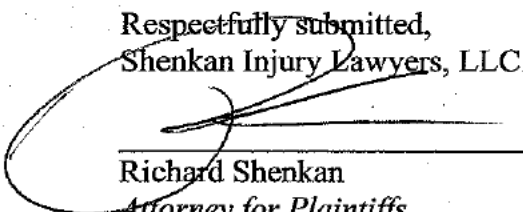
96. These systematic violations, independently and/or collectively, were commercially unreasonable.

97. As a result of the foregoing, Santander violated the following UCC statutes [13 Pa.C.S. §9610(b), 13 Pa. C.S.A. §1304, §9610(b), §9615(a)(1), and §9623(b)], *in pari materia* with 12 Pa.C.S.A. §6254(c)(2) and §6256.

WHEREFORE, Plaintiffs, individually and on behalf of the Class, request that this Honorable Court:

- A. Certify the requested class and appoint the undersigned as class counsel;
- B. Award minimum statutory compensatory damages as provided by 13 Pa. C.S. §9625(c)(2) to each member of the Notice of Repossession Class; and,
- C. Grant any other relief, if any, the Court deems just.

Respectfully submitted,  
Shenkan Injury Lawyers, LLC.

  
Richard Shenkan  
Attorney for Plaintiffs



Santander Consumer USA Inc.  
P.O. Box 961245  
Fort Worth, TX 76161-1245  
(888) 222-4227

**NOTICE OF REPOSSESSION AND  
NOTICE OF OUR PLAN TO SELL PROPERTY**

Date: 06/16/2017

Hugh Kelly  
114 OPAL CT  
CRANBERRY TWP, PA 16066-6354

CHRISTINE E KELLY  
114 OPAL CT  
CRANBERRY TWP, PA 16066

**SENT VIA CERTIFIED MAIL**

Re: Account No. 30000175073161000  
Retail Installment Sale or Credit Sale Contract or Note and Security Agreement dated 02/26/2011  
2006 // CHRYSLER // PACIFICA-V6 // VIN 2A8GF68416R657517

Dear Hugh Kelly:

We have your Vehicle because you broke promises in our Agreement.

We will sell the Vehicle at the expiration of fifteen (15) days from the date we mail this notice (shown above) at a private sale sometime after 07/05/2017. A sale could include a lease or license.

The money we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you *will* still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

You can get the Vehicle back at any time (redeem it) before we sell it by paying Santander Consumer USA Inc., 5201 Rufe Snow Dr., Suite 400, North Richland Hills, TX 76180-6036 the total amounts itemized below **PLUS** any amounts incurred by us **after the date of this Notice**. If you were in default fifteen (15) days or less at the time we repossessed the Vehicle, you must pay the unpaid balance, plus the amount of any accrued default charges, plus any other amount lawfully due under the Agreement, less a rebate of unearned finance charges. If you were in default more than fifteen (15) days before we repossessed the Vehicle, you will also have to pay the costs of retaking, repairing, repossessing, and storing the Vehicle.

As of the date of this notice, you can redeem the Vehicle by paying us the following:

1) Unpaid balance:	\$4,019.06
2) Accrued interest:	\$129.49
3) Unpaid default charges due:	\$287.81
4) Repossession expenses:	\$385.00
5) Storage expenses incurred through date of this Notice (@ \$25.00 per day)	\$25.00
6) Other: [specify] _____	\$0.00
Total sum required to redeem as of date of this Notice *	\$4,846.36

\* The total sum required to redeem may change based on charges that are incurred following the date of this letter or credits that are received and applied to the amount due. Please call on the date of redemption to find out the exact amount.

You must also pay to us any payments or expenses that may become due or be incurred **after the date of this Notice**.



If you want us to explain to you in writing how we have figured the amount that you owe us, you may call us at (888) 222-4227 or write us at P.O. Box 961245, Fort Worth, TX 76161-1245 and request a written explanation.

If you need more information about the sale call us at (888) 222-4227 or write us at the above address.

The Vehicle is stored at:

A L Recovery-2189 North Main St 2189 North Main St Hubbard, OH 44425

Any personal property we found in the Vehicle will be held by us for thirty (30) days from the date set forth at the top of this Notice. This property will be held at the address listed above for these thirty (30) days and may be redeemed between the hours of 9:00 AM local time and 5:00 PM local time. Please be advised that any property we find that is not claimed within thirty (30) days from the date of this Notice may be disposed of in the same manner as the Vehicle.

Payment should be directed to and notice may be served upon Reinstatement Dept., Santander Consumer USA Inc., 5201 Rufe Snow Dr., Suite 400, North Richland Hills, TX 76180-6036.

We are sending this notice to the following other people who have an interest in the Vehicle, or who owe money under your Agreement: Hugh Kelly.

Sincerely,

Santander Consumer USA Inc.

NOTICE: If you are entitled to the protections of the United States Bankruptcy Code (11 U.S.C. §§ 362; 524) regarding the subject matter of this letter, the following applies to you: THIS COMMUNICATION IS NOT AN ATTEMPT TO COLLECT A DEBT FROM YOU PERSONALLY IN VIOLATION OF THE BANKRUPTCY CODE AND IS FOR INFORMATIONAL PURPOSES ONLY.

SANTANDER CONSUMER USA IS A DEBT COLLECTOR UNLESS THE NOTICE ABOVE APPLIES TO YOU. THIS IS AN ATTEMPT TO COLLECT YOUR DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

Santander Consumer USA can report information about your account to credit bureaus. Late payments, missed payments or other defaults on your account may be reflected in your credit report.

P.O. Box 961245, Fort Worth, TX 76161-1245 • [www.SantanderConsumerUSA.com](http://www.SantanderConsumerUSA.com) • 888.222.4227





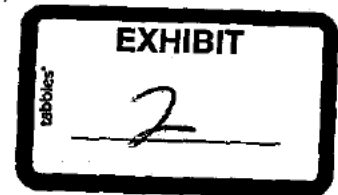
Santander Consumer USA Inc.  
P.O. Box 961245  
Fort Worth, TX 76161-1245  
(888) 222-4227

**NOTICE OF REPOSSESSION AND  
NOTICE OF OUR PLAN TO SELL PROPERTY**

Date: 06/16/2017

CHRISTINE E KELLY  
114 OPAL CT  
CRANBERRY TWP, PA 16066-6354

Hugh Kelly  
114 OPAL CT  
CRANBERRY TWP, PA 16066



**SENT VIA CERTIFIED MAIL**

Re: Account No. 30000175073161000  
Retail Installment Sale or Credit Sale Contract or Note and Security Agreement dated 02/26/2011  
2006 // CHRYSLER // PACIFICA-V6 // VIN 2A8GF68416R657517

Dear CHRISTINE E KELLY:

We have your Vehicle because you broke promises in our Agreement.

We will sell the Vehicle at the expiration of fifteen (15) days from the date we mail this notice (shown above) at a private sale sometime after 07/05/2017. A sale could include a lease or license.

The money we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you will still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

You can get the Vehicle back at any time (redeem it) before we sell it by paying Santander Consumer USA Inc., 5201 Rufe Snow Dr., Suite 400, North Richland Hills, TX 76180-6036 the to all amounts itemized below **PLUS** any amounts incurred by us **after the date of this Notice**. If you were in default fifteen (15) days or less at the time we repossessed the Vehicle, you must pay the unpaid balance plus the amount of any accrued default charges, plus any other amount lawfully due under the Agreement, less a rebate of unearned finance charges. If you were in default more than fifteen (15) days before we repossessed the Vehicle, you will also have to pay the costs of retaking, repairing, repossessing, and storing the Vehicle.

As of the date of this notice, you can redeem the Vehicle by paying us the following:

1) Unpaid balance:	\$4,019.06
2) Accrued Interest:	\$129.49
3) Unpaid default charges due:	\$287.81
4) Repossession expenses:	\$385.00
5) Storage expenses incurred through date of this Notice (@ \$25.00 per day)	\$25.00
6) Other: [specify] _____	\$0.00
Total sum required to redeem as of date of this Notice *	\$4,846.36

\* The total sum required to redeem may change based on charges that are incurred following the date of this letter or credits that are received and applied to the amount due. Please call on the date of redemption to find out the exact amount.

You must also pay to us any payments or expenses that may become due or be incurred **after the date of this Notice**.



If you want us to explain to you in writing how we have figured the amount that you owe us, you may call us at (888) 222-4227 or write us at P.O. Box 961245, Fort Worth, TX 76161-1245 and request a written explanation.

If you need more information about the sale call us at (888) 222-4227 or write us at the above address.

The Vehicle is stored at:

A L Recovery-2189 North Main St 2189 North Main St Hubbard, OH 44425

Any personal property we found in the Vehicle will be held by us for thirty (30) days from the date set forth at the top of this Notice. This property will be held at the address listed above for these thirty (30) days and may be redeemed between the hours of 9:00 AM local time and 5:00 PM local time. Please be advised that any property we find that is not claimed within thirty (30) days from the date of this Notice may be disposed of in the same manner as the Vehicle.

Payment should be directed to and notice may be served upon Reinstatement Dept., Santander Consumer USA Inc., 5201 Rufe Snow Dr., Suite 400, North Richland Hills, TX 76180-6036.

We are sending this notice to the following other people who have an interest in the Vehicle, or who owe money under your Agreement: Hugh Kelly.

Sincerely,

Santander Consumer USA Inc.

**NOTICE:** If you are entitled to the protections of the United States Bankruptcy Code (11 U.S.C. §§ 362; 524) regarding the subject matter of this letter, the following applies to you: THIS COMMUNICATION IS NOT AN ATTEMPT TO COLLECT A DEBT FROM YOU PERSONALLY IN VIOLATION OF THE BANKRUPTCY CODE AND IS FOR INFORMATIONAL PURPOSES ONLY.

**SANTANDER CONSUMER USA IS A DEBT COLLECTOR UNLESS THE NOTICE ABOVE APPLIES TO YOU. THIS IS AN ATTEMPT TO COLLECT YOUR DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.**

Santander Consumer USA can report information about your account to credit bureaus. Late payments, missed payments or other defaults on your account may be reflected in your credit report.

P.O. Box 961245, Fort Worth, TX 76161-1245 • [www.SantanderConsumerUSA.com](http://www.SantanderConsumerUSA.com) • 888.222.4227

© 2014 Santander Consumer USA Inc. All rights reserved.

Page 2 of 2

9307 1100 1170 0917 9097 35

PA-NOI-420  
(Rev. 081814)



Santander Consumer USA  
P.O. Box 961245  
Fort Worth, TX 76161-1245  
(888) 222-4227

### Explanation of Calculation of Surplus or Deficiency

Date: 06/24/2018

HUGH KELLY  
114 OPAL CT  
CRANBERRY TWP, PA 16066-6354



#### SENT VIA CERTIFIED MAIL

Re: Account No. 30000175073161000  
Retail Installment Sale or Credit Sale Contract dated 02/26/2011 ("Agreement")  
2006 // CHRYSLER // Pacifica // VIN 2A8GF68416R657517 ("Vehicle")

Dear Hugh Kelly:

Please be advised that we disposed of the Vehicle on 06/05/2018. The proceeds of the sale have been applied as explained below. If you financed a premium for credit insurance under your Agreement, you may be entitled to a refund of any unearned portion of the premium.

1.	Aggregate unpaid balance of Agreement as of 06/24/2018		\$4,188.23		
2.	Rebate of unearned finance charges as of 06/24/2018, if any	-	\$0.00		
3.	Accrued and unpaid late fees	+	\$287.81		
4.	Net balance due (1 minus 2 plus 3)			=	\$4,476.04
5.	Gross proceeds from the sale of the Vehicle	-	\$800.00		
6.	Subtotal after deducting proceeds of sale (4 minus 5)			=	\$3,676.04
7.	Costs of retaking the Vehicle		\$385.00		
8.	Costs of storing the Vehicle	+	\$0.00		
9.	Costs of preparing the Vehicle for sale	+	\$0.00		
10.	Costs of selling the Vehicle	+	\$236.50		
11.	Attorneys' fees and court costs	+	\$0.00		
12.	Other costs:	+	\$0.00		
13.	Total Costs (7 through 12)			=	\$621.50
14.	Credit: Rebate of unearned insurance premiums		\$0.00		
15.	Credit:	+	\$0.00		
16.	Credit:	+	\$0.00		
17.	Total Credits (14 through 16)			=	\$0.00
18.	Balance due/surplus after sale (6 plus or minus 13, plus or minus 17)			=	\$4,297.54

(The checked box applies to you).

- ☒ Deficiency balance for which you are liable and for which demand\* is hereby made \$4,297.54. \*\*
- ☐ Surplus balance to be remitted to you \$0.00. \*\*
- ☐ Surplus balance paid to a subordinate party \$0.00. \*\*

\*\*Future debits, credits, charges, finance charges or interest, rebates or other expenses may affect this amount.



If you need more information about the transaction, contact us: Santander Consumer USA, P.O. Box 961245, Fort Worth, TX 76161-1245, (888) 222-4227.

Sincerely,

Santander Consumer USA

**\*NOTICE:** If you are entitled to the protections of the United States Bankruptcy Code (11 U.S.C. §§ 362; 524) regarding the subject matter of this letter, the following applies to you: THIS COMMUNICATION IS NOT AN ATTEMPT TO COLLECT A DEBT FROM YOU PERSONALLY IN VIOLATION OF THE BANKRUPTCY CODE AND IS FOR INFORMATIONAL PURPOSES ONLY.

**SANTANDER CONSUMER USA IS A DEBT COLLECTOR UNLESS THE NOTICE ABOVE APPLIES TO YOU. THIS IS AN ATTEMPT TO COLLECT YOUR DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.**

Santander Consumer USA can report information about your account to credit bureaus. Late payments, missed payments, or other defaults on your account may be reflected in your credit report.





Santander Consumer USA  
P.O. Box 961245  
Fort Worth, TX 76161-1245  
(888) 222-4227

### Explanation of Calculation of Surplus or Deficiency

Date: 06/24/2018

CHRISTINE E KELLY  
114 OPAL CT  
CRANBERRY TWP, PA 16066-6354



#### SENT VIA CERTIFIED MAIL

Re: Account No. 30000175073161000  
Retail Installment Sale or Credit Sale Contract dated 02/26/2011 ("Agreement")  
2006 // CHRYSLER // Pacifica // VIN 2A8GF68416R657517 ("Vehicle")

Dear CHRISTINE E KELLY:

Please be advised that we disposed of the Vehicle on 06/05/2018. The proceeds of the sale have been applied as explained below. If you financed a premium for credit insurance under your Agreement, you may be entitled to a refund of any unearned portion of the premium.

1.	Aggregate unpaid balance of Agreement as of 06/24/2018		\$4,188.23		
2.	Rebate of unearned finance charges as of 06/24/2018, if any	-	\$0.00		
3.	Accrued and unpaid late fees	+	\$287.81		
4.	Net balance due (1 minus 2 plus 3)			=	\$4,476.04
5.	Gross proceeds from the sale of the Vehicle	-	\$800.00		
6.	Subtotal after deducting proceeds of sale (4 minus 5)			=	\$3,676.04
7.	Costs of retaking the Vehicle		\$385.00		
8.	Costs of storing the Vehicle	+	\$0.00		
9.	Costs of preparing the Vehicle for sale	+	\$0.00		
10.	Costs of selling the Vehicle	+	\$236.50		
11.	Attorneys' fees and court costs	+	\$0.00		
12.	Other costs:	+	\$0.00		
13.	Total Costs (7 through 12)			=	\$621.50
14.	Credit: Rebate of unearned insurance premiums		\$0.00		
15.	Credit:	+	\$0.00		
16.	Credit:	+	\$0.00		
17.	Total Credits (14 through 16)			=	\$0.00
18.	Balance due/surplus after sale (6 plus or minus 13, plus or minus 17)			=	\$4,297.54

(The checked box applies to you).

- ☒ Deficiency balance for which you are liable and for which demand\* is hereby made \$4,297.54. \*\*  
☐ Surplus balance to be remitted to you \$0.00. \*\*  
☐ Surplus balance paid to a subordinate party \$0.00. \*\*

\*\*Future debits, credits, charges, finance charges or interest, rebates or other expenses may affect this amount.



If you need more information about the transaction, contact us: Santander Consumer USA, P.O. Box 961245, Fort Worth, TX 76161-1245, (888) 222-4227.

Sincerely,

Santander Consumer USA

**\*NOTICE:** If you are entitled to the protections of the United States Bankruptcy Code (11 U.S.C. §§ 362; 524) regarding the subject matter of this letter, the following applies to you: THIS COMMUNICATION IS NOT AN ATTEMPT TO COLLECT A DEBT FROM YOU PERSONALLY IN VIOLATION OF THE BANKRUPTCY CODE AND IS FOR INFORMATIONAL PURPOSES ONLY.

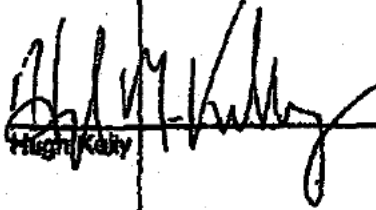
**SANTANDER CONSUMER USA IS A DEBT COLLECTOR UNLESS THE NOTICE ABOVE APPLIES TO YOU. THIS IS AN ATTEMPT TO COLLECT YOUR DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.**

Santander Consumer USA can report information about your account to credit bureaus. Late payments, missed payments, or other defaults on your account may be reflected in your credit report.



**VERIFICATION**

I verify that the averments of fact made in the foregoing complaint is true and correct and based upon my personal knowledge, information and belief. I understand that averments of fact are made subject to the penalties of 18 PA C.S. Section 4804 relating to unsworn falsification to authorities.

  
\_\_\_\_\_  
Hugh Kelly

**VERIFICATION**

I verify that the averments of fact made in the foregoing complaint is true and correct and based upon my personal knowledge, information and belief. I understand that averments of fact are made subject to the penalties of 18 PA C.S. Section 4904 relating to unsworn falsification to authorities.

  
Christine Kelly