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6 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
7 **IN AND FOR THE COUNTY OF MARICOPA**

8 STATE OF ARIZONA, *ex rel.* TERRY
9 GODDARD, Attorney General,

10 Plaintiff,

11 vs.

12 PCR VENTURE OF PHOENIX, LLC dba
13 PAYLESS CAR RENTAL

14 Defendant

Case No.: CV2009-016742

CONSENT JUDGMENT

(Assigned to the Honorable John A. Buttrick)

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16 The State of Arizona filed a complaint alleging violations of the Arizona Consumer
17 Fraud Act, A.R.S. § 44-1521, *et seq.* The Defendant, PCR Venture of Phoenix, LLC dab
18 Payless Car Rental (hereinafter "PCR") has been fully advised of its right to trial in this matter
19 and has waived same and has admitted jurisdiction of this Court. Defendant PCR stipulates,
20 solely for the purpose of settling this proceeding, that the Court may enter the following
21 Findings of Fact, Conclusions of Law and Judgment.

22 **FINDINGS OF FACT**

23 1. Plaintiff is the State of Arizona, *ex rel.* Terry Goddard, the Attorney General
24 ("State"), who is charged with the enforcement of the Arizona Consumer Fraud Act, A.R.S. §
25 44-1521, *et seq.*

26 2. Defendant PCR is a foreign limited liability corporation, domiciled in Delaware

1 and registered in the State of Arizona. The executive offices of PCR are located at 2350-N
2 34th Street North, Suite 140 in St. Petersburg, Florida.

3 **DEFENDANT'S BUSINESS PRACTICES**

4 3. PCR maintains a rental car facility at Sky Harbor Airport in Phoenix, Arizona.
5 Consumers interested in leasing a vehicle from PCR in Phoenix, Arizona can do so at this
6 location.

7 4. PCR requires renters to sign a standard form contract in order to lease a vehicle.
8 PCR gives renters the option of purchasing extra coverage on the rental vehicle, including
9 collision damage waiver ("CDW"), personal effects coverage, personal accident
10 insurance/coverage and/or supplemental liability insurance.

11 5. On occasion, PCR representatives have told renters that CDW pays for any and all
12 damage that might occur to the vehicle during the renters' rental period.

13 6. From time to time, vehicles leased by PCR to consumers sustain windshield
14 damage, such as chips in the glass. Oftentimes windshield chips occur when small stones,
15 thrown by the tires of the vehicle driving in front of the leased vehicle, hit the windshield.

16 7. PCR asserts claims against its renters and/or their insurance companies to replace
17 the windshield once it is damaged. PCR frequently had the windshields replaced by D.V. Auto
18 Center located at 21840 N. 19th Avenue in Phoenix, Arizona.

19 8. On occasion, PCR asserted claims against renters for windshield damage but did
20 not replace the windshield. In some instances, PCR leased the vehicle to subsequent renters
21 without advising them of the pre-existing damage to the windshield. PCR then asserted damage
22 claims against the subsequent renters, actually or constructively knowing that (1) the windshield
23 previously was damaged and (2) damage claims also were asserted against the renter who was in
24 possession of the vehicle at the time that the damage occurred.

25 9. In some instances, PCR altered invoices from D.V. Auto Center, changing dates,
26 vehicle identification numbers and repair invoice numbers in order to perpetuate consumer

1 fraud. In the instances, PCR submitted the altered invoices to its renters and/or their insurance
2 companies in order to obtain payment for replacement of the windshield when, in fact, PCR did
3 not replace the windshield. In the instances, PCR thus collected or attempted to collect monies
4 both from the renter who was in possession of the vehicle at the time the windshield was
5 damaged as well as subsequent renters who had no responsibility for the windshield damage.

6 10. In addition to charging renters and/or their insurance companies for the cost of
7 replacing windshields, PCR asserted claims against some renters for loss of use of the vehicles
8 during the time that the windshields allegedly were being replaced. In some instances, PCR
9 over-charged consumers for loss of use of the vehicle.

10 11. PCR referred some of its files to Subrogation Management Team, LTD of San
11 Antonio, Texas for collection of the windshield replacement claims. In some instances, PCR
12 requested payment of the administration fees from renters who had no responsibility for the
13 windshield damage.

14 CONCLUSIONS OF LAW

15 1. The acts of Defendant PCR, including, without limitation, those set forth in
16 Paragraphs 5, 8, 9, 10 and 11 above, constitute deceptive acts and practices, fraud, false
17 pretenses, false promises, misrepresentations and the concealment, omission and suppression of
18 material facts in connection with the leasing of vehicles to consumers in violation of the
19 Arizona Consumer Fraud Act, A.R.S. § 44-1522, *et seq.*

20 2. While engaging in the acts and practices set forth in Paragraphs 5, 8, 9, 10 and 11
21 above, the State alleges that PCR was, at all times, acting willfully as defined by A.R.S. § 44-
22 1531(B).

23 ORDER

24 NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

25 1. Defendant PCR, its officers, agents, servants and employees and all persons in
26 active concert or participation with them who receive actual notice of this order by personal

1 service or otherwise, are prohibited from:

2 A. Engaging in any deception, deceptive act or practice, fraud, false pretense,
3 false promise, misrepresentation or concealment, suppression or omission of any material fact
4 with intent that others rely upon such concealment, suppression or omission;

5 B. Asserting or collecting any claim for physical damage to its vehicles from any
6 renter of said vehicles unless PCR can establish that the damage occurred during that particular
7 renter's rental period. PCR cannot assert or collect any claim for physical damage unless PCR:

8 (1) provides the renter an opportunity to conduct a complete inspection of
9 the vehicle before the renter drives the vehicle from PCR's rental car facility, and

10 (2) obtains the signature of the renter on an inspection sheet which allows
11 the renter to note any and all damage to the vehicle, including its windshield, before leaving
12 PCR's rental car facility.

13 C. Asserting or collecting any claim for physical damage to a vehicle from any
14 renter in an amount that exceeds the actual cost of repair, including all anticipated discounts or
15 price reductions, as well as the actual cost of loss of use, diminished value and administrative
16 fees incurred in the processing of a claim.

17 D. Asserting or collecting a claim from any renter for loss of use of a vehicle
18 which sustained windshield damage if the windshield of the vehicle can be repaired and
19 returned to PCR's rental facility within eight (8) hours.

20 E. Misrepresenting that collision damage waiver relieves renters of liability for
21 any and all damage to the vehicle if CDW does not relieve renters of liability for windshield
22 damage. If CDW does not, in fact, provide coverage for windshield damage, PCR must advise
23 renters, in writing, of this exclusion.

24 2. The State is awarded judgment against PCR for restitution, payable to all renters,
25 insurers, corporations and other legal entities from which PCR received payment for windshield
26 replacement and which PCR cannot affirmatively prove that the damage to the windshield

1 occurred during the period of time that the renter was in the possession of the vehicle. The
2 restitution amount shall include:

3 (1) all monies paid by the renter for the replacement of the windshield;

4 (2) all monies collected by Defendant PCR for loss of use of the vehicle, and

5 (3) all monies collected by Defendant PCR for any and all administrative fees.

6 3. PCR shall provide to the Attorney General a list of the names, addresses and
7 restitution amount of all renters, insurers, corporations and/or other legal entities who
8 Defendant determines is entitled to restitution. The State shall, within fourteen (14) days
9 thereafter, provide the names of any additional renters/agents whom the State believes are
10 entitled to restitution. PCR may dispute the eligibility of a renter/agent to receive restitution by
11 providing written documentation to the Attorney General that sufficiently establishes that the
12 renter is responsible for the damage to the windshield and/or that the renter/agent did not
13 reimburse PCR for the cost of the windshield. Said documentation must be provided by PCR
14 within fourteen (14) days of receiving the list of additional renters/agents from the State. Any
15 disputes relating to the eligibility of a renter or his/her agent to receive restitution shall be
16 resolved by this Court.

17 4. Defendant PCR shall provide to the State a check, payable to the Office of the
18 Attorney General, in an amount equal to the agreed upon restitution within thirty (30) days of
19 the entry of this Consent Judgment by the Maricopa County Superior Court. The Attorney
20 General shall disburse said funds to the eligible renters and/or their agents. In the event that the
21 Attorney General cannot locate the renters/agents after reasonable efforts to do so, the funds
22 shall be retained by the State and deemed costs and fees, pursuant to A.R.S. § 44-1534. If any
23 restitution check issued by the Attorney General has not cleared the State's account within
24 ninety (90) days of the date of issuance, the check shall revert to the Attorney General as
25 recovery of costs and fees, pursuant to A.R.S. § 44-1534.
26

1 5. In addition to the payment of restitution as provided above, PCR agrees to provide
2 restitution to any consumer who (1) leased a vehicle from PCR, (2) paid monies to PCR for the
3 replacement of a windshield that was damaged through no fault of said consumer and (3) files a
4 complaint with the Arizona Attorney General's Office on or before June 30, 2009

5 6. This Consent Judgment shall not operate as a bar to any claim against PCR by any
6 person under any provision of law, except that the acceptance by a person of restitution under
7 this judgment shall serve as an offset against any monetary recovery obtained from PCR arising
8 out of any action brought by the person based upon those acts and practices described in
9 paragraphs 1 through 12 of the Findings of Fact.

10 7. Plaintiff is awarded judgment against PCR for civil penalties in the amount of One
11 Hundred Thousand Dollars (\$100,000.00) pursuant to A.R.S. § 44-1531. PCR will pay
12 Fourteen Thousand, Two Hundred Dollars (\$14,200.00) to the State of Arizona within thirty
13 (30) days from the entry of this Consent Judgment by the Maricopa County Superior Court.
14 The remaining balance shall be payable in six (6) monthly payments of Fourteen Thousand,
15 Three Hundred Dollars (\$14,300.00) each.

16 8. The monthly payments are to be delivered or mailed, postage prepaid, to the
17 Attorney General's Office, 1275 W. Washington, Phoenix, Arizona 85007 on or before the 1st
18 of each month, beginning June 1, 2009. If all payments are made in a timely fashion, the
19 judgment shall bear no interest or collection costs. Failure to make a payment within ten (10)
20 days of the date due is a default and the entire unpaid balance of One Hundred Thousand
21 Dollars (\$100,000.00) set forth above, plus interest at a rate of ten percent (10%) from the date
22 of the entry of the judgment, and costs of collection, less any amount previously paid shall be
23 immediately due and owing.

24 9. Jurisdiction is retained by this Court for the purpose of entertaining an application
25 by the State for the enforcement of this Judgment.
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May 29, 2009
Date

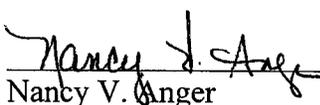
PCR Venture of Phoenix, LLC

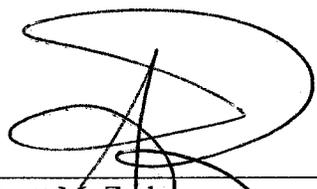
By: 

Position: MANAGER

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