

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

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LUIS MANUEL MORA, individually,)	1:08-cv-1453 OWW GSA
and on behalf of the class,)	
)	ORDER AFTER SCHEDULING
Plaintiff,)	CONFERENCE
)	
v.)	Further Scheduling
)	Conference Date: 11/4/09
HARLEY-DAVIDSON CREDIT CORP., a)	8:15 Ctrm. 3
corporation and DOES 1 through)	
10, inclusive,)	
)	
Defendants.)	
)	
)	

I. Date of Scheduling Conference.

July 31, 2009.

II. Appearances Of Counsel.

William M. Krieg & Associates by Patrick C. McManaman, Esq.,
appeared on behalf of Plaintiff.

Reed Smith LLP by Heather B. Hoesterey, Esq., appeared on
behalf of Defendants.

III. Summary of Pleadings.

Plaintiff's Summary

1. This case involves Plaintiff's purchase of a 2006
Harley-Davidson motorcycle on October 4, 2006. It is undisputed

1 that during the course of Plaintiff's purchase transaction,
2 Plaintiff dealt only with the selling dealer regarding the
3 purchase and finance of the vehicle. The conditional sales
4 contract was assigned to Harley-Davidson Credit Corp. ("HDCC").
5 Plaintiff alleges that the motorcycle was defective and
6 unrepaired after a reasonable number of repair attempts.
7 Plaintiff voluntarily surrendered the motorcycle to HDCC in about
8 August, 2007. In his Complaint for Restitution and Damages,
9 Plaintiff and the class allege Defendant violated Rees-Levering
10 Automobile Sales Finance Act, Civil Code § 2981, et seq., and
11 Business and Professions Code § 17200, et seq. Plaintiff and the
12 class seek restitution, damages, and such other legal and
13 equitable relief as allowed by law, and attorneys' fees and
14 costs.

15 Defendant's Summary

16 2. Plaintiff did not purchase the motorcycle pursuant to a
17 conditional sales contract, rather, Plaintiff financed his
18 motorcycle purchase by obtaining a direct loan from HDCC's
19 subsidiary, Eaglemark Savings Bank ("ESB") and ESB assigned its
20 rights to HDCC. Plaintiff surrendered the motorcycle and HDCC
21 provided Plaintiff with a Notice of Intent to Dispose of
22 Repossessed Collateral ("Notice"). After the sale of the
23 motorcycle, HDCC attempted to collect from Plaintiff, but
24 Plaintiff failed to pay the remaining deficiency due on the loan.
25 HDCC has filed an answer and affirmative defenses to Plaintiff's
26 Complaint. In relevant part, HDCC denies that the Notice
27 provided to Plaintiff failed to comply with applicable law and
28 denies that Plaintiff's claims are appropriate for class

1 treatment.

2 IV. Orders Re Amendments To Pleadings.

3 1. The parties do not anticipate amending the pleadings at
4 this time.

5 2. The Defendants, Does 1-10 inclusive, are ORDERED
6 DISMISSED WITHOUT PREJUDICE, pursuant to agreement of the
7 parties.

8 V. Factual Summary.

9 A. Admitted Facts Which Are Deemed Proven Without Further
10 Proceedings.

11 1. Luis Manuel Mora purports to bring this case on
12 behalf of a class as yet to be defined.

13 2. Harley Davidson Credit Corp., is a Nevada
14 corporation, and doing business in California as a lender.

15 3. Harley Davidson Credit Corp. is an assignee of the
16 loan at dispute in this case which is secured by a Harley
17 Davidson motorcycle.

18 4. The original lender and loan originator is
19 Eaglemark Savings Bank.

20 5. Plaintiff purchased a 2006 Harley Davidson
21 motorcycle on or about October 4, 2006.

22 6. Plaintiff claims that the motorcycle was defective
23 and unrepaired after a number of attempts.

24 7. Plaintiff surrendered the motorcycle to Harley
25 Davidson Credit Corp. in or around August of 2007.

26 8. Harley Davidson Credit Corp. provided Plaintiff
27 with a Notice of Intent to Dispose of Repossessed Collateral.

28 9. The motorcycle was sold by Harley Davidson Credit

1 Corp. and an alleged deficiency remains due, owing and unpaid
2 representing the difference between sale proceeds and the unpaid
3 balance of the loan.

4 B. Contested Facts.

5 1. All remaining facts are contested.

6 VI. Discovery Plan and Cut-Off Date.

7 1. After discussion concerning class certification issues
8 and merits issues, it has been determined that the most efficient
9 way to approach discovery in this case is as follows.

10 2. Initial disclosures shall be made on or before August
11 14, 2009.

12 3. The parties have ninety (90) days to complete
13 preliminary discovery on issues that bear on the suitability of
14 the case for maintenance as a class action, the facts and
15 circumstances surrounding the individual Plaintiff's transaction.

16 4. A further Scheduling Conference shall be held on
17 November 4, 2009, at 8:15 a.m. at which time the parties shall
18 present their respective positions concerning the future schedule
19 for the action.

20
21 IT IS SO ORDERED.

22 Dated: July 31, 2009

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE