

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Case No. 09-cv-01159-REB-CBS

SALLY ANN MAEZ,

Plaintiff,

v.

SPRINGS AUTOMOTIVE GROUP, LLC, a Colorado limited liability corporation,

Defendant.

ORDER DIRECTING AMENDED NOTICE TO CLASS

Blackburn, J.

The matter before me is **Plaintiff's Unopposed Motion for Updated Class Notices** [#83]¹ filed March 25, 2011. I grant the motion and approve the amended form of notice appended to this order as Exhibit A, as well as the amended opt-out form appended as Exhibit B. Additionally, I provide instructions to the parties about how notice is to be directed to the class members.²

THEREFORE, IT IS ORDERED as follows:

1. That **Plaintiff's Unopposed Motion for Updated Class Notices** [#83] filed March 25, 2011, is **GRANTED**;
2. That the amended **Notice of Class Action**, appended to hereto as Exhibit A,

¹ "[#83]" is an example of the convention I use to identify the docket number assigned to a specific paper by the court's electronic case filing and management system (CM/ECF). I use this convention throughout this order.

² The parties are strongly cautioned that any remaining questions regarding the appropriate constitution of the class that cannot be resolved first through discussion between themselves should be brought to the court's attention well prior to the deadline set forth herein for submission of the list of class members. Any cuctation in this regard may be cause for the imposition of sanctions.

is **APPROVED** and **ADOPTED** for submission to putative class members in this action;

2. That the amended **Request for Exclusion from Class Action**, appended hereto as Exhibit B, is **APPROVED** and **ADOPTED** for submission to putative class members in this action;

3. That by no later than close of business on **Monday, May 2, 2011**, the parties **SHALL SUBMIT** jointly a list of agreed names and mailing addresses of putative class members to receive notice of this class action; and

4. That plaintiff **SHALL MAIL**, via first class mail, the Notice and Request for Exclusion, to the class members thus identified, by no later than **Monday, May 9, 2011**, and provide verification of same to the court by no later than **Friday, May 13, 2011**.

Dated April 8, 2011, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Case No. 09-cv-01159-REB-CBS

SALLY ANN MAEZ,

Plaintiff,

v.

SPRINGS AUTOMOTIVE GROUP, LLC, a Colorado limited liability corporation,

Defendant.

NOTICE OF CLASS ACTION

Blackburn, J.

**THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS.
PLEASE READ IT CAREFULLY.**

TO: All consumers who, in the State of Colorado, entered into Sales Contracts with Springs Automotive Group, LLC, on or after May 21, 2008, wherein the consumer was charged statutory filing fees in excess of those permitted by the State of Colorado Department of Revenue.

This is to notify you of litigation currently pending in the United States District Court in and for the District of Colorado in the case known as ***Sally Ann Maez vs. Springs Automotive Group, LLC, a Colorado Limited Liability Company***, Civil Case Number 09-cv-01159- REB-CBS, the Honorable Judge Robert E. Blackburn, presiding, that may affect your legal rights. The Court has certified a class for notification purposes and has authorized publication of this notice.

Class actions are lawsuits in which one or more persons sue on behalf of other persons who have similar claims. The certification of a class by the court does not guarantee that any money or other relief will be obtained for class members, for the issues in this case are contested and have yet to be decided in a trial. Rather, the ruling means that the ultimate outcome of this lawsuit – whether favorable to Ms. Maez or to Springs Automotive Group, LLC – will apply in like manner to all class members;

that is, all class members who do not timely elect to be excluded from the class will be bound by the outcome of the lawsuit.

NATURE OF THE ACTION AND DESCRIPTION OF THE CLASS CLAIMS

This case involves a complaint filed by the plaintiff, Sally Ann Maez, against the defendant, Springs Automotive Group, LLC, regarding financing documents executed in connection with the purchase of an automobile, specifically a Retail Installment Sales Contract ("RISC"), which contained the terms of financing as required by the Truth in Lending Act, 15 U.S.C. § 1601, *et seq.* As reflected in the RISC Ms. Maez executed in connection with the purchase of her automobile, Ms. Maez was charged \$189.20 for Government Certificate of Title Fees. The true cost of this fee was \$17.20. Through discovery, Ms. Maez has learned that Springs Automotive Group, LLC, has similarly overstated this fee on RISCs executed by other customers, in amounts ranging from \$89.50 to \$789.20. Ms. Maez claims that this conduct is a violation of specific sections of the Truth in Lending Act, as well as a violation of the Colorado civil theft statute, § 18-4-405, C.R.S., potentially subjecting Springs Automotive Group, LLC, to treble (triple) damages.

Springs Automotive Group, LLC, denies that it committed the Truth in Lending Act violations set forth in Ms. Maez's complaint, and denies that it committed theft or made any intentional misrepresentations to its customers.

Without expressing its views concerning the merits of these claims and defenses, the court has ruled that this lawsuit may proceed as a claim for damages, and other relief, pursuant to Federal and Colorado law, by Ms. Maez individually and on behalf of others similarly situated to her, as more fully defined below. The court also has ruled that Ms. Maez may act as a representative of the class and that her attorneys may act as counsel for the class. Publication of this notice is no indication that the court has any opinion as to the merit of any of the claims or defenses asserted by the parties.

A three-day bench trial has been scheduled to commence on Monday, October 3, 2011, at 8:30 a.m. (MDT). This is a trial in which the court itself will sit as the trier of fact without a jury. At the close of all the evidence in the case, it will be the judge who determines whether the parties have sustained their burdens of proof as to their respective claims and defenses and what, if any, relief may be warranted.

DEFINITION OF THE CLASS

You are receiving this notice because you have been identified as a potential member of the class Ms. Maez and her attorneys have been authorized to represent. By order dated June 21, 2010, the court certified a class consisting of the following individuals:

ALL CONSUMERS WHO, IN THE STATE OF COLORADO, ENTERED INTO SALES CONTRACTS WITH SPRINGS AUTOMOTIVE GROUP, LLC, ON OR AFTER MAY 21, 2008, WHEREIN THE CONSUMER WAS CHARGED STATUTORY FILING FEES IN EXCESS OF THOSE PERMITTED BY THE STATE OF COLORADO DEPARTMENT OF REVENUE.

Class members who could be identified have been mailed a copy of this notice, together with copies of the Request for Exclusion from Class Action form and a copy of the court's June 21, 2010, order certifying the class.

PARTICIPATION IN THE CLASS

If you wish to remain a class member and participate in the litigation as a class member, you need not do anything. Each class member is deemed to have submitted to the jurisdiction of the United States District Court in and for the District of Colorado for purposes of enforcing the relief set forth herein and any judgment that may be entered in the litigation. Any judgment rendered by the court will be binding on all class members who have not requested exclusion from the class. In other words, by remaining a class member, any claims you may have against Springs Automotive Group, LLC, for damages or other relief as alleged in the class action complaint will be determined in this case and cannot be presented in any other lawsuit.

If you remain a member of the class:

1. The plaintiff and her attorneys will act as your representative and your attorneys, respectively, for the presentation of the claims against Springs Automotive Group, LLC. You will not be responsible for payment of plaintiff's attorney fees or expenses. If you desire, you may appear by your lawyer. You also may seek to intervene in this lawsuit individually and may advise the court if at any time you consider that you are not being fairly and adequately represented by the plaintiff and her attorneys;
2. Your participation in any recovery which may be obtained against Springs Automotive Group, LLC, through trial or settlement will depend on the results of this lawsuit. If no recovery is obtained for the class, you will be bound by that result also.
3. You will be entitled to notice of any ruling relating to the size of the class and also to notice of, and an opportunity to be heard respecting, any proposed settlement or dismissal of the class claims.

EXCLUSION FROM THE CLASS

If you want to be excluded from the plaintiff class and taken out of this lawsuit, you must complete the attached **Request for Exclusion from Class Action** form, or indicate your request on a separate paper including at least your name, address, telephone number, and the name and/or case number of this lawsuit (***Maez v. Springs Automotive Group, LLC., a Colorado Limited Liability Company***, Civil Case No. 09-cv-01159-REB-CBS), and mail your request to class counsel, Richard Wynkoop, of Wynkoop & Thomas PC, 4410 Yates Street, Denver, CO 80212. **Your request to be excluded must be postmarked no later than September 19, 2011.** By making this election to be excluded (1) you will not share in any recovery that might be paid to class members as a result of the trial or settlement of this lawsuit; (2) you will not be bound by any resolution of this lawsuit that might be favorable to Springs Automotive Group, LLC; and (3) you may present any claims you have against Springs Automotive Group, LLC, by filing your own lawsuit, or you may seek to intervene in this lawsuit.

ADDITIONAL INFORMATION

Any questions you may have concerning matters contained in this notice should **not** be made to Judge Blackburn, but should be directed in writing to either of the following counsel for the plaintiff class:

Richard Wynkoop
Wynkoop & Thomas PC
4410 Yates Street
Denver, CO 80212
(720) 855-0451
rickwynkoop@yahoo.com

Michael J. Kleinman
9490 S. Aspen Hill Way
Lone Tree, CO 80124
(720) 920-9903
Kleinmanlaw@q.com

Please do **not** contact defendant's counsel, Vince Linden or Mary Kominek Linden, of Linden Kominek, P.C., 111 S. Tejon Street, Ste 202, Colorado Springs, Colorado, or anyone at Springs Automotive Group, LLC, 3499 E. Platte Avenue, Colorado Springs, Colorado, regarding this litigation, unless you have elected to be excluded from the plaintiff class and have mailed your request for exclusion to plaintiff's counsel.

You may seek the advice and guidance of your own attorney if you desire. The pleadings and other records in this lawsuit may be examined and copied at any time during regular business hours at the United States District Court for the District of Colorado, by contacting the Clerk of the Court at the Alfred A. Arraj United States Courthouse, Room A105, 901 19th Street, Denver, Colorado. Counsel for the plaintiff class will email or mail you a copy of the complaint filed in this action at your request. **PLEASE DO NOT WRITE OR CALL JUDGE BLACKBURN REGARDING THIS NOTICE.**

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn

Civil Case No. 09-cv-01159-REB-CBS

SALLY ANN MAEZ,

Plaintiff,

v.

SPRINGS AUTOMOTIVE GROUP, LLC, a Colorado limited liability corporation,

Defendant.

REQUEST FOR EXCLUSION FROM CLASS ACTION

Blackburn, J.

USE THIS FORM ONLY TO REQUEST EXCLUSION FROM THE CLASS.

**PLEASE READ THE ATTACHED NOTICE OF CLASS ACTION
CAREFULLY BEFORE FILLING OUT THIS FORM.**

If you wish to exclude yourself from the plaintiff class, you must fill in and return this form by mail **postmarked on or before September 19, 2011**, to:

Richard Wynkoop, Wynkoop & Thomas PC, 4410 Yates Street, Denver, CO 80212

I do not wish to remain a member of the plaintiff class certified in ***Maez v. Springs Automotive Group, LLC, a Colorado Limited Liability Company***, Civil Case No. 09-cv-01159-REB-CBS.

Signature: _____ Date: _____

Printed Name: _____

Street Address: _____

City: _____ State: _____ Zip Code: _____