

**IN THE CIRCUIT COURT OF DUPAGE COUNTY
LAW DEPARTMENT**

CHRISTOPHER STOLLER,)
)
Plaintiff/Claimant/Petitioner,)

VS.)

CASE NO: 2017-L001177

JAMS, ALLEN S.GOLDBERG, HIROTO)
SAIKAWA, CEO, NISSAN MOTOR CORP,)
LTD., CARLOS GHOSN, NISSAN NORTH)
AMERICA, INC., NOBAO ARAKI,)
PRESIDENT, NISSAN INFINITI, LTD.,)
ROLAND KRUEGER, PRESIDENT,)
HIGHLAND PARK MOTOR CARS, INC.,)
MUELLER NISSAN, MICHAEL MUELLER,)
CEO, MUELLER AUTO GROUP, MARK)
MUELLER, PRESIDENT, RAFAL CHUDOBA,)
NISSAN MOTOR ACCEPTANCE CORP.,)
MARK KACZYNSKI, PRESIDENT,)
SWANSON MARTIN & BELL, LTD.,)
VIRIGINA TERLEP SPECIAL)
ADMINISTRATOR OF THE ESTATE OF)
BRUCE TERLEP, ROBERT MCNAMARA,)
ROSS BARTOLOTTA, CHRISTIAN A.)
SULLIVAN, BURKE WARREN MACKAY &)
SERRITELLA, IRA LEVIN, KENT)
BOWERSOCK, MICHAEL MCCANTS,)
JEFFERY HARRIS, BIANCA ROBERTS,)
IRMA GUITERREZ, Agents, Assigns, Attorneys))
And John Does 1-10, et al,)

JURY DEMAND

Defendants/Respondents.)

**AMENDED COMPLAINT TO VACATE ARBITRATION AWARD AND FOR
DECLARATORY JUDGMENT AGAINST THE DEFENDANTS**

Plaintiff/Claimant/Petitioner, Christopher Stoller, 68, an elderly person¹, disabled person, a protected person under the Americans for Disability Act (ADA), for his Petition to Vacate

¹ Defendants' violated the Elder Abuse and Neglect Act (Chapter 320 ILCS 20/1 et seq.)

Arbitration Award² (**Exhibit 1**) pursuant to 710 ILCS 5/12 and Complaint for Declaratory Judgment against the Defendants. Plaintiff seeks review of the arbitration award (**Exhibit 1**) that the Arbitrator Allen Goldberg was bias and corrupt, disregarded JAMS Rules and Policies for conducting an arbitration failed to follow his own orders (**Exhibit 9**) “manifestly disregarded the law”, the arbitrator knew or should have known the applicable law but, chose to ignore it. The Plaintiff calls upon the Court to correct the arbitrators intentional flouting of the law, violations of 710 ILC 5/11(a)(4). The arbitrator refused to hear evidence material to the controversy, as to prejudice substantially the rights of the Plaintiff, Christopher Stoller and the court is called upon to vacate the erroneous arbitration award (**Exhibit 1**). In support Plaintiff states as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff/Claimant, Christopher Stoller is a resident of Cook County.
2. Defendants do business in DuPage County, in the State of Illinois.
3. This Court has subject matter jurisdiction over this action because the amount in controversy exceeds the minimum jurisdictional limits of the court. Defendants are not Illinois citizens for purposes of federal court diversity analysis. The Plaintiff’s claim no greater than \$74,000 inclusive of damages, treble damages, restitution, costs and attorneys’ fees. Moreover, the total amount sought by the Plaintiff, inclusive of damages, treble damages, restitution, costs and attorney’s fees is less than \$75,000.00. As such there is no diversity jurisdiction for this claim in federal court. Accordingly, it is intended and shall by reule be interpreted, to limit recovery to an amount less than that required for diversity jurisdiction in federal court.

² The Claimant/Plaintiff Christopher Stoller filed an arbitration complaint against defendants with Jams pursuant to an arbitration agreement with Highland Park Motor Company Exhibit A and the arbitration clause of the Nissan Motor Acceptance Corporation Motor Vehicle Lease Agreement with Arbitration Clause-Illinois ¶28 arbitration clause (**Exhibit 3**). Plaintiff Christopher Stoller was entitled to have a competent arbitrator assigned to him by JAMS who was fully instructed in JAMS Comprehensive Rules of Procedure Effective July 2014 and Jams recommended Arbitration Discovery protocols for Domestic Commercial Cases. The Arbitrator Allen Goldberg did not qualify to be an arbitrator because he lacked the knowledge of the JAMS Rules, as well known to JAMS.

4. This Court has personal jurisdiction over Defendants pursuant to Illinois because the Defendants do business in Illinois, because the Defendants are transacting business in Illinois, because Defendants contacted by mail or otherwise with a Illinois Resident, because Defendants have sufficient minimum contacts with this state, and/or because Defendants otherwise intentionally availed themselves of the markets in this state through the promotion, marketing and sale of its products or service in this state, to the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

5. Venue is proper in DuPage County because it is a county were the plaintiff does business.

DEFENDANTS/RESPONDENTS

6. Highland Park Motor Cars, Inc., 1340 Park Avenue West, Highland Park, Illinois, 60035 and do business in DuPage County.

7. Michael Mueller, CEO and Mark Mueller, President, Highland Park Motor Cars, Inc., 1340 Park Avenue West, Highland Park, Illinois, 60035.

8. Mueller Auto Group, 1350 Park Avenue West, Highland Park, Illinois 60035 does business in DuPage County.

9. Mueller Nissan, 1350 Park Avenue West, Highland Park, Illinois 60035.

10. Rafal Chudoba, Muller Auto Group, Sales and Leasing Consultant, 1350 Park Avenue West, Highland Park, Illinois 60035.

11. Nissan Infinite, Ltd, P.O. Box 254648, Sacramento, California 95865 do business in DuPage County.

12. Roland Krueger, President, Nissan Infinite, Ltd, P.O. Box 254648, Sacramento, California 95865, do business in DuPage County..

13. Nissan Motor Acceptance Corporation, 8900 Freeport Pkwy Rear Dock, Irving Texas, 75063-2441 does business in DuPage County

14. Mark Kaczynski, President, Nissan Motor Acceptance Corporation, 8900 Freeport Pkwy Rear Dock, Irving Texas, 75063-2441, does business in DuPage County.

15. Nissan North America, Inc., One Nissan Way, Franklin, Tennessee 37067 does business in DuPage County.

16. Nobao Araki, President, Nissan North America, Inc., Nissan North America, Inc., One Nissan Way, Franklin, Tennessee 37067.

17. Nissan Motor Co, LTD., 2 Takara-Cho Kanagawa-Ku, Yokohama-shi Kanagawa, 220-8623 Japan, 81(0)45-523-5523 does business in DuPage County.

18. Nobao Araki, President, Nissan Motor Co, LTD., 2 Takara-Cho Kanagawa-Ku, Yokohama-Shi Kanagawa, 220-8623 Japan, 81(0)45-523-5523 does business in DuPage County.

19. JAMS, is the organization that sponsored the said arbitration actions were bias and corrupt conduct, outside the scope of the arbitration process, which are not subject to immunity.. Jams is located 71 South Wacker Drive, Suite 3090, Chicago, IL 60606 does business in DuPage County.

20. Swanson Martin & Bell, Estate of Bruce Terlep, 2525 Cabot Dr # 204, Lisle, IL 60532 does business in DuPage County..

21. Robert McNamara, 2525 Cabot Dr # 204, Lisle, IL 60532 do business in DuPage County..

22. Ross Bartolotta, 2525 Cabot Dr # 204, Lisle, IL 60532 does business in DuPage County.

23. Christian A. Sullivan, 2525 Cabot Dr # 204, Lisle, IL 60532 does business in DuPage..

24. Burke, Warren, MacKay & Serritella, 330 N. Wabash, Chicago, IL 60611 does business in Dupage.

25. Ira Levin, 330 N. Wabash, Chicago, IL 60611 does business in DuPage..

26. Allen S. Goldberg, an arbitrator whose is not immune from liability for his bias, corrupt acts³ outside the scope of the arbitration process. Goldberg is charged with performing his function as a Jams arbitrator, unlawfully, in breach of an expectation of good faith, impartiality and breach of trust. Arbitrator Goldberg is charged with the misuse of “entrusted power” for private gain.. Arbitrator Goldberg is charged with issuing an arbitral award, upholding a contract, a lease agreement, tainted by corruption. Arbitrator Goldberg declined to take the initiative in probing the existence of corruption, when Mark Muller, the president of Highland Park Motor Company, perjured himself during the arbitration trial. After the Plaintiff presented *prima facie* evidence of wrongdoing. Allen S. Goldberg is charged with being a corrupt arbitrator.71 South Wacker Drive, Suite 3090, Chicago, IL 60606.

27. Kent Bowersock, 8900 Freeport Parkway, Irving, TX 76063 does business in DuPage County..

28. Michael McCants, 71 South Wacker Drive, Suite 3090, Chicago, IL 60606 does business in DuPage County.

29. Jeffery Harris, 1350 Park Ave. West, Highland Park, IL. 60035 does business in DuPage County.

³ Corruption is derived from the Latin work “corruptus” meaning “to break”, and encompasses all situations where “agents and public officers break the confidence entrusted to them. Corruption and Misue of Public Office (Oxford University press, 2nd 2011)

30. Bianca Roberts, 8900 Freeport Pkwy Rear Dock, Irving Texas, 75063-2441 does Business in DuPage County..

31. Irma Gutierrez, 8900 Freeport Pkwy Rear Dock, Irving Texas, 75063-2441 does business in DuPage County..

32. Virginia Terlep Special Administer of the Estate of Bruce Terlep, 1148 Conan Doyle Rd., Naperville, IL 60564, does business in DuPage County,

33. JAMS, a resolution arbitration company, 71 South Wacker Drive, Suite 3090, Chicago, IL 60606.

DEFENDANTS/RESPONDENTS

34. Highland Park Motor Cars, Inc., is a car dealership, a corporation organized under the laws of the United States, doing business in DuPage Cook County, Illinois. The corporation is used by the Respondents as a criminal enterprise which included repeated acts of consumer fraud, misrepresentation, bait and switch, false advertising, deceptive trade practices and deception act.

35. Respondent Mark Mueller, President, of Highland Park Motor Cars, Inc., (HPMI), individually and in his official capacity is the chief executive officer of HPMI, and is in charge of all its officers, agents, servants, employees who are under his control. Mark Mueller participated in and encouraged, sanctioned, condoned and ratified the deceptive trade practices, deceptive advertising, and the bait and switch policy into his auto dealership which was directly employed to defraud the Claimant Christopher Stoller. Mark Mueller acted with the intent to commit, malice, fraud, gross negligence, oppressiveness which was not a mistake of fact or law, honest error or judgment, overzealousness, mere negligence or other failing, but that Mark Mueller acted with willful and wanton misconduct in the course and scope of his employment and in furtherance of the business of HPMI. Mark Mueller is directly liable under the Doctrine of Respondent Superior and

the Pinkerton Theory of Civil Liability⁴ and for the injuries caused to Christopher Stoller, 68, a disabled person.

36. Respondent Michael Mueller, CEO of Highland Park Motor Cars, Inc., (HPMI), Mueller Auto Group, Mueller Nissan, individually and in his official capacity and in charge of all of the officers, agents, servants and employees under his control. Michael Mueller participated in and encouraged, sanctioned, condoned and ratified the deceptive trade practices and the bait and switch policy into his auto dealership which was directly employed to defraud the Claimant Christopher Stoller. Michael Mueller acted with malice, fraud, gross negligence, oppressiveness which was not a mistake of fact or law, honest error or judgment, overzealousness, mere negligence or other failing, but that Michael Mueller acted with willful and wanton misconduct in the course and scope of his employment and in furtherance of the business of HPMI. Michael Mueller is directly liable under the Doctrine of Respondent Superior and the Pinkerton Theory of Liability.

37. Mueller Auto Group is a car dealership organized under the laws of the United States and is doing business in DuPage County, Illinois. The company is used by the Respondents as an unlawful enterprise to defraud the Claimant through their deceptive trade practices and their bait and switch scheme of their partners and co-conspirators, agent, customer Respondent Highland Park Motor Cars, Inc., when they conspired and colluded with Highland Park Motor Cars, Inc., and participated in and encouraged, sanctioned, condoned and ratified HPMI's deceptive trade practices and unlawful conduct under the Doctrine of Respondent Superior and the Pinkerton Civil Theory of Liability, deceptive advertising a fake price on a 2015 Nissan, for lease of only \$149.00 (**Exhibit 13**).

38. Muller is a car dealership organized under the laws of the United States and is doing

⁴ Under the Pinkerton Theory of Liability, a Defendant may be found guilty of a substantive offense committed by a co-conspirator if the offense was committed in furtherance of the conspiracy at the time the Defendant was a member of the conspiracy; this is true even if the Defendant neither participated in nor had knowledge of the substantive offense

business in Cook County, Illinois. The company is used by the Respondents as an unlawful enterprise to defraud the Claimant through their deceptive trade practices and their bait and switch scheme of their partners and co-conspirators, agent, customer Respondent Highland Park Motor Cars, Inc., when they conspired and colluded with Highland Park Motor Cars, Inc., and participated in and encouraged, sanctioned, condoned and ratified HPMI's deceptive trade practices and unlawful conduct under the Doctrine of Respondent Superior and the Pinkerton Theory of Civil Liability.

39. Rafal Chudoba, individually and in his official capacity as a Sales and Leasing Consultant acted with acted with malice, fraud, gross negligence, oppressiveness which was not a mistake of fact or law, honest error or judgment, overzealousness, mere negligence or other failing, but that Mark Mueller acted with willful and wanton misconduct in the course and scope of his employment and in furtherance of the business of his employer HPMI. Rafal Chudoba used the bait and switch deceptive trade practice on Claimant Christopher Stoller, under the direction and assistance of Defendant Mark Muller, when he told Mr. Stoller that he would be able to lease a 2016 Nissan Sentra for the advertised price of \$149.00 per month, which they had agreed upon, in order to get Mr. Stoller to come into the dealership. When Claimant Stoller, who is a Social Security Dependent came into the dealership, Rafal Chudoba coerced Stoller through a "bait and switch" scheme hatched by Defendant Mark Muller President of Highland park Motor Company, into a payment of \$255.86 per month for a 2015 Nissan Sentra. This price is a staggering 60% increase of what the advertised cost of the leased vehicle was and what the parties had already agreed to. Respondent Chudoba also defrauded Claimant Stoller once again when he told him he was getting a 2015 Sentra instead of the 2016 they had previously agreed to.

40. Nissan Infiniti, Lt is a car leasing dealership organized under the laws of the United States and is doing business in DuPage County, Illinois. The company is used by the Respondents as

an unlawful enterprise to defraud the Claimant through their deceptive trade practices and their bait and switch scheme of their partners and co-conspirators, agent, customer Respondent Highland Park Motor Cars, Inc., when they conspired and colluded with Highland Park Motor Cars, Inc., and participated in and encouraged, sanctioned, condoned and ratified HPMI's deceptive trade practices and unlawful conduct under the Doctrine of Respondent Superior and the Pinkerton Theory of Liability.

41. Roland Krueger, President of Nissan Motor Acceptance Company ("NMAC"), individually and in his official capacity and is in charge of all its officers, agents, servants, employees who are under his control. Roland Krueger participated in and encouraged, sanctioned, condoned and ratified the deceptive trade practices and the bait and switch policy into his auto dealership which was directly employed to defraud the Claimant Christopher Stoller. Roland Krueger acted with malice, fraud, gross negligence, oppressiveness which was not a mistake of fact or law, honest error or judgment, overzealousness, mere negligence or other failing, but that Roland Krueger acted with willful and wanton misconduct in the course and scope of his employment and in furtherance of the business of Nissan Infiniti. Roland Krueger is directly liable under the Doctrine of Respondent Superior and the Pinkerton Theory of Civil Liability.

42. Nissan Infiniti Motor, LT Company is a leasing car dealership organized under the laws of the United States and is doing business in DuPage County, Illinois. The company is used by the Respondents as an unlawful enterprise to defraud the Claimant through their deceptive trade practices and their bait and switch scheme of their partners and co-conspirators, agent, customer Respondent Highland Park Motor Cars, Inc., when they conspired and colluded with Highland Park Motor Cars, Inc., and participated in and encouraged, sanctioned, condoned and ratified HPMI's deceptive trade practices and unlawful conduct under the Doctrine of Respondent Superior and the Pinkerton Theory of Civil Liability. Nissan Infiniti LT is the current title holder of the 2015 Nissan

Sentra and assigned the servicing of the subject lease payment to NMAC.

43. Nissan Motor Acceptance Corp is a car dealership and financial company organized under the laws of the United States and is doing business in DuPage County, Illinois. The company is used by the Respondents as an unlawful enterprise to defraud the Claimant through their deceptive trade practices and their bait and switch scheme of their partners and co- conspirators, agent, customer in collecting monthly car payments as servicer for Nissan Infiniti Lt. Respondent Highland Park Motor , Inc., when they conspired and colluded with Highland Park Moto , Inc., and participated in and encouraged, sanctioned, condoned and ratified HPMI's deceptive trade practices and unlawful conduct under the Doctrine of Respondent Superior and the Pinkerton Theory of Civil Liability.

44. Mark Kaczynski, President of Nissan Motor Acceptance Corp, individually and in his official capacity is in charge of all its officers, agents, servants, employees who are under his control. Mark Kaczynski participated in and encouraged, sanctioned, condoned and ratified the deceptive trade practices and the bait and switch policy into his auto dealership which was directly employed to defraud the Claimant Christopher Stoller. Mark Kaczynski acted with malice, fraud, the intent to commit fraud, gross negligence, oppressiveness which was not a mistake of fact or law, honest error or judgment, overzealousness, mere negligence or other failing, but that Mark Kaczynski acted with willful and wanton misconduct in the course and scope of his employment and in furtherance of the business of Nissan Motor Acceptance Corp. Mark Kaczynski is directly liable under the Doctrine of Respondent Superior and the Pinkerton Theory of Liability. Mark Kaczynski had actual and constructive notice of this "bait and switch" on Christopher Stoller.

45. Nissan North America, Inc., is an automotive manufacturer, car dealership and finance company that is organized under the laws of the United States and is unlawfully doing business in DuPage County, Illinois, that is unlicensed to do business in DuPage County. The

company is used by the Respondents as an unlawful enterprise to defraud the Claimant through their deceptive trade practices and their bait and switch scheme of their partners and co-conspirators, agent, customer Respondent Highland Park Motor Cars, Inc., when they conspired and colluded with Highland Park Motor Cars, Inc., and participated in and encouraged, sanctioned, condoned and ratified HPMI's deceptive trade practices and unlawful conduct under the Doctrine of Respondent Superior and the Pinkerton Theory of Civil Liability.

46. Defendant Hiroto Saikawa, Chief Executive Officer of Nissan Motor. Hiroto Saikawa Chief Executive Chief of Nissan Motor Tokyo, is liable individually and in his official capacity is in charge of all its officers, agents, servants, employees who are under his control. Hiroto Saikawa participated in and encouraged, sanctioned, condoned and ratified the deceptive trade practices and the bait and switch policy into his corporation which was directly employed to defraud the Claimant Christopher Stoller. Hiroto Saikawa acted with malice, intent, fraud, gross negligence, oppressiveness which was not a mistake of fact or law, honest error or judgment, overzealousness, mere negligence or other failing with willful and wanton misconduct in the course and scope of his employment and in furtherance of the business of Nissan Motor. Hiroto Saikawa is liable directly, under the Doctrine of Respondent Superior and the Pinkerton Theory of Liability.

47. Nobao Araki, President of Nissan North America, Inc., is liable individually and in his official capacity is in charge of all its officers, agents, servants, employees who are under his control. Nobao Araki participated in and encouraged, sanctioned, condoned and ratified the deceptive trade practices and the bait and switch policy into his auto dealership which was directly employed to defraud the Claimant Christopher Stoller. Nobao Araki acted with malice, fraud, gross negligence, oppressiveness which was not a mistake of fact or law, honest error or judgment, overzealousness, mere negligence or other failing, but that Nobao Araki acted with willful and wanton misconduct in the course and scope of his employment and in furtherance of the business of

Nissan North America, Inc. Nobao Araki is directly liable under the Doctrine of Respondent Superior and the Pinkerton Theory of Liability.

48. Nissan Motor Co, Ltd. is an automobile manufacturing corporation that is organized under the laws of the United States and is doing business in DuPage County, Illinois. The corporation is used by the Respondents as an unlawful enterprise to defraud the Claimant through their deceptive trade practices and their bait and switch scheme of their partners and co-conspirators, agent, customer Respondent Highland Park Motor Cars, Inc., when they conspired and colluded with Highland Park Motor Cars, Inc., and participated in and encouraged, sanctioned, condoned and ratified HPMI's deceptive trade practices and unlawful conduct under the Doctrine of Respondent Superior and the Pinkerton Theory of Liability.

49. This action is also brought against John Does 1-10 which include arbitrators, lawyers, predecessors, partners, associates, agents, employees, affiliates, and subsidiaries which hereinafter are also included in the term Respondents. Claimant is ignorant to the true identities and capacities of these Respondents and therefore sues them by such fictitious names. Claimant will add their names to the Complaint to allege their true identities when this information is ascertained.

50. Count 1 of this Petition concerns an erroneous arbitration award (**Exhibit 1**) served on the Plaintiff on September 15, 2017. Pursuant to arbitration preceding that was held in Chicago on August 15, 16 and 17, 2017. Accordingly, venue before this court is proper pursuant to 710 ILCS 5/12 as the Parties' underlying contract is governed by the Jurisdiction of the State of Illinois. ILCS 5/2 VACATING AN AWARD (a) upon application of the Plaintiff/Claimant Christopher Stoller, the court shall vacate the award (**Exhibit 1**) on the grounds: (1) that award was procured by corruption, fraud, or undue means; (2) the arbitrator Allen Goldberg was corrupt; (3) the award was affected by prejudicial misconduct by the Jams arbitrator Allen Goldberg; or (4) the arbitrator

Goldberg exceeded his powers⁵.

a. The arbitrator violated 710 ILC 5/11(a)(4) Refused to hear evidence material to the controversy, as to prejudice substantially the rights of the Plaintiff, Christopher Stoller;

b. The arbitrator exceed his powers; in his failure to follow the Jams Publishing Comprehensive Arbitration Rules and Procedures, Effective July 1, 2017; Jams Arbitration Discovery Protocols for Domestic, Commercial Cases. Plaintiff incorporates by reference the entire Arbitration Record and all of the written transcripts in support of the Plaintiff's complaint, as if fully copied and attached.

c. The arbitrator was bias, corrupt & incompetent⁶;

Allen S. Goldberg, acted outside the scope of the arbitration process. . Goldberg performed his function as a Jams arbitrator, unlawfully, corrupt, in breach of an expectation of good faith, impartiality, and breach of trust. Arbitrator Goldberg misused "entrusted power" as a Jams Arbitrator for private gain.. Arbitrator Goldberg issued an arbitral award, upholding a contract, a lease agreement, tainted by corruption. Jams Arbitrator Goldberg

⁵ Moncharsh v. Heily & Blase: 3 Cal. 4th 1 (1992). Pearson Dental Supplies, Inc. v. Superior Court, 6 48 Cal. 4th 665 (2010).

⁶ Attorney for Defendant's Attorney Bruce Terlep directed a letter to dated February 22, 2017, to Michael McCants, Case Manager of Jams requesting to "strike" Judge Allen Goldberg. Christopher Stoller had a conversation with Bruce Terlep, wherein Mr. Terlep admitted to the Plaintiff that he though Judge Allen Goldberg to be incompetent and corrupt. Mr. Terlep told Christopher Stoller that the all of the conferences should be recorded by a court reporter and agreed to pay 50% of the court reporter cost. When Christopher Stoller made a demand on Mr. Terlep's law firm Swanson Martin & Bell for payment of their part of the 50% of the court reporter's fees for the said Arbitration, the Plaintiff was informed that Swanson Martin & Bell refused to pay and they disavowed any commitments that their partner Mr. Terlep had made to Christopher Stoller on account of the fact that Mr. Terlep died in May of 2017.

declined to take the initiative in probing the existence of corruption, when Mark Muller, the president of Highland Park Motor Company, perjured himself during the arbitration trial, after the Plaintiff presented *prima facie* evidence of wrongdoing, of Mark Muller's perjury. Jams Arbitrator Allen S. Goldberg is corrupt and any arbitration decision that he rendered is void ab initio, as a matter of law.

- d. The application under this section is being made within 90 days after delivery of a copy of the award (**Exhibit 1**); and
- e. In vacating the award on (a) the court may order a rehearing before a new arbitrator chosen as provided in Section 3. Which the Plaintiff, Christopher Stoller is demanding.

48. The arbitration award against Christopher Stoller should be vacated because the Jams Arbitrator Goldberg was corrupt and bias and who's unlawful conduct was not in the scope of the arbitral process and JAMS exceed their powers in the following ways:

- a. Entering an bias corrupt award against Christopher Stoller; in violation of 710 ILC 5/11(a)(4) and the Jams Published sham Rules,
- b. Denying Christopher Stoller's Complaint (**Exhibit 4**);
- c. Christopher Stoller prays for an Order of Declaratory Judgment which vacates the arbitration award published on September 15, 2017, which based on the Arbitrator Goldberg failure to hear evidence, ignored Defendants' Mark Muller's perjury and the Defendant Attorneys subornation of perjury..

19. In accordance with 710 ILCS 5/2, the arbitrator's decision (**Exhibit 1**) should be vacated for the following reasons.

20. Petitioner sought to hold Respondents/Defendants NISSAN MOTOR CO, LTD., CARLOS GHOSN, CEO, NISSAN NORTH AMERICA, INC., NOBAO ARAKI, PRESIDENT, NISSAN INFINITI, LTD, ROLAND KRUEGER, PRESIDENT, HIGHLAND PARK MOTOR CARS, INC., MULLER, NISSAN, MULLER AUTO GROUP, RAFAL CHUDOBA, NISSAN MOTOR ACCEPTANCE CORP., Agents, Assigns, Attorneys and John Does 1-10, et al, for fraudulent misrepresentation, bait and switch, deceptive trade practices, conversion, fraud, willful and wanton misconduct, negligence, negligent hiring and supervision, conspiracy, aiding and abetting, breach of contract, promissory estoppel, unjust enrichment and equitable estoppel

21. Amount in controversy before this court under \$75,000.

22. Petitioner filed a 12 Count Arbitration Complaint (**Exhibit 4**).

23. An answer to the Petitioner's Complaint was only filed by Defendant/Respondent Highland Park Motors (**Exhibit 10**).

24. No answer was ever filed on behalf of RAFAL CHUDOBA, NISSAN MOTOR CO, LTD., CARLOS GHOSN, CEO, NISSAN NORTH AMERICA, INC., NOBAO ARAKI, PRESIDENT, NISSAN INFINITI, LTD, ROLAND KRUEGER, PRESIDENT, RAFALCHUDOBA, NISSAN MOTOR ACCEPTANCE CORP., MARK KACZYNSKI, PRESIDENT. The arbitrator through his gross negligence, committed clear error and reversible error by refusing to grant the Petitioner's Motion for Default Judgment, which Stoller was entitled to, against all of these defaulting parties on all 9 Counts of Plaintiff's Complaint (**Exhibit 4**) . The arbitrator through his gross negligence and incompetence, failed to apply the Illinois Code of Civil

Procedure, which all of the parties agree would be followed in the underlying arbitration see Jams Scheduling Order No 2 ¶ 3 (Exhibit 25). By the Arbitrator failure to apply the Illinois Code of civil Procedure, which all of the parties agreed would be applied the Amended Scheduling Order No. 1 (**Exhibit 9**) to the underlying arbitration proceedings.

25. In Scheduling Order No. 2 (Exhibit 7) dated April 27, 2017, “Motion for Default responses to Judgment(s) were to be filed by May 20, 2017.

26. Said defendants failed to file their responses to Plaintiff’s Motion for Default Judgment(s) and the Plaintiff was entitled to having his default judgments entered against all of the defaulting parties. Through negligence and incompetence the arbitrator committed clear error and reversible error by failing to grant Plaintiff its default judgments.

27. The arbitrator stated at the trial on August 18, 2018, after NMAC’s closing argument, Stoller requested that the Arbitrator enter the default Judgments’ against the defaulting parties who had failed to file their responses to Stoller’s Motion for Default which according to the Arbitrator’s Scheduling Order No 2 (**Exhibit 7**) was due on May 20, 2017. The Arbitrator refused to “hear evidence material to the controversy” which were in this instance his own Scheduling Order No 2 (**Exhibit 7**) which stated that the defendants’ answers to the default were due on May 20th, 2017. The Arbitrator stated that the defendants were not obligated to file any answers to the Plaintiff’s Motion’s motion for default under the Jams rules, despite the fact that the Arbitrator previously stated that in his Scheduling Order No 1 ¶3, Page 2 (**Exhibit 9**):

APPLICABLE LAW FOR THE ARBITRATION

28. The arbitration shall be administrated in accordance with the JAMS Comprehensive Arbitration Rules: applicable procedural law shall be Illinois and applicable substantive law shall be Illinois.

29. Under Illinois law procedural law (735 ILCS 5/2-1301) (from Ch. 110, par. 2-1301) Sec. 2-1301. Judgments - Default Plaintiff was entitled to having his judgment entered.

30. Plaintiff provided the arbitrator irrefutable evidence that Highland Motor Cars Inc., Mueller Nissan, Mueller Auto Group committed the tort of “switch and bait”.

31. Plaintiff provided the arbitrator irrefutable evidence that Highland Motor Cars Inc., Mueller Nissan, Mueller Auto Group and Rafal Chudoba engaged in deceptive trade practices, bait and switch, and unlawfully changing the terms and conditions at ¶44 of the Complaint (**Exhibit 4**); see also (**Exhibit 5**) Closing Argument.

32. Respondent Nissan Motor Acceptance Company (“NMAC”) in their Reply to their Motion to Dismiss (**Exhibit 12**) state that all of the exhibits attached to the Complaint (**Exhibit 4**) evidence that the “bait and switch tactics” were employed by the Defendant Muller Auto Group. At ¶1, Page 7 of Nissan’s Reply Brief (**Exhibit 12**).

**QUESTION(S) PRESENTED TO THE ARBITRATOR WHO ENGAGED IN
CORRUPTION and BIAS AND PREJUDICE OUTSIDE THE SCOPE OF THE ARBITRAL
PROCESS**

**DEFENDANT JAMS, THE ORGANIZATION THAT SPONSORED THE SAID
ARBITRATION WAS NOT IMMUNE FROM LIABILITY FOR BIAS, PREJUDICE AND
CORRUPT ACTS WHICH WERE OUTSIDE THE SCOPE OF THE ARBITRAL
PROCESS.**

33. The unlawful actions and policies of Jams Respondents NISSAN MOTOR CO, LTD., CARLOS GHOSN, CEO, NISSAN NORTH AMERICA, INC., NOBAO ARAKI, PRESIDENT, NISSAN INFINITI, LTD, ROLAND KRUEGER, PRESIDENT, HIGHLAND PARK MOTOR CARS, INC., MULLER, NISSAN, MULLER AUTO GROUP, RAFAL CHUDOBA, NISSAN MOTOR ACCEPTANCE CORP, Agents, Assigns, Attorneys and John Does 1-10, amount to fraudulent misrepresentation, bait and switch, deceptive trade practices, conversion, fraud, willful and wanton misconduct, negligence, negligent hiring and supervision,

conspiracy, aiding and abetting, breach of contract, promissory estoppel, unjust enrichment and equitable estoppel, as alleged in the Petitioner's Complaint (**Exhibit 4**).

STATEMENT OF FACTS

34. Plaintiff/Petitioner/Claimant Christopher Stoller, 68, is a disabled senior citizen who is a protected person under the Americans for Disability Act (ADA), Illinois Probate Act, who saw a newspaper ad (**Exhibit 13**) which stated that the Defendants/Respondents Muller Nissan, Muller Auto Group, Nissan Infiniti LT, Nissan Motor Acceptance, Nissan North America and Nissan Motor Company were offering a 2015 Nissan for a monthly lease amount of \$149.00.

35. Mr. Stoller called the company listed on the ad, Defendant Muller Nissan on or about October 9, 2015, and spoke with Defendant Rafal Chudoba, Sales and Leasing Agent for said Defendants. Mr. Christopher Stoller requested that Defendant Chudoba provide a written email conformation of the terms and conditions of the 2015 Nissan Sentra lease which was advertised in the newspaper (**Exhibit 13**).

36. Respondent Chudoba sent a confirmation email to Plaintiff Stoller on October 10, 2015 (**Exhibit 14**) which stated, "I spoke with my manager about how much would be due at signing and your total amount due would be \$1,224.64 to reach the \$149.00 payment for three years 36,000 miles. The total taxes that you are paying are \$667. Please let me know if this works so we can possibly schedule a time to come in for a test drive."

37. Claimant Stoller called Respondent Chudoba after receiving his confirmation email for the terms and conditions for the Sentra Lease. Defendant/Respondent Chudoba told Stoller that if he came in immediately Muller Nissan would give him a 2016 Nissan Sentra on the same terms and conditions as the 2015 Sentra, which he failed to do.

38. On October 17, 2015, Plaintiff/Claimant Stoller went to Respondents' Highland Park Motor Cars, Inc., located at 1340 Park Avenue West, Highland Park, Illinois, to consummate the

2016 Sentra Lease pursuant to the terms and conditions discussed with Defendant/Respondent Chudoba, Mike Muller.

39. Upon arriving at Highland Park Motor Cars, Inc., Defendants/Respondents used the “bait and switch” deceptive trade practice, changing the terms and conditions. Claimant Stoller had to pay \$1,275.00 down and his monthly payment would be \$255.86 plus .10 cents a mile for mileage in excess of 12,000 miles per year, instead of the \$149 dollars as advertised (**Exhibit 13**) and for which Defendant Chudoba provided an email written confirmation (**Exhibit 14**).

40. Respondent Chudoba told Plaintiff/Claimant Stoller there would be no charge for mileage during the term of the 3 year lease (**Exhibit 14**) email from Respondent Chudoba which does not state anywhere in the email about additional mileage charges.

41. The Claimant was not given a 2016 Sentra as promised but was given a 2015 Sentra.

42. Respondent Chudoba made the following misstatements of material facts to Claimant Stoller in order to induce him to enter into the Sentra Lease:

- a. Respondent Chudoba confirmed in writing that the monthly payment of the Sentra would be \$149.00 for 3 years;
- b. When Claimant Stoller arrived at Respondent Muller Nissan in Highland Park the Respondents baited and switched Stoller’s monthly payments for the Lease from \$149.00 to \$255.86 which is a 60% increase than what was advertised and what was promised and confirmed in writing in an email from Respondent Chudoba. Rafal Chudoba told Christopher Stoller that there would be no extra mileage charges. Again, Claimant Stoller was baited and switched on the mileage issue in the Lease. There is a .10 cent mileage charge for miles driven in excess of 12,000 miles per year. Respondent Chudoba promised Claimant Stoller that if he came in

immediately and executed a Sentra lease that Respondent Muller Nissan would give Claimant Stoller a 2016 Sentra; after Stoller executed the lease he was presented with a 2015 Sentra.

43. It is undisputed that Respondent Chudoba lied to Claimant Stoller in order to get him to sign the lease for the Sentra and that Mark Muller aided and abetted in the Muller Nissan “bait and switch” scheme that Stoller was a victim of on October 17, 2015.

44. It is undisputed that Respondents used false and deceptive advertising (**Exhibit 13**) promoting a Sentra Lease for only \$149.00 per month, with no disclosure that a customer had to qualify into different tier levels from NMAC based on an individual’s FICO Score to qualify for various monthly payment levels, which would make the monthly payments for a Sentra Car Lease substantially higher than the advertised \$149.00 figure, (Exhibit 13) The Defendant Muller Nissan fraudsters charged the Claimant Stoller, a Social Security Dependent, crippled Senior Citizen, over 60% more than what was advertised. The Muller Nissan witness at the arbitration trial stated that it was their job to get customers and to put them in a car.

45. The newspaper ad (**Exhibit 13**) that induced the Petitioner to enter into a car rental agreement stated “qualified buyer with approved credit” with no mention of a tier level of 1 to 9 from which Defendant NMAC and a required FICO Score to determine the upper level of payments that the NMAC would demand from a buyer to qualify to rent a Nissan Sentra for \$149.00 per month. This is no mention in the ad that a buyer’s qualifications to purchase is subject to tier level of 1 to 9 , which places a buyer into nine different rental prices for the Nissan Sentra. No mention in the ad that a buyer is subject to a variable monthly rental subject to a FICA Score from 309 to 850 that would subject a customer to nine different possible monthly rental costs, depending on the customers tier level and the pressure that the NMAC Sentra dealer could demand..

46. The Petitioner at trial put in evidence that Nissan has the discretion to lower the tier

from a level 6 to a level (**Exhibit 17**), Scheduling Order No 8, Paragraph C, Page 2, "NMAC has admitted on the record that they have the right to lower the tier levels, that they can be negotiated."

47. Petitioner put in evidence at trial that the statements Mr. Christian Sullivan, the NMAC Attorney, affirming the fact that computer programs were not used in this case at Page 13, July 11, 2017, Line 6 of the Official Transcript of that date (**Exhibit 15**) were false which Defendant Attorney Christian Sullivan put into evidence at the arbitration hearing in violation of ARDC Rules 3.3(a) and 8.4(c) & (d).

48. The Petitioner will put on evidence that Christian Sullivan consistently and habitually lied to Judge Goldberg. Page 13 of the Official Transcript dated July 11, 2017, (**Exhibit 10**):

ARBITRATOR GOLDBERG: (TO Christian Sullivan): Well, are you prepared, then, Mr. Sullivan, to sign an affidavit and send it to myself and Mr. Stoller that you produced everything that exists in determining his tier level and that there is no computer algorithm that's involved in any way? Are you prepared to do that?

CHRISTIAN SULLIVAN⁷: Right, I'll provide an affidavit, your Honor.

49. Plaintiff/ Petitioner produced the affidavit that Mr. Sullivan provided that is absolutely inconsistent with what Mr. Sullivan stated on the record, July 11, 2017, at Page 14 (**Exhibit 11**) a copy of the affidavit produced, which was a fraud on the arbitrator⁸.

50. Petitioner will also produce an email sent to Sullivan on July 13, 2017, (**Exhibit 12**).

51. Despite the fact that Plaintiff/Claimant established all of the elements of each of the

⁷ Attorney Sullivan violated ARDC Rules 3.3(a) and 8.4(c) & (d) by presenting the said affidavit)

⁸ Whenever any officer of the court commits fraud during a proceeding in the court, he/she is engaged in "fraud upon the court". In *Bulloch v. United States*, 763 F.2d 1115, 1121 (10th Cir. 1985), the court stated "Fraud upon the court is fraud which is directed to the judicial machinery itself and is not fraud between the parties or fraudulent documents, false statements or perjury. ... It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function --- thus where the impartial functions of the court have been directly corrupted."

"Fraud upon the court" has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." *Kenner v. C.I.R.*, 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, ¶60.23. The 7th Circuit further stated "a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final."

Complainants' allegations in his 9 Count Complaint (**Exhibit 4**) and that the Respondents are liable for substantial damages for each and every count of Petitioner's Complaint, the arbitrator erroneously granted the award in favor of the Defendants and against the Plaintiff.

52. On September 15, 2017, the Plaintiff was served with an arbitration award entered by JAMS pursuant to an arbitration hearing that was held on August 15, 16th and 17th, 2017. The hearing proceeded in Chicago, Illinois. A true and correct copy of the Award is attached and incorporated as (**Exhibit 1**). The erroneous award was in favor of the Defendants. Based upon the Arbitrator's incompetence by not apply the Illinois Code of Civil Procedure as ordered in his Order scheduling Order Dated March 28, 2017⁹ (**Exhibit 7**).

53. The underlying arbitration was between the Defendants as Respondents and the Plaintiff as Claimant.

54. The Claimant, Christopher Stoller responded to an ad in the newspaper, advertising a 2015 Nissan Sentra for \$149.00 per month for a car rental agreement. Christopher Stoller went to the Defendant Muller Nissan after receiving an email confirming the monthly rental lease fee of \$149.00, on October 17, 2017 in order to consummate the transaction. Christopher Stoller was a victim of a "switch and bait" transaction in that he was coned into signing a Nissan Sentra rental agreement for \$255.86 a month. See (**Exhibit 3**) see attached Muller Nissan Sentra Rental Lease Agreement.

55. Pursuant to the terms and conditions of the Nissan Motor Acceptance Rental Agreement (**Exhibit 3**), it contained an arbitration clause which the Plaintiff utilized in bringing an arbitration action at JAMS in Chicago, against the defendants for fraudulent misrepresentation, "bait and switch, deceptive trade practices, conversion, fraud, willful and wanton misconduct,

⁹ Instead, due to the incompetency of Arbitrator Goldberg, he applies Jams Arbitration Rules and Procedures in complete violation of his first Scheduling Order (**Exhibit 9**) upon which all of the parties, in a prior telephonic conference call, had agreed with Arbitrator Goldberg, that the Illinois Civil Rules of Procedure would apply to this Arbitration.

negligence, negligent hiring and supervision, conspiracy, aiding and abetting, breach of contract, promissory estoppel, unjust enrichment and equitable estoppel see a true and correct copy of the Plaintiff's Arbitration Complaint (**Exhibit 4**).

56. Evidence was presented at the hearing by the Plaintiff that the defendants engaged in the unlawful practice of "switch and bait". See transcript of the Plaintiff's Closing Arguments (**Exhibit 5**).

57. The President of Defendant, Highland Park Motor Company/ Muller Nissan, Mark Muller, who was charged with engaging in the unlawful practice of "switch and bait" during the trial, (**Exhibit 6**) committed perjury,

GROUND FOR VACATING ARBITRATION UNDER 710 ILCS 5/11

The arbitrator violated 710 ILC 5/11(a)(4) Refused to hear evidence material to the controversy, as to prejudice substantially the rights of the Plaintiff, Christopher Stoller;

b. The arbitrator exceeded his powers; in his failure to follow the Jams Publishing Comprehensive Arbitration Rules and Procedures, Effective July 1, 2017; Jams Arbitration Discovery Protocols for Domestic, Commercial Cases. Plaintiff incorporates by reference the entire Arbitration Record and all of the written transcripts in support of the Plaintiff's complaint, as if fully copied and attached.

c. The arbitrator was bias, corrupt & incompetent¹⁰;

¹⁰ Attorney for Defendant's Attorney Bruce Terlep directed a letter to dated February 22, 2017, to Michael McCants, Case Manager of Jams requesting to "strike" Judge Allen Goldberg. Christopher Stoller had a conversation with Bruce Terlep, wherein Mr. Terlep admitted to the Plaintiff that he thought Judge Allen Goldberg to be incompetent and corrupt. Mr. Terlep told Christopher Stoller that the all of the conferences should be recorded by a court reporter and agreed to pay 50% of the court reporter cost. When Christopher Stoller made a demand on Mr. Terlep's law firm Swanson

Allen S. Goldberg, was corrupt, acted outside the scope of the arbitration process. . Goldberg performed his function as a Jams arbitrator, unlawfully, corrupt, in breach of an expectation of good faith, impartiality, and breach of trust. Arbitrator Goldberg misused “entrusted power” as a Jams Arbitrator for private gain.. Arbitrator Goldberg issued an arbitral award, upholding a contract, a lease agreement, tainted by corruption. Jams Arbitrator Goldberg declined to take the initiative in probing the existence of corruption, when Mark Muller, the president of Highland Park Motor Company, perjured himself during the arbitration trial, after the Plaintiff presented *prima facie* evidence of wrongdoing, of Mark Muller’s perjury. Jams Arbitrator Allen S. Golderg is corrupt and any arbitration decision that he rendered is void ab initio, as a matter of law.

58. Section 12 Vacating an award (a)(4) arbitrator refused to hear evidence material to the controversy. Arbitrator Goldberg was corrupt.

59. The arbitrator in this case refused to hear evidence¹¹ that was material to this controversy, namely the deposition of the Plaintiff/Claimant.

60. The arbitrator violated JAMS Rule 22(e) states “the Arbitrator shall receive and consider relevant deposition testimony by transcript or videotape provided the other parties have had an opportunity to attend and cross examine”.

61. The Respondents/Defendants took the deposition of the plaintiff which lasted three

Martin & Bell for payment of their part of the 50% of the court reporter’s fees for the said Arbitration, the Plaintiff was informed that Swanson Martin & Bell refused to pay and they disavowed any commitments that their partner Mr. Terlep had made to Christopher Stoller on account of the fact that Mr. Terlep died in May of 2017.

¹¹ 710-ILCS 5/12 SEC 12 (a)(4) Upon Application of a party , the court shall vacate an award where the arbitrator “refused to hear evidence material to the controversy”

hours on the 7th day of July 2017 and cross examined. Christopher Stoller took the deposition of sales manager of Defendant Highland Park Motor Company, Jeffery Harris, where all of the parties were at that deposition and cross examined. Christopher Stoller filed the Harris Deposition with JAMS.

62. Christopher Stoller deposition was taken, which contained the ‘smoking gun’¹² with all parties present and they were given the opportunity to cross examine. Christopher Stoller filed a motion for the Arbitrator Goldberg to hear his deposition with JAMS on July 24, 2017, and requested that the Arbitrator read Stoller’s deposition (**Exhibit 20**). Goldberg knowingly and willfully violated JAMS Rule 22(e) by refusing to read Stoller’s deposition¹³ which contained the “case changing smoking gun. See Page 9 of Relevant Factors Considered by JAMS, Relevance and Reasonable need for Requested Discovery” incorporated herein by reference as if fully copied and attached.

63. On July 31, 2017 Ira Levin, the attorney for Defendants Highland Park Motor Company sent an email (**Exhibit 21**) to the Arbitrator:

Judge Goldberg: Once again, we object to Mr. Stoller’s communication with you and ask that he be formerly ordered to limit his communications to pleadings only. In addition, we ask that you not spend the time and expense of reading Mr. Harris’s discovery deposition transcript.

At the July 14 (sic) hearing, when Mr. Stoller offered to send you his 200 plus

¹² Under Jams rules at page 9 Effective January 6, 2010, RECOMMENDED ARBITRATION DISCOVERY PROTOCOLS FOR DOMESTIC, COMMERCIAL CASE rules, the section relating to EXHIBIT A Relevant Factors Considered by JAMS Arbitrators in Determining the Appropriate Scope of Domestic Arbitration Discovery “Relevance and Reasonable Need for Requested Discovery” “To what extent the discovery sought is likely to lead as a practical matter to a case changing “smoking gun” or to a fairer result. The Arbitrator refused to consider the Depositions of Christopher Stoller and Jeffery Harris which contained the “smoking gun” in violation of 710-ILCS 5/12 SEC 12 (a)(4). The Court must vacate the arbitration award.

¹³ Arbitrator was completely inconsistent as to what Rules he would apply to this Arbitration, occasionally, he would apply the Illinois Civil Rules of Procedure when it suited him and on other occasions Arbitrator Goldberg would apply the Jams Rules. The Arbitrator was completely inconsistent in what rules he would apply and when.

page discovery deposition transcript, Respondents objected and you sustained the objections and clearly stated that you would not read deposition transcripts unless all parties agreed or there were no objections¹⁴.

64. The arbitrator in violation of JAMS Rule 22 (e) “The Arbitrator shall receive and consider relevant deposition testimony recorded by transcript or videotaped provided the parties that the parties have had the opportunity to attend and cross examine” refused to consider the Jeffery Harris and Christopher Stoller depositions. See Pages 25-27 of the official transcript of the hearing on July 11, 2017. The arbitrator also violate¹ 710-ILCS 5/12 SEC 12 (a)(4). Upon Application of a party, the court shall vacate an award where the arbitrator “refused to hear evidence material to the controversy”

65. Plaintiff attempted to introduce evidence in a post-trial motion (**Exhibit 6**), prior to entry of the award that the Defendant, President of Highland Park Motor Company/ Muller Nissan, Mark Muller, who was charged with engaging in the unlawful practice of “switch and bait” during the trial, racketeering, did in fact commit perjury, lied to the arbitrator (**Exhibit 6**). Stoller’s post-trial motion for Evidentiary Hearing¹⁵.

66. The arbitrator relied on the perjured testimony of Mark Muller in his arbitration award (**Exhibit 1**) for the Defendants and against the Plaintiff. The Arbitrator had the opportunity to correct the record and conduct an evidentiary hearing at the Request of Stoller (**Exhibit 6**), but refused to again in violation of JAMS Rule 22(e) and violation of 710-ILCS 5/12 SEC 12 (a)(4).

67. The Plaintiff presented prima facie and irrefutable evidence that the President of the Respondents Highland Park Motor Company, Mark Muller lied and committed perjury during the arbitration, was not a credible witness, the Arbitrator denied Stoller’s Motion for an Evidentiary

¹⁴ This was a clear example of the inconsistency of Arbitrator Goldberg. Jams Rules on Page 9 of their Rule book require the Arbitrator to read “smoking gun” evidence contained in depositions.

¹⁵ Stoller’s Post trial Motion laid out all of the facts of the perjury and contained an affidavit of Max Stoller which establishes that Mark Muller committed perjury

Hearing (**Exhibit 6**) regarding the perjury charge of the Claimant, and relied on the perjured evidence that Mark Muller presented during the trial in order to grant it's arbitration award in favor of Mark Muller Highland Park Motor Co, the Defendants and against the Plaintiff.

68. The Arbitrator committed clear error and reversible error, violated JAMS Rule 16, by failing to conduct an evidentiary hearing of Stoller dispositive motion relating the his allegation of perjury against the President of Highland Park Motor Co., Mark Muller. Instead, the JAMS Arbitrator on Page 11, ¶3 of the Arbitration Award (**Exhibit 1**) erroneously stated: Stoller has asked for a hearing on his allegation that Mark Muller lie, perjured himself, when testifying he did not see Stoller at the dealership at the time Stoller leased the Sentra. Stoller claims his son, Max, would testify that Mark Muller was not truthful. The arbitrator denies the request for a hearing as it is irrelevant to the arbitrator's decision^{16, 17}.

69. The arbitration award should be vacated by this court on the grounds that the JAMS arbitrator violated 710 ILCS 5/129(a)(4) The arbitrator refused to hear evidence material to the controversy or otherwise so conducted the hearing, contrary to the provisions of Section 5, as to prejudice substantially the rights of the Plaintiff.

70. The JAMS arbitrator also violated Jams Rule 17(b) Exchange of Information "Each Party may take one deposition of an opposing party or of one individual under the control of the opposing party." Plaintiff was entitled to take the Depositions of the following

¹⁶ It is clear that the Arbitrator was either incompetent or biased against the Plaintiff, Christopher Stoller, or both, as evidenced by his refusal to at least conduct an evidentiary hearing (Exhibit 6) to determine whether Defendant Mark Muller did in fact commit perjury. Instead the Arbitrator denies Stoller's Motion for an evidentiary hearing (Motion 6) and then goes on to issue an adverse arbitration award in favor of the Defendants and against the Plaintiff, relying on the perjured testimony of the primary Defendant, Mark Muller, the President of Highland Park Motor Co, that had been charged with the tort of "switch and bait".

¹⁷ Arbitrator Goldberg evidenced an unjust "cultural bias" in his judicial decision making against Stoller. "When judges adjudicate cases, they use not only legal knowledge, but also knowledge about the world. The source of the judges' knowledge about the world is their "common sense," which is the intangible cultural system that contains people's informal knowledge about the world from their social group's point of view. Insomuch as the judges' interpretation about the world is limited to their social group's interpretation, the proceedings regarding parties who do not share the judges' group's cultural perspective may be unjust." Boston College Journal of Law & Social Justice Volume 35 | Issue 2 Article 3 May 2015 Cultural Bias in Judicial Decision Making Masua Sagiv Buchmann Faculty of Law, Tel Aviv University, masuasagiv@post.tau.ac.il

Defendant\Respondents: Nissan Motor Company LTD., Carlos Ghosn, Nissan North America Inc., Nobao Araki, Nissan Infinite LTD., and Roland Krueger. The JAMS arbitrator refused to allow the Plaintiff to take the said depositions of any of the above parties of which he was entitled to under JAMS Rule 17(b).

71. Attorney for the Defendant, Nissan Motor Acceptance Corporation Bruce Terlep, founding partner, agreed to pay for have of the stenographic record, which has cost the Plaintiff over \$15,000.00, pursuant to Jams rule 22(k)(i) however after demand, the Mr. Terlep's law firm Swanson Martin Bell refused to pay for their portion of the stenographic record (\$7,500.00).

72. The Plaintiff filed a Motion for Default on March 13, 2017, against all parties who had failed to answer the complaint and were properly served: Namely NISSAN MOTOR CO, LTD., CARLOS GHOSN, CEO, NISSAN NORTH AMERICA,INC., NOBAO ARAKI, PRESIDENT, NISSAN INFINITI, LTD, ROLAND KRUEGER, PRESIDENT, HIGHLAND PARK MOTOR , CARS,INC., MULLER, NISSAN, MICHAEL MUELLER, CEO, MUELLER AUTO GROUP, MARK MUELLER, PRESIDENT, RAFAL CHUDOBA, NISSAN MOTOR ACCEPTANCE CORP., MARK KACZYNSKI, PRESIDENT.

73. The arbitrator issued a scheduling Order No. 2 on April 27, 2017, (**Exhibit 7**) at ¶ 3 Motion for Default responses to be filed by May 20, 2017.

74. Defendants never filed their responses to the Complaint. At the close of the Defendants' case on Page 6 of the Official Transcript incorporated herein by reference. Plaintiff's counsel make the following request to default the Defendants:

PHILIP KISS: What I would like to argue is that your Honor. I think that we are entitled to a default...

ARBITRATOR: I appreciate that. Okay. So I thought I—I've ruled on already and I think I did that at the motion phrase of this case. I indicated that no default

would be allowed...

PHILIP KISS: I'm asking for a default against NMARC. And in addition to that, whether or not they filed a response to that, we're under—we all agreed that we are acting under the rules of circuit court. And under the rules of the circuit court an answer is required, and we're entitled to—we're entitled to a default. They never answered.

THE ARBITRATOR: JAMS require a response that's what the demand for arbitration says, and it gives the other party a period of time, which I don't recall the exact period of time to file a response. I don't remember, but apparently they did not file a response.

75. The arbitrator committed clear error and reversible error by failing to grant the Plaintiff's Motions for Default (**Exhibit 8**).

76. In the arbitrator's Scheduling Order No. 1, (**Exhibit 9**) the arbitrator stated on Page 2 of his Order:

- a. The arbitration shall be administered in accordance with the JAMS Comprehensive Arbitration rules.
- b. Applicable procedural law shall be Illinois.
- c. Applicable substantive law shall be Illinois.
- d. According to the Applicable Illinois procedural law Rule 181. Appearances--Answers--Motions (a) When Summons Requires Appearance within 30 days after Service. When the summons requires appearance within 30 days after service, exclusive of the day of service (see Rule 101(d)), the 30-day period shall be computed from the day the copy of the summons is left with the person designated by law and not from the day a copy is mailed, in case mailing is also required. The

defendant may make his or her appearance by filing a motion within the 30-day period, in which instance an answer or another appropriate motion shall be filed within the time the court directs in the order disposing of the motion. If the defendant's appearance is made in some other manner, nevertheless his or her answer or appropriate motion shall be filed on or before the last day on which he or she was required to appear.

77. The Plaintiff was entitled to a default judgment entered against all of the named parties who were served and failed to answer Plaintiff's complaint: NISSAN MOTOR CO, LTD., CARLOS GHOSN, CEO, NISSAN NORTH AMERICA, INC., NOBAO ARAKI, PRESIDENT, NISSAN INFINITI, LTD, ROLAND KRUEGER, PRESIDENT, and HIGHLAND PARK MOTOR CARS, INC., MULLER, NISSAN, MICHAEL MUELLER, CEO, MULLER AUTO GROUP, MARK MUELLE, PRESIDENT, RAFAL CHUDOBA, NISSAN MOTOR ACCEPTANCE CORP., MARK KACZYNSKI, PRESIDENT.

78. The arbitrator committed clear error and reversible error by failing to grant the Plaintiff his Default Judgments and failing to following Illinois Supreme Court Rule Applicable Illinois procedural law.

79. The arbitrator committed clear error and reversible error by disregarding NISSAN MOTOR ACCEPTANCE CORP (herein after referred to as "Nissan" and/or "NMAC") misrepresentations of material fact to the Arbitrator in direct violation of ARDC Rule 3.3(a)¹⁸. "NMAC'S involvement in this matter arises by virtue of the fact that it was the assignee of the lease contract entered into between Claimant and Muller Nissan¹⁹ when in fact NMAC was the servicer of the loan.

¹⁸ ARDC Rule 3.3(a) making false or misleading statements of fact and/or law to a tribunal.
¹⁹ At Page 2 ¶2 of NISSAN's Motion to Dismiss.

80. The arbitrator committed clear error and reversible error by permitting Nissan's attorneys to violate Rule 3.3(a), by relying on an Illinois Decision, which Nissan proffered that has no precedent value here; *Jarvis v. South Oak Dodge Inc.*, 201., Ill. 2d 81 (2002). Which held that "under Illinois Law, the assignee of a lease contract is not liable for such misrepresentation." When Nissan Affinity LT, a California Corporation that is unlicensed and unregulated to conduct business within the State of Illinois, is the Assignee and NMAC is the servicer for the monthly payments of the lease (**Exhibit 3**).

81. NMAC was not the assignee of the lease²⁰, they are a loan servicer. See ¶24 of the lease which is attached as (**Exhibit 3**).²¹ The holdings in *Jarvis*, as well known to the arbitrator were not applicable here, but the arbitrator relied upon them anyway. Nissan Infinity LT is the current title holder of the 2015 Nissan Sentra and the Current Lessor, not NMAC.

82. The arbitrator committed clear error and reversible error by completely ignoring the fact that the following defendant companies were not licensed to do business in Illinois : NISSAN MOTOR CO, LTD., NISSAN NORTH AMERICA, INC., INFINITI, LTD, and thus had no standing to sue or maintain the litigation under the provisions of the Illinois Business Corporation Act §3.05 13.05; see *First Mortgage Company LLC v. Daniel Dina and Gratzuela Dina* 2014 Il, App (2d) 130567, No 2-13-0567 Opinion filed on March 31, 2014.

83. The arbitrator committed clear error and reversible error by completely ignoring the

20 NMAC does not provide any affidavit supporting what legal status NMAC has or has not in this proceeding.

21 It is important that the portion of the lease that the Petitioner is citing to is conspicuously absent from the copy of the lease that NISSAN provided and attached to their motion marked as (**Exhibit 1**), the Motor Vehicle Lease Agreement with Arbitration Clause. Such duplicity is sufficient for this court to grant a Rule 137 Sanction against NMAC and to issue a Judgment in favor of the Petitioner for committing a fraud on the court. Whenever any officer of the court commits fraud during a proceeding in the court, he is engaged in "fraud upon the court". In *Bulloch v. United States*, 763 F.2d 1115, 1121 (10th Cir. 1985), the court stated "Fraud upon the court is fraud which is directed to the judicial machinery itself and is not fraud between the parties or fraudulent documents, false statements or perjury. It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function, thus where the impartial functions of the court have been directly corrupted."

"Fraud upon the court" has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." *Kenner v. C.I.R.*, 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, ¶60.23.

fact by ignoring the fact that , Irma Gutierrez, a Supervisor for Defendant Nissan Motor Acceptance Company, had signed a perjured affidavit dated April 20, 2017, (**Exhibit 22**), which their counsel Christian Sullivan, Robert R. McNamara, Ross Bartolotta and their law firm Swanson Martin & Bell, LLP, knew or should have known contains a fraudulent statement under oath, which Mr. Sullivan knew when he presented it to the court²² dated April 20, 2017, falsely stating that NMAC is the assignee of the lease contract (**Exhibit 3**) entered into between Defendant Highland Park Motor Company and Plaintiff Christopher Stoller. When Mr. Sullivan²³ knew that the lease was assigned to Nissan Infiniti LT, who also owns title to the car see Exhibit 3 the rental agreement.

84. Mr. Sullivan attempted to keep Gutierrez from appearing at the trial, motivated by a desire to obtain a tactical advantage, by concealing Ms. Gutierrez fabricated testimony, contained in her affidavit (**Exhibit 22**) by excluding Irma Gutierrez, from its witness list, for testimony at trial, which had been ordered by Judge Goldberg.

85. The perjured affidavit of Irma Gutierrez falsely states that “Nissan Motor Acceptance Corporation d/b/a Nissan Infiniti LT” when Nissan Motor Acceptance Corporation is not a d/b/a of Nissan Infiniti LT, which is a distinct corporation (**Exhibit 23**). Irma Gutierrez’s false statement perjury was material misstatement of material fact as well known to the Arbitrator who merely ignored it. See Plaintiff’s Reply to Nissan Motor Acceptance Corporation’s Response to motion for sanctions marked as (**Exhibit 24**).

COUNT I

PETITION TO VACATE AWARD

86. Plaintiff adopts and re-alleges all previous paragraphs.

²² 18 U.S. Code § 1622 Subornation of perjury

²³ Mr. Christian Allen Sullivan, who was admitted to the bar on November 7, 2002, has engaged in a pattern of misrepresentation of material fact and law to the court in violation of the ARDC Rules 3.3(a) and 8.4(c) & (d) throughout the entire arbitration.

87. The Award should be vacated for one or more of the following reasons:
- a. The arbitrator was corrupt, he refused to hear the Exclusive Evidence, which was material to the controversy in violation of 710 ILCS 5/12(a)(4);
 - b. The arbitrator was corrupt, he grossly misapplied Illinois law relating when he learned that the Defendants were not licensed to do business in Illinois, NISSAN MOTOR CO, LTD., C NISSAN NORTH AMERICA, INC., NISSAN INFINITI, LTD,
 - c. The arbitrator was corrupt, he grossly misapplied Illinois law relating to the perjured affidavit of Irma Gutierrez. The arbitrator grossly misapplied and ignored Illinois law relating to the Defendants attorneys Christian Sullivan, Bruce Terlep, Robert R. McNamara Ross Bartolotta and their law firm Swanson Martin & Bell LLP, Kent Bowersock who represented Nissan Motor Acceptance Corporation and were guilty of subornation of perjury 18 U.S. Code § 1622 - Subornation of perjury | US Law for drafting and presenting the Irma Gutierrez's affidavit to Jams and the falsely representing to the Arbitrator that the Gutierrez's affidavit was truthful when in fact is was "perjury".
 - d. The arbitrator was corrupt, in overlooking and ignoring the perjury of Irma Gutierrez and the Subornation of Perjury, and the fraud in the preparation of the Gutierrez Affidavit (**Exhibit 20**) of attorneys Christian Sullivan, the Estate of Bruce Terlep, Robert R. McNamara, Ross Bartolotta and their law firm Swanson Martin & Bell LLP, Kent Bowersock so tainted the JAMS arbitration that it should be set aside and

forever held for naught. It was procured by bias and corruption.

e. The court should block the enforcement of a decision (**Exhibit 1**) rendered by a corrupt Arbitrator Allen Goldberg that “manifestly disregarded the law²⁴”.

f. The arbitrator was corrupt, he refused to hear evidence material to the controversy so that the conduct of the arbitration hearing substantially prejudiced the rights of the Plaintiff.

g. The arbitrator Allen Goldberg was corrupt, his mistakes were “gross and palpable” and of a character which controlled the Arbitrator’s disregard for the law.²⁵

WHEREFORE, for all of the above reasons, the Plaintiff ask this honorable court to enter judgment in their favor and against Defendants granting to Plaintiff the following relief.

- a. Vacating the arbitrator’s decision (**Exhibit 1**);
- b. To grant the Plaintiff its attorney’s fees and costs associated with the arbitration;
- c. There was fraud, the arbitrator acquiesced to the fraud, Plaintiff requests compensatory damages not to exceed \$75,000 including attorney fees and costs.

COUNT II

Negligent Hiring and Supervision⁹ as to JAMS

88. The allegations contained in all previous Paragraphs are incorporated by reference in

²⁴ The Arbitrator, former retired Cook County Circuit Judge Allen Goldberg, who served for 25 years was conscious of the law and deliberately ignored it; *Anderson*, 41 Ga. At 21. Compare *id.*, with *Montes v. Shearson Lehman Bros, Inc.*, 128 F.3d 1356. 1461 (11th Cir. 1997.)

²⁵ *Fuller v. Fenwick*, (1846) 136 Eng. Rep. 282 (L.R.C.P.)

this count as if fully restated herein.

89. The Respondents' employer JAMS knew or should have known that employee arbitrator Allen Goldberg was a former Cook County Judge²⁶ who was corrupt, unfit for the position of arbitrator that he was hired for as to create a danger of harm to the Plaintiff/Claimant.

90. That such unfitness was known or should have been known at the time of hiring or retention and that Allen Goldberg and Michael McCants unfitness proximately caused the Plaintiff/Claimant injury.

91. Said Defendant JAMS lacked control over their employees Allen Goldberg and Michael McCants and supervision related to the Sentra vehicle car leasing arbitration.

92. JAMS knew or should have known that their employee Allen Goldberg and Michael McCants, were corrupt, lacked the experience of knowing and following the JAMS Rules in the Sentra Lease Arbitration. In a preliminary telephone conference conducted on March 23, 2017, evidenced that Arbitrator Goldberg was incompetent and/or corrupt when he wrote a first convoluted Scheduling Order (**Exhibit 9**) that did not conform to the telephonic conference, as well known to Jams..

93. JAMS lack of supervision allowed their employees/agents/representative Allen Goldberg and Michael McCants in fact, encouraged their corruption and their failure to follow JAMS rules and to make up "rules" as they go along. Which evidences that Jams is a sham arbitration organization which should be ordered dissolved by the court.

94. Jams lack of supervision in management and control failed to ensure Goldberg and McCantis would comply with applicable Jams rules laws and regulations. Which evidences that the

²⁶ Opeeration Graylord In 1985, Valukus and AUSA James Schweitzer indicted 22 **corrupt** court personnel, along with **Judge**Raymond Sodini, who presided over the **corruption** in his courtroom at Chicago Police Headquarters.

Jams rules are not rules at all but part of a scheme to attract clients under the guise that Jams is a legitimate arbitration organization, when they are not.

95. Jams' deficiencies in management control and supervision lead to their employees Allen Goldberg and Michael McCants overlooking the Defendants' fraud on JAMS and the Plaintiff. It was clear that Defendant Nissan Motor Acceptance Corporation²⁷ filed²⁸ response (**Exhibit 26**) was "fraud on JAMS and Christopher Stoller." Defendant Nissan Motor Acceptance Corporation's ("Nissan") fraudulently claimed that Nissan Infiniti, LT²⁹ are one and the same legal entity, when they are not³⁰. Nissan Infiniti LT, Nissan Motor Acceptance Corporation ("NMAC") (**Exhibit 29**) is a separate legal corporate entity and is **not** a d/b/a/ for Nissan Infiniti LT (**Exhibit 27**); See also affidavit of Christopher Stoller (**Exhibit 28**) incorporated herein in support of Claimant's Reply. The fact that made no difference to the corrupt Arbitrator Alan Goldberg in his decision making nor to Jams.

96. JAMS employees/agents Goldberg and McCants did not care that Nissan Motor Acceptance Corporation and their attorneys KENT BOWERSOCK³¹, SWANSON MARTIN & BELL, LTD., BRUCE TERLEP, ROBERT MCNAMARA, ROSS BARTOLOTTA, and CHRISTIAN A. SULLIVAN committed fraud on JAMS and Christopher Stoller as a result of JAMS negligent hiring and supervision of the corrupt Goldberg.

97. It is a matter JAMS negligent hiring and supervision that the corrupt employees/agents Allen Goldberg and Michael McCants were able to ignore, the total misconduct of Defendants, the Estate of Bruce Terlep, Christian Sullivan, their law firm of Swanson Martin &

²⁷<https://www.nissanfinance.com/>

²⁸ Filed by the Defendant's Swanson Martin

²⁹ <https://www.infinitiusa.com/iapps/contactus> <https://www.infinitiusa.com/financing/about-ifs>

³⁰ In the very first paragraph of NMAC's Response to Motion for Sanctions (Exhibit 25) NMAC states that "NISSAN MOTOR ACCEPTANCE CORPORATION d/b/a NISSAN-INFINITI LT" when the Arbitrator Goldberg and Michael McCants knew that statement represented a fraud on Jams and ignored it, because Nissan Motor Acceptance Corporation was NOT a d/b/a of Nissan-Infiniti Lt. Nissan Infiniti Lt was a separate corporation.

³¹ Attorney for Nissan Group of North America, Nissan North America, Inc, Nissan Infiniti FT

Bell, LLP.

98. As a direct result of JAMS fraudulent arbitration organization and the negligent hiring and supervision, JAMS employees/agents Allen Goldberg and Michael McCants, Defendants, were unaware that whenever any officer of the court commits fraud during a proceeding (Arbitration), they are engaged in fraud upon the arbitrator. In *Bulloch v. United States*, 763 F.2d 1115, 1121 (10th Cir. 1985), the court stated "Fraud upon the court is fraud which is directed to the judicial machinery itself and is not fraud between the parties or fraudulent documents, false statements or perjury." "Fraud upon the court" has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." *Kenner v. C.I.R.*, 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, ¶60.23.

99. As a direct result of Jams total indifference to the law and their, negligent hiring and supervision, JAMS corrupt employees/agents Allen Goldberg and Michael McCants, Defendants, were unaware that Nissan's Response to Motion for Sanctions (**Exhibit 26**) represented a clear fraud on JAMS and Christopher Stoller.

100. As a direct result of JAMS negligent hiring and supervision, JAMS corrupt employees/agents Allen Goldberg and Michael McCants, Defendants, were fully aware that Nissan's Response (**Exhibit 26**), including the Swanson, Martin & Bell, LLP filing³² of the attached perjured affidavit of Irma Gutierrez (**Exhibit 22**), which was drafted by Defendants Swanson, Martin & Bell, LLP, Bruce S. Terlep and Christian Sullivan and approved and sanctioned by the corrupt Kent

³²The filing of contemptuous documents can be indirect criminal contempt. *People v. Kaeding*, 239 Ill. App. 3d, 851 (1993).

Bowersock³³ .

101. As a result of JAMS corrupt policies, their Negligent Hiring and Supervision, JAMS employees/agents were indifferent to the law and to the fact that Defendant's NMAC and their corrupt attorneys Kent Bowersock, Bruce S. Terlep and Christian A. Sullivan, in this case created a contemptuous document³⁴ (**Exhibit 26**) for filing. The document(s), the affidavit of Gutierrez, (**Exhibit 22**) are contemptuous because they contained a willful misrepresentation³⁵ that is "calculated to embarrass, hinder, or obstruct the court in the administration of justice" as well known to the corrupt Defendant Swanson, Martin and Bell law firm and their lawyers, along with Nissan's corporate attorney Kent Bowersock, who the Jams Arbitrator Allen Goldberg have made a mockery of JAMS rules during this arbitration proceeding because Jams does not have an enforceable rules to their fraudulent arbitration organization..

102. As a result of JAMS Negligent Hiring and Supervision, JAMS corrupt employees/agents Goldberg and McCants were able to recognize , that Defendant NMAC was committing a fraud on JAMS and Christopher Stoller but turned a blind eye to NMAC fraud..

103. As a result of JAMS Negligent Hiring and Supervision, JAMS corrupt employees/agents Goldberg and McCants recognized that Defendant NMAC was acting with intent to obstruct Jams in the administration of justice by concealing the fact that Nissan Motor Acceptance Corporation.³⁶ ("NMAC") was not a d/b/a/ of. Nissan Infiniti, LT³⁷. Nissan Infiniti LT is a separate foreign corporate entity that has its own web site, that is not licensed or registered to conduct business within the state of Illinois and, that has selected **not** to file an appearance in this

³³ Defendant Kent Bowersock is the counsel of Nissan North America, Inc., who aided and abetted Defendant Attorneys SWANSON MARTIN & BELL, LTD., BRUCE TERLEP, ROBERT MCNAMARA, ROSS BARTOLOTTA, CHRISTIAN A. SULLIVAN defraud Stoller and the Arbitrator in violation of the Illinois and Texas Rules of Professional Conduct Rules 3.3(a) and 8.4 c & d.

34Affidavit(s) of Irma Gutierrez

35"I am a Supervisor in the lease Customer Network department for Nissan Motor Acceptance Corporation d/b/a Nissan Infiniti Lt ("NMAC")

36See true and correct copy of a document evidencing that Nissan Infiniti LT is a separate corporate entity. Exhibit 2.

37<https://www.infinitiusa.com/iapps/contactus>

case or plead or answer the Complaint. Which was affirmed by the corrupt Attorney Kent Bowersock the compliance legal officer for the Nissan Group of North America. See affidavit of Christopher Stoller.

104. As a result of JAMS Negligent Hiring and Supervision, JAMS employees/agents Goldberg and McCants were unable to recognize that Probable cause is a level of reasonable belief, based on facts that can be articulated, that a person committed the offense charged [cite]. Here, the actus reas was the false representations, that Nissan Motor Acceptance Corporation.³⁸ (“NMAC”) is a d/b/a/ of. Nissan Infiniti LT were made when in fact they were not. As a result of Jams Negligent Hiring and Supervision, JAMS employees/agents Goldberg and McCants were unable to recognize the *mens rea* is that the misrepresentation(s) of Irma Gutierrez (**Exhibit 22**) were willful and were calculated to hinder and obstruct the arbitrator in the administration of justice which caused an injury to Christopher Stoller.

105. As a result of JAMS Negligent Hiring and Supervision, JAMS employees/agents Goldberg and McCants were unable to recognize that defendants NMAC, Swanson, Martin & Bell’s and their attorneys, Ken Bowersock, knew that Nissan Motor Acceptance Corporation and Nissan Infiniti. LT, were two distinct corporate entities and that Nissan Motor Acceptance Corporation was not a d/b/a of Nissan Infiniti LT., when the Defendants Swanson Marten and Bell lawyers along with Kent Bowersock, drafted the perjurious affidavit for Ms. Irma Gutierrez (**Exhibit 22**) to sign under oath. Then Defendants Swanson Marten and Bell, the estate of Bruce Terlep, Christian Sullivan, Robert R. McNamara committed subornation of perjury , 720 ILCS 5/32-3, A CLASS 4 Felony when they submitted the perjured affidavit of Irma Gutierrez to JAMS.

106. Notwithstanding, Defendants NMAC, Swanson, Martin & Bell and their attorneys, Kent Bowersock attorney for Nissan Group of North America, continue to falsely represent to

38 See true and correct copy of a document evidencing that Nissan Infiniti, LT is a separate corporate entity (**Exhibit 2**).

Arbitrator Goldberg that their client's sworn affidavit(s) (**Exhibit 3**) (Irma Gutierrez) were true and correct. When Defendants Swanson, Martin & Bell knew that they directed Irma Gutierrez to make false statements under oath and presented those affidavits to Arbitrator Goldberg and Defendant Michael McCants as truthful in order to falsely represent that Nissan Infiniti, LT was in fact Nissan Motor Acceptance Corporation, even though Nissan Infiniti, LT has not filed an appearance in this case and was in default. As a result of JAMS Negligent Hiring and Supervision Defendants Goldberg and McCants did know what perjury or subornation of perjury were nor that the false swearing charged by Christopher Stoller was direct criminal contempt.^{39 40}

107. As a result of JAMS Negligent Hiring and Supervision Allen Goldberg were unaware that the Arbitrator had a right to punish defendants NMAC and their attorneys Bruce S. Terlep, Kent Bowersock, Nissan's corporate attorney, Christian A. Sullivan and their law firm Swanson, Martin & Bell for the In Illinois, the Arbitrator has the obligation, to punish the contemptors in this case the contemptors are Defendants' Attorney KENT BOWERSOCK, SWANSON MARTIN & BELL, LTD., BRUCE TERLEP, ROBERT MCNAMARA, ROSS BARTOLOTTA, CHRISTIAN A. SULLIVAN Respondents Bruce S. Terlep, Christian A. Sullivan for direct criminal contempt committed in the actual sight and presence of the trial judge.

108. Defendants' Kent Bowersock⁴¹, Swanson, Martin & Bell and their attorneys, Bruce S. Terlep, Ross Bartolotta and Christian A. Sullivan were now charged by Christopher Stoller with subornation of perjury, 720 ILCS 5/32-3, a Class 4 Felony, for knowingly filing the false sworn

39Contempt of court under Illinois law is considered to be the following: any conduct committed with intent to impede, embarrass, or obstruct the court, or to derogate from the court's authority, or bring the court into disrepute. ...Direct criminal contempt is any conduct that takes place in the presence of the judge. In these cases, the judge is a witness to the contempt of court. Therefore, the judge does not have to hold trial to determine the guilt or innocence of the person who is in contempt. In situations where direct criminal contempt of court takes place, the judge is authorized to impose a sentence immediately. <http://www.criminallawyerillinois.com/2011/05/01/contempt-of-court-summary-of-illinois-law/>

⁴⁰ Arbitrator Goldberg had to have blinders on and refused to correct the injustice of Mark Muller's perjury and false swearing of Irma Gutierrez's affidavit (Exhibit 20) and subornation of perjury engaged in by Attorneys KENT BOWERSOCK, SWANSON MARTIN & BELL, LTD., LAW FIRM AND THEIR ATTORNIES BRUCE TERLEP, ROBERT MCNAMARA, ROSS BARTOLOTTA, CHRISTIAN A. SULLIVAN

⁴¹ Nissan Group of North American's corporate attorney.

affidavits of Irma Gutierrez (**Exhibit22**), with the clerk of the JAMS, which were calculated to hinder or obstruct JAMS in its administration of justice.

109. As a result of JAMS negligent hiring and supervision Allen Goldberg and Michael McCants were unaware that the filing of a false affidavit (**Exhibit 22**) by Defendants' Swanson, Martin & Bell and their attorneys, Bruce S. Terlep, Christian A. Sullivan, Kent Bowersock, attorneys fell under the category of contempt. *Winning Moves, Inc. v. Hi! Baby, Inc.*, 238 Ill. App. 3d 834, 179 Ill. Dec. 12, 605 N.E.2d 1026 (2d Dist. 1992), which is punishable as direct criminal contempt.

110. As a result of JAMS negligent hiring and supervision, Allen Goldberg and Michael McCants were unaware that Defendant NMAC came to the underlying arbitration with 'unclean hands'⁴², acting with malice, fraud, gross negligence, oppressiveness, abuse of process, violated the Illinois Professional Rules of Conduct 3.3(a) and 8.4(c) & (d) to thwart the administration of justice which was not the result of mistake of fact or law, honest error or judgment, over zealotness, mere negligence or other human failing, at all-time the Defendants' NMAC and their lawyers, Ken Bowersock, Swanson, Martin & Bell and their attorneys, Bruce S. Terlep, and Christian A. Sullivan, ROSS BARTOLOTTA, ROBERT MCNAMARA have acted with willful and wanton professional misconduct.

111. As a result of JAMS negligent hiring and supervision, Allen Goldberg and Michael McCants were unaware that Defendant NMAC and their attorneys Swanson, Martin & Bell and their attorneys, Bruce S. Terlep, , ROBERT MCNAMARA, ROSS BARTOLOTTA, Christian A. Sullivan knowingly acted with intent, with malice, fraud gross negligence, oppressiveness, abuse of process, which was not a result of mistake of fact, or law, honest error, judgment, over zealotness, mere negligence, or other human failing, but that NMAC and their attorneys have acted and through a continuing course of conduct acted with willful and wanton misconduct. Which caused an injury

42 *Prospect Development LLC et al., v. Donald Kreger et al*, 2016 IL. App (1st) 150433

to Christopher Stoller.

112. As a result of JAMS negligent hiring and supervision, Allen Goldberg and Michael McCants were unaware that Defendant NMAC and their attorneys, Kent Bowersock, ROSS BARTOLOTTA, ROBERT MCNAMARA Bruce S. Terlep, Robert and Christian A. Sullivan were liable for the tort of “abuse of process⁴³”, they have “unclean hands” with the filing of the false affidavits (**Exhibit 22**).

113. As a result of JAMS negligent hiring and supervision, Allen Goldberg and McCants were unable that Defendants NMAC, Bruce S. Terlep, ROBERT MCNAMARA, ROSS BARTOLOTTA and Christian A. Sullivan and conspired together to aid and abet each other in order to conduct their RICO enterprise. As a result of Arbitrator Allen Goldberg’s corruption all of the orders that he entered in the underlying arbitration are void *ab initio*. This court is called upon to vacate the Arbitration award and order that the Plaintiff be given a new Arbitration and that a new arbitrator be assigned.

114. Christopher Stoller, a disabled senior citizen was damaged and injured by the Respondents.

WHEREFORE Plaintiffs pray for judgment not to exceed \$74,000.00 including attorney fees and costs. For the Court to order a disgorgement of fees ⁴⁴ already paid (or forfeiture of fees owed) by Defendants to their law the firms as it relates to this matter. To be placed in an escrow account for the benefit of the claims of the plaintiff, which do not exceed \$74,000 and for any

43 *Kumar v. Bornstein*, 354 Ill.App.3d 159, 820 N.E.2d 1167, 290 Ill. Dec. 100 (2d Dist. 2004); *Neurosurgery & Spine Surgery, S.C. v. Goldman*, 339 Ill.App.3d 177, 790 N.E.2d 925, 274 Ill. Dec. 152 (2d Dist. 2003); *Kirchner v. Greene*, 294 Ill.App.3d 672, 691 N.E.2d 107, 229 Ill. Dec. 171 (1st Dist. 1998); *Sutton v. Hofeld*, 118 Ill.App.3d 65, 454 N.E.2d 681, 73 Ill. Dec. 584 (1st Dist. 1983); *Kurek v. Kavanagh*, Scully, Sudow, White & Frederick, 50 Ill.App.3d 1033, 365 N.E.2d 1191, 1195, 8 Ill. Dec. 805 (3d Dist. 1977).

⁴⁴ ee *Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing* (2016) 244

additional funds, to be placed in a fund for the homeless. For the Defendants to be permanently enjoined from doing business in Illinois.

COUNT III

Aiding, Abetting and Conspiracy

As to Defendants Swanson, Martin & Bell and their attorneys, Kent Bowersock, Estate of Bruce S. Terlep, Robert R. McNamara, Christian A. Sullivan, Ross Bartolotta, Kent Bowersock

115. The allegations contained in all previous Paragraphs are incorporated by reference in this count as if fully restated herein.

116. Defendant attorneys owes a duty to the Plaintiff not to counsel Irma Gutierrez (**Exhibit 22**) to engage in false swearing, lying and perjury.

117. Defendants' attorneys owe a duty not to subordinate perjury (**Exhibit 22**).

118. Defendants' attorneys owe a duty to the Plaintiff not to assist their NMAC in criminal and fraudulent conduct.

119. Defendants Respondents' attorneys are aware of their clients' breach of their duty owed to the Claimant.

120. The Plaintiff has suffered damages on account of the Defendants' breach of their duty owed to Christopher Stoller as well known to Defendants.

121. Conspirators need not participate in all activities of a conspiracy nor become a member of its inception. It is only necessary that they knowingly contribute their efforts in furtherance of it; *Smith v. Lily & Co.*, 137 Ill. 2d 222 (1990); *Vance v. Chandler*, 231 Ill. App. 3d 747, (1992). Under the Pinkerton Theory of Liability, a Respondent may be found guilty of a substantive offense committed by a co-conspirator in the offense was committed in furtherance of the conspiracy at the time the Defendant was a member of the conspiracy. This is true even if the Defendants neither participated nor had knowledge of the substance offense.

122. Count III pleads a cause of action for negligent hiring and negligent supervision. (1) Employer knew or should have known that he employee had a particular unfitness for the position so as to create a danger of harm to a third person; (2) that such particular unfitness was known or should have been known at the time of the employee's hiring or retention; and (3) that this particular unfitness proximately cause the Claimant injury; *Skywalker Outdoors, Inc. v. Van Wagner Communications, LLC*, 2011 WK 10068650, at 8 (1st Dist. Apr. 2010); the tort of neglect and supervision; *Zahl v. Krupa*, 339, Ill. App. 3d. 993.

WHEREFORE Plaintiffs pray for judgment not to exceed \$74,000.00 including attorney fees and costs. For the Court to order a disgorgement of fees ⁴⁵ already paid (or forfeiture of fees owed) by Defendants to their law the firms as it relates to this matter. To be placed in an escrow account for the benefit of the claims of the plaintiff, which do not exceed \$74,000 and for any additional funds, to be placed in a fund for the homeless. For the Defendants to be permanently enjoined from doing business in Illinois.

COUNT IV

Elder Abuse and Neglect Act (Chapter 320 ILCS 20/1 et seq.) Sec. 1.

(This Act shall be known and may be cited as the "Elder Abuse and Neglect Act." Sec.

2. Definitions. As used in this Act, unless the context requires otherwise: (a) "Abuse" means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult's financial resources)

123. The allegations contained in all previous Paragraphs are incorporated by reference in this count as if fully restated herein.

124. The Plaintiff is a 68 year old disabled adult who is protected person under the Americans for Disability Act.

⁴⁵ ee *Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing* (2016) 244

125. The Defendants all participated in a scheme “switch and bait” scheme to defraud the elderly disabled elderly Plaintiff out of out of an \$110.00 per month in a car rental lease agreement which was advertised at \$149.00 per month (**Exhibit 13**).

126. The Defendants employed the “Switch and Bait” scheme by charging the elderly disabled Plaintiff \$259.00 per month, a 60% increase in the advertised cost of the Nissan Sentra rental agreement. (**Exhibit 3** see the rental agreement).

127. The Defendants erroneously and intentionally caused to be placed on his credit report a fictitious claim that he was late in making a car rental agreement payment in September of 2016, which resulted in the Plaintiff being unable to obtain a mortgage, causing the Plaintiff an injury.

128. The Defendants, after notice refused to remove the negative credit report on the Plaintiff’s credit report.

129. The Plaintiff was injured by the Defendants’ conduct. See a copy of Dr. Smith’s damage report marked as (**Exhibit 30**). Plaintiff request that it be awarded the damages that Stoller’s expert stated in his report incorporated herein by reference.

WHEREFORE Plaintiffs pray for judgment not to exceed \$74,000.00 including attorney fees and costs. For the Court to order a disgorgement of fees ⁴⁶ already paid (or forfeiture of fees owed) by Defendants to their law the firms as it relates to this matter. To be placed in an escrow account for the benefit of the claims of the plaintiff, which do not exceed \$74,000 and for any additional funds, to be placed in a fund for the homeless. For the Defendants to be permanently enjoined from doing business in Illinois.

⁴⁶ ee *Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing* (2016) 244

Respectfully submitted,

/s/Christopher Stoller, Plaintiff
415 Wesley, Suite 1
Oak Park, IL 60302
(773) 746-3163
Cns40@hotmail.com

Binding Stipulation

I do hereby swear and affirm that I do not now, and will not at any time during this case, whether it be removed, remanded, or otherwise, seek damages or restitution in excess of \$74,000 (inclusive of treble damages, costs and attorneys' fees) or seek damages or restitution in excess of \$74,000 per plaintiff or to seek punitive damages or exemplary damages.

I understand that this stipulation is binding and it is my intent to be bound by it,

VERIFICATION

Under penalties as provided by law under Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct except as to matters therein stated to be on information and belief, and as much matters, the undersigned certifies as aforesaid that I verify believe the same to be true.

/s/Christopher Stoller

Certificate of Service

I certify that the foregoing was served on the parties listed on the service list by first class mail on 12-7-17.

/s/Christopher Stoller

SERVICE LIST

1. Highland Park Motor Cars, Inc.
1340 Park Avenue West Highland Park
Illinois, 60035
2. Michael Mueller,
Ceo Highland Park Motor Cars, Inc.
1340 Park Avenue
West Highland Park,
Illinois, 60035
3. Mark Mueller
President Highland Park Motor Cars, Inc.
1340 Park Avenue West
Highland Park, Illinois, 60035

4. Mueller Auto Group
1350 Park Avenue West
Highland Park, Illinois 60035
5. Mueller Nissan
1350 Park Avenue
West Highland Park,
Illinois 60035
6. Rafal Chudoba
Sales and Leasing Consultant, Muller Auto Group
1350 Park Avenue
West Highland Park, Illinois 60035
7. Nissan Infinite, Ltd
P.O. Box 254648
Sacramento, California 95865
8. Roland Krueger,
President Nissan Infinite, Ltd,
P.O. Box 254648
Sacramento, California 95865
9. Highland Park Motor Cars, Inc.
1340 Park Avenue
West Highland Park, Illinois, 60035
10. Michael Mueller
Ceo Highland Park Motor Cars, Inc.
1340 Park Avenue
West Highland Park, Illinois, 60035
10. Mark Mueller
President Highland Park Motor Cars, Inc.
1340 Park Avenue
West Highland Park, Illinois, 60035
11. Mueller Auto Group
1350 Park Avenue West
Highland Park, Illinois 60035
12. Mueller Nissan
1350 Park Avenue
West Highland Park, Illinois 60035
- 13.

14. Rafal Chudoba
Sales and Leasing Consultant, Muller Auto Group
1350 Park Avenue
West Highland Park, Illinois 60035
15. Nissan Infinite, Ltd
P.O. Box 254648
Sacramento, California 95865
16. Roland Krueger
Nissan Motor Acceptance Corporation
8900 Freeport Pkwy Rear Dock
Irving Texas, 75063-2441
16. Mark Kaczynski, President
Nissan Motor Acceptance Corporation
8900 Freeport Pkwy Rear Dock
Irving Texas, 75063-2441
17. Nissan North America, Inc.
One Nissan Way
Franklin, Tennessee 37067
18. Nobao Araki
President Nissan North America, Inc.
One Nissan Way
Franklin, Tennessee 37067
19. Nissan Motor Co, LTD.
2 Takara-Cho Kanagawa-Ku
Yokohama-shi Kanagawa 220-8623 Japan
20. Nabao Araki
President Nissan Motor Co, LTD.
2 Takara-Cho Kanagawa-Ku,
Yokohama-shi Kanagawa 220-8623
21. Allen Goldberg
Jams Arbitrator,
71 South Wacker Drive, Suite 3090
Chicago, IL 60606
22. JAMS
71 South Wacker Drive, Suite 3090,
Chicago, IL 60606
23. Michael McCants
71 South Wacker Drive, Suite 3090,
Chicago, IL 60606

**IN THE CIRCUIT COURT OF DUPAGE COUNTY
MUNICIPAL DEPARTMENT**

CHRISTOPHER STOLLER,)
)
 Plaintiff/Claimant/Petitioner,)
 VS.)
 JAMS, ALLEN S.GOLDBERG)
 HIROTO SAIKAWA CEO)
 NISSAN MOTOR CORP, LTD., CARLOS)
 GHOSN, NISSAN NORTH AMERICA,)
 INC., NOBAO ARAKI, PRESIDENT, NISSAN)
 INFINITI, LTD., ROLAND KRUEGER,)
 PRESIDENT, HIGHLAND PARK MOTOR)
 CARS, INC., MUELLER NISSAN, MICHAEL)
 MUELLER, CEO, MUELLER AUTO GROUP,)
 MARK MUELLER, PRESIDENT, RAFAL)
 CHUDOBA, NISSAN MOTOR ACCEPTANCE)
 CORP., MARK KACZYNSKI, PRESIDENT,)
 SWANSON MARTIN & BELL, LTD.,)
 VIRGINA TERLEP SPECIAL)
 ADMINISTRATOR OF THE ESTATE OF)
 BRUCE TERLEP,)
 ROBERT MCNAMARA, ROSS BARTOLOTTA)
 CHRISTIAN A. SULLIVAN, BURKE WARREN))
 MACKAY & SERRITELLA, IRA LEVIN,)
 KENT BOWERSOCK,)
 MICHAEL MCCANTS, JEFFERY HARRIS,)
 BIANCA ROBERTS, IRMA GUTEIERREZ)
 Agents, Assigns, Attorneys))
 And John Does 1-10, et al.,)
)
 Defendants/Respondents.)

CASE NO:

JURY DEMAND

AFFIDAVIT OF CHRISTOPHER

I, Christopher Stoller, 68, sui juris, a disabled individual and a protected person under the Americans for Disability Act, individual and being first sworn on oath depose and state the following facts are true to the best of my personal knowledge and recollection. The Affiant, if called on to testify as a witness, can testify competently to the matters and facts set forth herein except when those matters and facts are stated on information and belief and, as to those allegations, to the extent permitted by the Rules of Evidence.

1. I am the Plaintiff/Claimant in this Case..

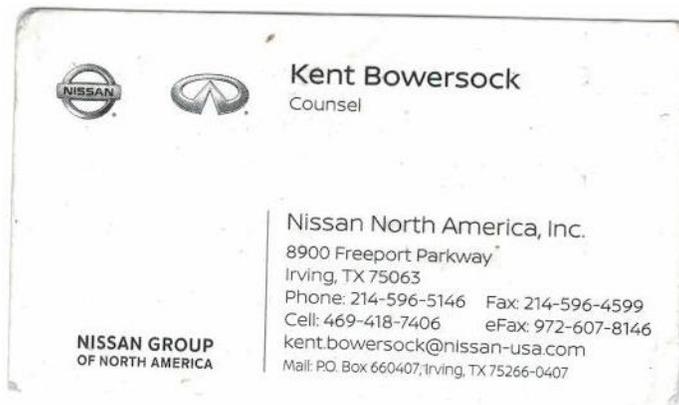
2. I received a copy of the Jams rules from Michael McCants. The Jams manual gave details instruction to follow for the underlying arbitration. I followed the Jams instructions contained in their manuals as to how to proceed in a Jams arbitration proceeding.

3. Christopher Stoller had a direct relationship with all of the defendants in this case including Nissan Motor Acceptance Corporation (NMAC) and Nissan Infiniti LT.

4. NMAC is a separate corporation.

5. Nissan Infiniti LT is a separate corporation, unlicensed, unauthorized and unregulated to .conduct business within the State of Illinois. Failed to file State corporate taxes within the state of Illinois.

6. I had a conversation with Kent Bowersock on or about August 17, 2017 at the Jams Arbitration Hearing on Wacker Drive in Chicago. Mr. Bowersock handed me his business card, a true and correct copy is shown below. Mr. Bowersock admitted to me that he was the compliance officer, counsel for the Defendants Nissan Group of North America. Mr. Bowersock admitted that Nissan Infiniti LT is a corporation that was not registered or licensed to do business in Illinois.



7. I had a conversation with Bruce S. Terlop in which Mr. Terlop stated that he believed the Arbitrator Allen Goldberg was incompetent and attempted to strike Arbitrator Goldberg. Burse Terlop agreed to pay 1/2 of the cost of the court reporter fees and transcripts for the underlying arbitration.

8. Arbitrator Allen Goldberg did not follow the published Jams Rules.

9. Arbitrator Allen Goldberg did not file his standing order(s) ie (**Exhibit 9**), Scheduling Order No. 1 3-28-17.

10. Arbitrator Allen S. Goldberg failed to follow the Jams RECOMMENDED ARBITRATION DISCOVERY PROTOCOLS FOR DOMESTIC, COMMERCIAL CASES EFFECT JANUARY 6, 2010 marked as **Exhibit 31**.

11. Arbitrator Allen S. Goldberg failed to follow the Jams Comprehensive Arbitration Rules & Procedures Effective July 1, 2014 marked as **Exhibit 32**

12. I believe that the Arbitrator Allen Goldberg had a cultural bias against me and that the arbitration award (Exhibit 1) in favor of the Defendants and against me was based upon, Arbitrator Allen Goldberg cultural bias against me and his failure to follow the Jams Rules and the Illinois Rules of Civil Procedure, outlined in his Scheduling Order Number 1 3-28-17. (**Exhibit 9**)

13. All of the Exhibits attached to my complaint are true and correct copies of each document.

AFFIAINT SAYETH NOT

Respectfully submitted,
By: /s/Christopher Stoller 12-7-17

Under penalties as provided by law pursuant to § 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

/s/Christopher Stoller