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County of Kern
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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF KERN - METROPOLITAN DIVISION**

11 * * * * *

12 THE PEOPLE OF THE STATE OF CALIFORNIA,

13 Plaintiff,

14 vs.

15 CALMINI PRODUCTS, INC., a California
16 corporation;
CALIFORNIA MINI TRUCK, INCORPORATED,
17 a California corporation;
18 STEVEN D. KRAMER, an individual;
JUSTIN MICHAEL REED, an individual; and
19 DOES 1 through 100, inclusive,

20 Defendants.

Case No.: BCV-19-101769

KCDA File No. CF-5267

**COMPLAINT FOR CIVIL PENALTIES,
RESTITUTION, INJUNCTION, AND
OTHER RELIEF**

[Exempt from filing fees under Govt. Code
§ 6103]

[Verified answer required per C.C.P. § 446]

21
22 Plaintiff, the People of the State of California, by and through Cynthia J. Zimmer, District
23 Attorney of the County of Kern, alleges the following on information and belief:

24 **SUMMARY OF COMPLAINT**

25 1. Calmini Products, Inc. and California Mini Truck, Incorporated sell pre-made and
26 custom-built after-market parts for cars—primarily trucks, off-road vehicles, and sport utility
27 vehicles—such as bumpers, suspensions, and other parts made of steel. Defendants have schemed to
28

1 take payments upfront from consumers when a part is ordered, yet fail to provide the ordered product or
2 refund the consumer's money.

3 2. This action is brought under the Unfair Competition Law (Bus. & Prof. Code §§ 17200
4 et seq.) and the False Advertising Law (Bus. & Prof. Code §§ 17500 et seq.) to obtain restitution for the
5 victims of defendants' fraud, civil penalties to punish and deter defendants from engaging in similar
6 conduct in the future, injunctive relief to prevent such future wrongful conduct by defendants, and other
7 equitable relief.

8 THE PARTIES

9 3. Cynthia J. Zimmer, as District Attorney of Kern County, acting to protect the public
10 from unlawful, unfair, fraudulent, and deceptive business acts and practices, brings this action in the
11 name of the People of the State of California.

12 4. Calmini Products, Inc. (Calmini) is a California corporation, which, at all times relevant
13 herein, conducted business in California, including Kern County.

14 5. California Mini Truck, Incorporated (Cal Mini Truck) is a California corporation, which,
15 at all times relevant herein, conducted business in California, including Kern County.

16 6. Steven D. Kramer (Kramer) is an individual, who, at all relevant times, is and was (a) a
17 resident of Kern County, California; (b) an owner, a director, and the chief executive officer of Calmini
18 and Cal Mini Truck; and (c) engaged in business acts and practices within Kern County.

19 7. Justin Michael Reed (Reed) is an individual, who, at all relevant times and upon
20 information and belief, is and was an employee of Calmini and an agent of Cal Mini Truck, and he has
21 acted as the Sales Manager for both businesses. As the Sales Manager of the businesses, Reed has
22 engaged in business acts and practices within Kern County at all times relevant to this complaint.

23 8. The true names and capacities, whether individual, corporate, associate, or otherwise, of
24 defendants sued herein as Does 1 through 100, inclusive, presently are unknown to the People, who
25 therefore sue these defendants by their fictitious names pursuant to Code of Civil Procedure
26 section 474. At such time as the true names of aforesaid unknown defendants responsible in part or
27 whole for the occurrences alleged herein are determined, the People will name said defendants in this
28 action, and if necessary, pray leave from the court to amend this complaint accordingly.

1 9. Each defendant was the officer, manager, agent, employee, partner, co-conspirator, or
 2 representative of each of the remaining defendants, acting within the course and scope of said agency,
 3 employment, partnership, conspiracy, or representation, and each defendant has ratified and approved
 4 the actions of each of the other defendants alleged herein. In engaging in the conduct described below,
 5 defendants were all acting with the express or implied knowledge, consent, authorization, approval or
 6 ratification of their co-defendants such that all of the alleged unlawful conduct by any of the defendants
 7 was approved and ratified by its/his/her co-defendants.

8 10. When, in this Complaint, reference is made to any act of defendants, such allegations
 9 shall be deemed to mean that the officers, directors, agents, employees, representatives of said
 10 defendants carried out, or authorized such acts, or recklessly or carelessly failed to adequately
 11 supervise, or control or direct their employees or agents while engaged in the management, direction,
 12 operation, or control of the affairs of said business or organization, and did so while acting within the
 13 course and scope of said agency, employment, partnership, or conspiracy.

14 11. Unless otherwise indicated specifically in this Complaint, any reference to "Defendants"
 15 shall be read to include all defendants, including both named and fictitiously-named defendants.
 16 Calmini and Cal Mini Truck are collectively referred to as the "Businesses."
 17

18 **JURISDICTION AND VENUE**

19 12. Cynthia J. Zimmer, District Attorney of Kern County, acting to protect the public from
 20 unfair, unlawful, fraudulent, and deceptive business practices, brings this action in the public interest in
 21 the name of the People of the State of California pursuant to Business and Professions Code sections
 22 17200 et. seq. and 17500 et seq., including sections 17204 and 17536. Beginning at least four years
 23 ago and continuing to the present, Defendants, within Kern County, engaged in (a) unfair competition
 24 within the meaning of Business and Professions Code section 17200 by engaging in unlawful, unfair,
 25 and fraudulent business acts and practices, as well as unfair, deceptive, untrue, and misleading
 26 advertising, and (b) false advertising within the meaning of Business and Professions Code section
 27 17500 et seq.
 28

1 **FACTUAL ALLEGATIONS**

2 **A. The Businesses.**

3 13. The Businesses were formed in the 1980s. Kramer has been an owner and the chief
4 executive officer of each Business for at least five years, and he has controlled and managed each
5 Business's daily operations.

6 14. Since their formation, the Businesses have been selling pre-made and custom-built after-
7 market parts for cars—primarily trucks, off-road vehicles, and sport utility vehicles—such as bumpers,
8 suspensions, and other parts made of steel. Over the last few years, the Businesses market their products
9 primarily via the internet, including the site with the domain name of calmini.com.

10 **B. The Scheme to Swindle Money from Consumers.**

11 15. For most orders, the Businesses require payment upfront. Most orders are for several
12 hundred dollars, and often exceed \$1,000.

13 16. The Businesses, however, without adequate prior disclosure, have routinely failed to
14 provide the ordered product, and then refused to refund the customer's money.

15 17. Indeed, hundreds of consumers have complained about the Businesses to government
16 agencies and the Better Business Bureau, with those complaints telling the same general story:

- 17 • The consumer places an order with one of the Businesses and pays in full upfront.
- 18 • After a few weeks pass without receiving the ordered product, the consumer
19 contacts the Business to inquire about the status of the order. An employee,
20 usually Reed, tells the consumer the product will be shipped soon.
- 21 • More time passes, and still no product. The customer calls the Business again,
22 and again is told by Reed that the product will be delivered soon.
- 23 • After more time passes, the customer tells the Business that he or she wants to
24 cancel the order and have their money refunded. An employee (usually Reed)
25 tells the customer the money will be sent within a few days.
- 26 • A few days pass, and still no money. The customer calls to follow up, and Reed
27 again states the money will be sent soon.
- 28 • The consumer still does not receive the money, and then submits a complaint.

1 18. Through his ownership and status as the chief executive officer of the Businesses,
2 Kramer has controlled and managed the Business's daily operations, and has participated in, directed,
3 authorized, or ratified the unlawful and fraudulent acts alleged herein.

4 19. Reed, acting as the Business's Sales Manager, personally participated in the conduct
5 alleged herein, including lying to customers who inquired about the status of their order and refund. In
6 performing these acts, Reed, as well as Kramer, personally participated in, and aided and abetted, the
7 Business's unlawful, unfair, and fraudulent business acts and practices, and the Business's false and
8 misleading advertising.

9
10 **FIRST CAUSE OF ACTION**
11 **Violations of Business and Professions Code Section 17500**
12 **(Against All Defendants)**

13 20. Plaintiff realleges and incorporates by reference paragraphs 1 through 19 as though fully
14 set forth in this cause of action.

15 21. Within three years of discovery by the Kern County District Attorney of the facts
16 constituting grounds for commencing this action, Defendants, and each of them, have made, aided and
17 abetted, and conspired to make untrue or misleading statements with the intent to induce members of the
18 public to purchase Defendants' services, as described in paragraphs 15 through 19 and in violation of
19 Business and Professions Code section 17500. Defendants' untrue or misleading representations and
20 omissions include, but are not limited to, the following:

- 21 • While Defendants accept orders and require upfront payment, they fail to disclose
22 to the consumer that Defendants will not provide the ordered product within a
23 reasonable time, or not at all.
- 24 • Defendants will soon complete and send the ordered product.
- 25 • Defendants will soon provide a refund.

26 22. At the time of making the representations set forth in the preceding paragraph,
27 Defendants knew, or by the exercise of reasonable care should have known, that the representations
28 were untrue or misleading. In doing so, Defendants engaged in false or misleading advertising in
violation of Business and Professions Code sections 17500 et seq.

1 **SECOND CAUSE OF ACTION**
2 **Violations of Business and Professions Code Section 17200**
3 **(Against All Defendants)**

4 23. Plaintiff realleges and incorporates by reference paragraphs 1 through 22 as though fully
5 set forth in this cause of action.

6 24. Within four years of the filing of this action and continuing to the present, Defendants,
7 and each of them, have engaged in, aided and abetted, and conspired to engage in acts or practices that
8 constitute unfair competition as defined in Business and Professions Code section 17200. Such acts or
9 practices include, but are not limited to, the following:

- 10 • Failing to perform on the promises, made in exchange for upfront fees from
11 customers, that the Businesses would deliver the ordered products within a
12 reasonable time.
- 13 • Refusing to refund money provided by customers.
- 14 • Violating Business and Professions Code section 17538 by receiving payment
15 upfront and then failing to provide the ordered products or a refund within 30
16 days.
- 17 • Violating the “Mail Order Rule” (16 C.F.R. §§ 435.1-.3) by soliciting orders via
18 the internet, phone, or mail without a reasonable basis to expect they could ship
19 the ordered product within the advertised time or 30 days.
- 20 • Violating Penal Code section 487 by taking money of a value exceeding \$950
21 from consumers by theft.
- 22 • Violating Penal Code section 532 by knowingly and designedly obtaining
23 consumers’ money by false or fraudulent representations or pretenses.
- 24 • Advertising goods with intent not to sell them as advertised or to supply
25 reasonably expected demand in violation of Civil Code section 1770(a)(9) and
26 1770(a)(10).
- 27 • Inserting unconscionable provisions in the customers’ contracts with the
28 Businesses in violation of Civil Code section 1770(a)(19).

- 1 • Making the material misrepresentations and omissions described in paragraphs
- 2 15, 16, 17, and 21.
- 3 • Violating Business and Professions Code section 17500, as described in
- 4 paragraphs 21 through 22.

5

6 **PRAYER**

7 WHEREFORE, plaintiff demands judgment against Defendants, and each of them, as follows:

8 **ON THE FIRST CAUSE OF ACTION (False Advertising Law):**

9 1. That, under the authority of Business and Professions Code section 17535, Defendants,

10 their successors, agents, representatives, employees, assigns, and all persons who act in concert with

11 Defendants be permanently enjoined from making any untrue or misleading statements in violation of

12 Business and Professions Code section 17500 (including the untrue or misleading statements alleged in

13 this Complaint).

14 2. That, under the authority of Business and Professions Code section 17535, the Court

15 make such orders or judgments as may be necessary (including preliminary injunctive and ancillary

16 relief) to prevent the use or employment by any Defendant of any practice that violates Business and

17 Professions Code sections 17500 et seq., or which may be necessary to restore to any person in interest

18 any money or property that may have been acquired by means of any practice that violates Business and

19 Professions Code sections 17500 et seq., in an amount according to proof but not less than \$2,000,000.

20 3. That, under the authority of Business and Professions Code section 17536, the Court

21 assess a civil penalty of \$2,500 against each Defendant, jointly and severally, for each violation of

22 Business and Professions Code sections 17500 et seq., in an amount according to proof but not less than

23 \$2,000,000.

24 **ON THE SECOND CAUSE OF ACTION (Unfair Competition Law):**

25 4. That, under the authority of Business and Professions Code section 17203, Defendants,

26 their successors, agents, representatives, employees, assigns, and all persons who act in concert with

27 Defendants be permanently enjoined from engaging in unfair competition as defined in Business and

28 Professions Code section 17200 (including the acts and practices alleged in this Complaint).

1 5. That, under the authority of Business and Professions Code section 17203, the Court
2 make such orders or judgments as may be necessary (including preliminary injunctive and ancillary
3 relief) to prevent the use or employment by any Defendant of any practice that constitutes unfair
4 competition as defined in Business and Professions Code section 17200 et seq., or as may be necessary
5 to restore to any person in interest any money or property that may have been acquired by means of such
6 unfair competition, in an amount according to proof but not less than \$2,000,000.

7 6. That, under the authority of Business and Professions Code section 17206, the Court
8 assess a civil penalty of \$2,500 against each Defendant, jointly and severally, for each violation of
9 Business and Professions Code sections 17200 et seq., in an amount according to proof but not less than
10 \$2,000,000.

11 7. That, under the authority of Business and Professions Code section 17206.1, the Court
12 assess an additional civil penalty of \$2,500 against each Defendant, jointly and severally, for each
13 violation of Business and Professions Code sections 17200 et seq. perpetrated against a senior citizen or
14 disabled person, in an amount according to proof but not less than \$100,000.

15 **ON EACH CAUSE OF ACTION:**

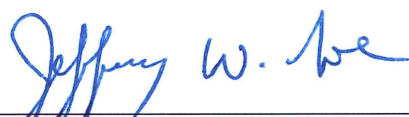
16 8. For costs of suit incurred herein.

17 9. For reasonable expenses incurred in the investigation and prosecution of this action,
18 including an award of attorneys' fees where permitted by statute.

19 10. For such other and further relief as the court may deem just, proper, or equitable.

20 Dated: June 20, 2019

CYNTHIA J. ZIMMER
District Attorney

23 By: 
24 _____
25 Jeffrey W. Noe,
26 Deputy District Attorney