IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT

Yuling Zhan,	)	
Plaintiff	)	
V.	)	No: 04 M1 23226
Napleton Buick Inc,	)	
Defendant	)	

MOTION TO STRIKE SUPPLEMENTAL RESPONSES

AND DEEM DEFENDANT ADMITTED

THE FIRST SET OF REQUESTS FOR ADMISSION

NOW COMES the plaintiff, YULING ZHAN, respectively moves this Court for an Order for striking defendant's supplemental responses and deeming plaintiff's first set of request of admission admitted by defendant Napleton Buick, Inc, ("Buick"), and states as follows:

I. Procedural Background

1. On March 17, 2006, Plaintiff served defendant the First Set of Requests For Admission ("Request")
2. As well known, "requests to admit" are an effective and often-overlooked discovery tool. Plaintiff incorporated 114 material factual statements into her first set of requests for admission. This seems extraordinary, but it is justifiable, and it is crucial for plaintiff to prepare her case: (a) In their opinion and practice, Buick and its counsel hold that " Defendant has no burden to identify facts supporting its denial". See defendant's Response to Interrogatories No. 1. As such, plaintiff must make extra efforts to pinpoint all contested facts, which it is of nonexistence in

Buick's Answer and any other court filings. (b) In more than one year, five attorneys for defendant come and go at hearings, proving different stories. It is the most economic way to make sure what defendant's position is on essential issues.

3. On April 13, 2006, Buick filed a Defendant's Response to Plaintiff's First Set of Request for Admissions ("Response"), but failed to serve an official copy upon plaintiff. Since defendant's Responses are rife with deliberate false statements, plaintiff had to file a motion to strike, not a motion to compel. As concisely stated in plaintiff's motion, at responses Nos. 17, 45-46, 48-49 and 64, as several examples, defendant, knowingly and willingly, provided fraudulent statements to avoid admission.
4. To expedite the case, on May 4, 2006, the Honorable Judge ordered defendant to answer Requests Nos. 6, 9, 20, and 42. And on May 16, 2006, defendant submitted a Supplemental Responses ("Supplements"). See Exhibit A.
5. Plaintiff states below that defendant's "Supplements," just as its Responses should be stricken because it is fatally flawed in form and substance.

II. Denial in "Supplements" No. 6 Is Improper

6. Plaintiff's Request No. 6 is a simple and complete sentence. After admitted the question of fact, there would be nothing left for defendant to deny.
7. In its Response to Interrogatories No. 4, defendant asserts it "conducts a thorough check on all vehicles." This is consistent with what plaintiff was told before she made purchase decision on September 4, 2003. Defendant did have a "duty" to inspect the car, even pursuant to 810 ILCS 5/2-313 alone.
8. Buick is registered as a car dealership, not as a shipping company, a storage facility or a junkyard operation.

III. "Supplements" No. 9 Is in Stark Violation of Federal Odometer Act 49 U. S. C. § 32705.

9. In Requests No. 9, plaintiff listed repair dates, mileage readings for the subject car. Such information can be verified by visiting commercial websites. The mileage readings are supposed to be accurate because they came from Illinois Department of Motor Vehicles.

10. On the Purchase Order And Invoice dated September 4, 2003, defendant claimed the odometer reading was 24520 miles. See Exhibit B. The figure is troublesome, because only 6 miles were added after the prior repair on June 26, 2003. The subject car had to be driven to Buick, and potential buyers would take test drives like plaintiff did. As such, the mileage of the subject car must be more than 24520 miles on September 4, 2003.

11. To deceive the Court, in its "Supplements" No. 9, defendant "affirmatively states that the mileage on the car on or about October 6, 2003 was 24509." Here, defendant and its counsel Ms. Elaine S. Vorberg are insulting human intelligence and the legal profession: Only the odometer of the subject car can roll back according to Buick's Purchase Order and its outrageous contention in "Supplements" No. 9.

12. Buick argues: "Defendant neither admit nor denies the allegations relative to any repairs, as it has no direct knowledge of repairs." This is express violation of Illinois Supreme Court Rules ("ISCR") 137: A party has to perform "reasonable inquiry" before filing any paper; otherwise, it should be sanctioned. Further, it only needs few clicks of a mouse to visit a commercial website.

13. As the Honorable Court can see, response to a request to admit is not a place to argue whether defendant has a duty to disclose. Also, as part of a bargain, after defendant ensured plaintiff that the subject car had only one owner, there was no repair record; and it was a trade-in because

some people were rich, all these presentations are enforceable under Illinois UCC.

IV. Denial in "Supplements" No. 20 Is Nonsensical

11. Knowing defendant had played trick with a Buyer's Guide and Buick failed to perform inspection and mechanical check-up on the car before and during the sale, plaintiff felt lucky that a fatal accident did not occur. It is absurd to suggest plaintiff demanded Buick to tow back the subject car for nothing.

V. Denial in "Supplements" No. 42 is frivolous

12. ISCR 216 (c) explicitly says, in part, "A denial shall fairly meet the substance of the requested admission." Here, no one knows what defendant and its counsel are denying in this "Supplement" after they admit the fact. The note Buick sent to plaintiff is definitely not a part of a sentence as "Thank you" for revocation.

VI. The "Supplements" in Whole Defy Court Order and Violate Illinois Supreme Court Rules 216 (c) on the Face

13. The Honorable Judge orders defendant to ANSWER questions of fact, not to SUPPLEMENT improper objections and denials with frivolous and wanton argument
14. The plain language of IRSC 216 (c) demands a concise and straightforward answer, admitted or denied or objected, to each statement in a request from the responding party. There is no room for any "Supplement" in a response to admit facts.
15. ISCR 216 (c) explicitly requires that sworn statement for each of the matters of fact shall be provided if the responding party denies the request or asserts objections. In the Response and the instant "Supplements", undated Certifications submitted by Buick's president,

Mr. Nicholas J D'Andrea can hardly constitute as sworn statements. Further, without question, there are fraudulent statements in both of the filings.

VII. ISCR 137, ISCR 219 (b) and (c) Shall be Enforced in This Case

16. ISCR137 prohibits a party from filing a paper for any improper purpose. Here, in the "Supplements", as in the Responses, defendant and its counsel are providing deliberate false statements to deny the undeniable, and dispute the undisputable in order to delay the court proceedings.
17. In this case, ISCR 219 (b) and (c) shall be enforced, because they have the force of law.

WHEREFORE, for the above stated reason, plaintiff prays that this Honorable Court to enter an order to strike the "Supplements", and deem the facts within the First Set of Requests for Admission admitted; and for such other and further relief that this Court deems just and proper.

_____ _____

(Plaintiff's Signature) (Date)

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