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

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

PLAINTIFF'S MOTION FOR RECONSIDERATION OR CLARIFICATION ON THE NOVEMBER 8, 2005 ORDER

Plaintiff, Yuling Zhan, respectfully submits Plaintiff's Motion For Reconsideration Or Clarification On The November 8, 2005 Order, and states as follows:

1. On November 8, 2005, plaintiff submitted four pending motions as required during an Intake And Case Management Conference held at 9:00 a.m. in Court Room 1307. Mr. Ryan Haas ("Haas"), counsel for defendant Napleton Buick Inc. ("Buick"), demanded the Court to rule on defendant's motion to dismiss. Buick already filed the same motion twice in the Court, ignoring "denied" or "stricken" comment or ruling from an Honorable Judge, for several months, Buick's counsel have been seeking a ruling in their favor from different Judges on several occasions.
2. At the conference, Mr. Haas contended Buick's motion to dismiss was still pending because it had been stricken "without prejudice." Such argument is absurd; he simply cannot face the fact that Buick's thirteen-page motion is not only frivolous, but also scandalous, because the motion suggests there is no private cause of action under the Magnuson-Moss Act.
3. The Illinois Supreme Court holds: "[I]n *Knierim v. Izzo* (1961), 22 Ill. 2d 73, 174 N. E. 2d 157, this court found that a plaintiff need not allege physical

injury to recover for intentional infliction of emotional distress. * * * In the 30 years since *Knierim,* this court has not lost its faith in the ability of jurors to fairly determine what is, what is not emotional distress." See *Corgan v. Muehling,* 574 N. E. 2d 602, 609 (1991). As the Honorable Court can see, any lengthy and messy argument in Buick's motion to dismiss, as long as it is contrary to this opinion on the related issues, should be denied or stricken.

4. Honorable Judge Ronald Davis issued an order on several issues during the conference. See Attachment A. The latest ruling on Buick's motion to dismiss is substantially different from that entered by Honorable Judge Michael T. Healy. See Attachment B. As the Honorable Court can see, a lawyer should be sanctioned, not rewarded, if she or he provides fraudulent statement to Court, solicits a ruling among Judges, and changes a trial Judge by playing tricks.
5. As stated in plaintiff's Motion To Sanction Defendant's Counsel Ms. Elaine S. Vorberg For Her Recent Misconduct, Ms. Elaine S. Vorberg ("Vorberg") provided false statement to three Judges in ten days for improper purposes, such practice should not be allowed. Ms. Vorberg knew Honorable Judge Michael T. Healy's ruling exactly; also she was fully aware of where the phrase "without prejudice" came from, because it was she who drafted the Order entered on October 20, 2005 (Attachment B).
6. As precisely stated in plaintiff's Motion to Disqualify And / Or Sanction, Ms. Vorberg and Mr. Haas identified themselves as, and volunteered to be necessary witnesses, played multiple roles in the instant lawsuit. Substantial conflict of interest exits for their continuing representation. Sanction is warranted for each time when Buick's counsel show total lack of respect to the Court, Court Orders, Illinois Supreme Court Rules and Rules of this Court. All facts listed in plaintiff's motions should be taken as uncontested because Buick failed to respond in any meaningful way.
7. As concisely stated in her Motion to Strike and Motion to Disqualify And / Or Sanction, a series of events convinced plaintiff that at best Buick's

"counterclaim" was filed for improper purpose, for the worst, it is a product of consumer fraud and fraud upon court. Further, there is no cause of action in the "counterclaim", and Buick failed to provide any set of facts to support a claim in its frivolous filing.

8. Under 735 ILCS 5/2-608 (d), "[A]n answer to a counterclaim and pleadings subsequent thereto shall be filed as in the case of a complaint and with like designation and effect." On July 12, 2005, plaintiff filed a Motion To Strike the "counterclaim," but Buick has failed to respond ever since. Further, Mr. Haas concealed the "counterclaim" during the arbitration process. Such conduct, in violation of Illinois Supreme Court Rule 92 (b), should be categorized as fraud upon a tribunal.
9. Drafting the "counterclaim", Ms. Vorberg, as a lawyer, demanded a Court Order to destroy evidence before discovery. Such outrageous request is flying in the face of 810 ILCS 5/2-515. To say the very least, when filing the "counterclaim", Buick and its counsel violated the Code of Civil Procedure. As the Honorable Court can see, "[t]he first pleading by the defendant shall be designated as an answer." 735 ILCS 5/2-602. And "[t]he counterclaim shall be a part of the answer." 735 ILCS 5/2-608. Even for any one of these reasons alone, Buick's "counterclaim" must be stricken as a matter of law.

WHEREFORE, Plaintiff prays the Honorable Court to reconsider or clarify the order entered on the November 8, 2005.

_____ _____

(Plaintiff's Signature) (Date)

Yuling Zhan
3121 S. Lowe Ave
Chicago, IL 60616
Tel: (312) 225-4401