

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

Yuling Zhan,)
Plaintiff)
V.)
Napleton Buick Inc.;) No: 04 M1 23226
Ford Motor Company)
Defendants)

SUPPLEMENT TO AMENDED COMPLAINT

INTRODUCTION

The Plaintiff, Yuling Zhan, files additional charges against Napleton Buick Inc. ("Buick"), and claims as follows:

Count I – X accompany this Supplement to the Amended Complaint and are incorporated herein by reference.

Count XI. Napleton Buick in Violation of Vehicle Information and Cost Savings Act ("MVICSA"), 49 U. S. C. § 32701 et seq.; its regulations and State law 625 ILCS 5/3-112.1

Count XII. Napleton Buick Inc. committed Fraud Upon Tribunal

STATEMENT OF FACTS

1. Plaintiff incorporates by inference and re-alleges paragraphs 1 to 112 and Exhibits A - K of her amended complaint.

COUNT XI

2. The instant suit was filed on December 22, 2004, and the discovery of the case started on March 13, 2006.
3. There were maintenance and repair records on the subject car and it was repaired on 07/05/2001, 05/21/2003 and 06/26/2003 respectively. The odometer reading on 06/26/2003 was 24514 miles. See Exhibit L. These dates and mileage readings on a commercial website are accurate because it unlikely a service facility at that time had motive to deceit the Illinois Department of Motor Vehicles.
4. On the Purchase Order And Invoice dated September 4, 2003, defendant claimed the odometer reading was 24520 miles. See Exhibit A in the Amended Complaint
5. On September 4, 2003, Buick created an odometer statement for plaintiff and the signature on it was hard to read. See Exhibit M. Claiming the mileage reading as 24520 miles, defendant identified itself as "transferor" of the subject vehicle,
6. The figure of 24520 miles defendant provided is not accurate, 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.
7. The figure of 24520 miles defendant provided is not accurate, because it is only several-dozen-mile drive after the car stalled at highway speed, and the odometer reading of the subject car was 24620 miles on April 11, 2005.

8. Buick had an affirmative duty to investigate the accurate odometer reading of the subject car, when defendant claimed it was 24520 miles for a four-year-old car, and there were only six miles added to the odometer reading since the last repair.
9. Buick failed to disclose the accurate odometer reading of the subject car during the sale. At least, the failure to take any steps to independently verify the accuracy of the odometer reading constitutes reckless disregard for the purpose of MVICSA.
10. At the dealership, Buick required plaintiff to sign several forms, but not the car's original title, as required by MVICSA. See 49 U. S. C. §32705(a) (2000); 49 C. F. R. §580.5 (2000) and Odometer Disclosure Requirements, 53 Fed. Reg. 29464 (Aug. 5, 1988).
11. In response to plaintiff's Requests for Production, on April 14, 2006, defendant submitted an odometer statement from Precision Motors Inc. without a transferor's signature on it. See Exhibit N. And defendant claimed the odometer reading was 24509 mile.
12. According to defendant's statements, affirmative or not, the odometer reading was 24520 on September 4, 2003, and it was 24509 on October 6, 2003. Defendant towed back the car on September 8, 2003, but the odometer reading was 24620 on April 11, 2005. All these figures and dates reveal Buick has been playing tricks with the odometer or its readings for the purpose of deception all the time,
13. Plaintiff was surprised to find out that defendant did not own the subject car on September 4, 2003 when it pretended to be a "transferor".
14. The car was towed back to Buick on September 8, 2003, and the transfer of ownership from Precision Motors Inc. to Buick had not been completed before October 6, 2003.
15. On September 4, 2003, plaintiff was told that the subject car was a one-owner, a trade-in; there were no repair records, and the previous owner sold the car at low mileage because some people were rich. Without question all such statements from defendant at sale were patently false.

16. On September 4, 2003, at plaintiff's request, Buick failed to disclose repair and maintenance record during the sale.
17. Before and during the sale, Buick failed to show the title of the subject car, in order to conceal the name of the previous owner, the history of the car and the true mileage of the subject vehicle.
18. Plaintiff would never buy a used car, had she knew that the car was shuffled around from a repair facility to Buick, not directly from an individual consumer, and the subject car had a number of repair records.
19. Because the Purchase Order And Invoice showed 24520 miles, in order to defraud the Secretary of the State and completed the title transfer, defendant had to spin back the odometer or just concoct a mileage figure lower than 24520 miles, that was where the figure of 23509 miles on Exhibit N came from.
20. Further, to deceive the Court and avoid admission of a question of fact, in its Supplemental Response to Requests for Admission ("Supplements") No. 9 filed on May 16, 2006, defendant "affirmatively states that the mileage on the car on or about October 6, 2003 was 24509."
21. Without question, it is absurd for Buick to act as a "transferor" on September 4, 2003 before it identified itself as a "transferee" on October 6, 2003.
22. It is patently fraudulent for Buick and its counsel to "affirmatively states that the mileage on the car on or about October 6, 2003 was 24509," while Buick claimed the odometer reading was 24520 miles on September 4, 2003.
23. When affirmatively stating "that the mileage on the car on or about October 6, 2003 was 24509." defendant is insulting human intelligence, and its counsel are bringing legal profession into disrepute: Only the odometer of the subject car can run backward according to Buick's Purchase Order, two odometer statements, and its outrageous contention in "Supplements" No. 9.
24. 49 U. S. C. § 32710 and 625 ILCS 5/3-112.1 provide for mandatory treble actual damages or \$1500, whichever is greater, plus litigation costs and attorney fees, when violation occurs.

WHEREFORE, plaintiff demands judgment for Count XI against Buick for damages, other legal and equitable relief deemed to be just and proper under Federal and State Statutes 49 U. S. C. § 32710 and 625 ILCS 5/3-112.1.

Count XII

25. Plaintiff incorporates by inference and re-alleges paragraphs 1 to 24 of this Supplement to Amended Complaint.
26. The Arbitration Panel shall be considered as a tribunal according to American Bar Association. See ABA Model Rules of Professional Conduct, Rule 1.0 (m) (2004); ABA Formal Opinion 93-375 (Aug. 6, 1993), cited in ISBA Advisory Opinion 99-04 (Oct., 1999).
27. The Circuit Court of Cook County is a tribunal.
28. In more than one year of Court proceedings and during Court annexed arbitration process, defendant and its counsel, knowingly and willfully, misinterpreted law in an outrageous way, such as under Magnuson-Moss Act, there is no private cause of action or independent cause of action; under Magnuson-Moss Act and Illinois UCC, revocation of acceptance is not viable cause of action. See page 5 of defendant's Motion to Strike And/Or Dismiss filed on June 21, 2005, and Affirmative Defense I in defendant's Answer filed on November 28, 2005 respectively.
29. Without dispute, after Buick towed back the car, in a letter and a fax, on September 9, 2005, plaintiff requested Buick to respond in writing by fax in three days in order to solve the problem in one week. For more than two years, Buick has failed to do so.
30. It is undisputable that from September 9, 2003 to December 22, 2004, Buick never asked for inspection of the subject car in any form of communication with any person, including plaintiff and any governmental agency.
31. After the instant suit was filed, on February 28, 2005 and March 9, 2005, Buick's counsel Ms. Elaine S. Vorberg ("Vorberg") wrote two letters to plaintiff, and asked for car keys.

32. In these letters, Ms. Vorberg wrote that defendant had demanded car keys on “several occasions.” On March 2 and March 14, 2005, plaintiff politely but explicitly persuaded Vorberg not to provide such false statements.
33. Beyond any doubt, Buick and its counsel did not need car keys in order to participate in a joint inspection or settlement negotiation, and they could never offer any evidence to show when “several occasions” occurred. Defendant and its counsel have never been honest in and out of the Court on these issues.
34. On March 16, 2005, at plaintiff’s surprise, defendant’s counsel, Mr. Ryan Haas (“Haas”), demanded car keys in the open court.
35. Before, on and after March 16, 2005, Buick did not file a written motion, did not serve a notice of motion, did not serve certificate of service for demanding car keys. When drafting a Court Order, Mr. Haas asserted Buick did submit a motion.
36. As late as April 4, 2005, just after Ms. Vorberg received the car keys, during a hearing presided by Honorable Judge Healy, plaintiff stated that she did not misuse the car. Excited for receiving the car keys, Ms. Vorberg concurred immediately: “that is right.”
37. On April 6, 2005, Ms. Voberg claimed she and Buick would conduct a “forensic Investigation” of the subject car on April 11, 2005. On that day, they struggled with the car for half an hour. When responding to plaintiff’s Request for Production No. 17 regarding the record and document created by Buick, defendant contends it “does not have in its possession any such document.” As such, Buick’s “investigation” or “inspection” is nothing but spoliation.
38. On April 15, 2005, though impermissible, defendant’s counsel Ms. Vorberg filed her Affidavit to the Court, volunteered to testify at trial as a witness.
39. On May 17, 2005, contrary to her previous position, Ms. Voberg argued in a letter sent to plaintiff: “ any stalling of the vehicle may have been due to an insufficient amount of fuel in the vehicle.”
40. Beyond any doubt, without spoliation Ms Voberg dared not raise such absurd issue: it did not need an expert to measure how much fuel in the gas tank

after Buick towed back the car; and it would only take minutes of measurement for anyone to reject any possible fraudulent statement from Ms. Voberg's before the car condition was altered.

41. In the same letter dated May 17, 2005, Buick's counsel Ms. Vorberg wrote to plaintiff by suggesting "we hereby offer to repair the vehicle, putting into operable condition," and indicated Buick and its counsel would file a counterclaim if plaintiff would not accept their unwarranted settlement. It is a material fact that Buick did file an untimely counterclaim in Court, and its face value was much greater than a defective car.
42. Buick did not file a Counterclaim before it possessed the car keys for spoliation.
43. Without question Buick's counsel Mr. Haas did not present the counterclaim to the Arbitration Panel. Also Buick has not withdrawn its counterclaim in the Court; further, it has not informed the Court in writing it abandoned the counterclaim already during arbitration.
44. In order to avoid filing an Answer or to deprive plaintiff's right to conduct a discovery, from October 11, 2005, for several months, defendant and its counsel argued the case was ready for trial, and demanded a trial date from several Honorable Judges, when either Buick did not file an Answer or the discovery had not started yet.
45. In order to avoid or change a Judge, from October 11 to October 20, 2005 defendant's counsel Ms. Elaine S. Vorberg ("Voberg") provided fraudulent statements to three Honorable Judges within ten days.
46. In order to solicit a ruling in his favor, from June 21, 2005 to November 8, 2005, Buick's counsel Mr. Haas filed a motion to dismiss twice in the Court, presented it to three Honorable Judges.
47. Before, on and after October 20, 2005 defendant has never served a copy of a motion, notice of filing and hearing notice upon plaintiff on the issue to withdraw jury demand.

48. On November 28, 2005 defendant filed an Affirmative Defense V (“Misuse the Car”), which was stricken by March 28, 2006 Court Order. The same March 28, 2006 Order demanded defendant to re-plead, but defendant failed.
49. When answering Interrogatories No.10 “Did plaintiff misuse the car?” Defendant’s response is “Unknown at present time.” This is an admission that defendant’s Affirmative Defense V is a frivolous filing, so is defendant’s Answer in whole.
50. There is no doubt, in the instant suit, other than deliberate false statements from defendant’s counsel Ms. Voberg, all Buick’s defense relies on a single piece of paper -- a falsified letter allegedly addressed to plaintiff, but was sent to Illinois Attorney General’s Office for deceptive purpose. As simple as that, defendant’s Counterclaim is solely based on fraudulent statements from Buick’s counsel Ms. Voberg before and after spoliation took place.
51. On November 2, 2003, in her second letter to the Illinois Attorney General’s Office, plaintiff pointed out Buick falsified a letter, which was addressed to plaintiff, and was allegedly dated September 10, 2003. For fifteen months Buick did not argue such a fact before the instant suit was filed. See Exhibit O.
52. At the very least, with a reasonable inquiry required by Illinois Supreme Court Rule 137, defendant and its counsel Ms. Voberg and Mr. Haas should know plaintiff’ November 2, 2003 letter all along; but they choose to ignore the incontrovertible fact and provide fraudulent statements on this issue for more than one year during Court proceedings and arbitration process.
53. On January 27 of 2005, on oath, Buick failed to serve papers upon plaintiff. Defendant and its counsel provide deliberate false statements on this issue for a year, and they are still doing so. As such, defendant and its counsel show their dishonesty from the start of the case. When suggesting they could pay \$0.37 postage to mail 22 pages of paper, Buick and its counsel are denying the undeniable.
54. On November 28, 2005, defendant filed an Affirmative Defense IV, and contended all implied warranties of the subject car were disclaimed during

sale. As such, Buick suggested the vehicle was sold "AS IS". This is express violation of Magnuson-Moss Act, Illinois UCC, and Illinois Consumer Fraud Act etc.

55. As late as April 25, 2006, without a Court order, in violation of 735 ILCS 5/2-602, defendant still argued its Affirmative Defense IV had any merit in its Motion to Strike Plaintiff's Reply. Such behavior reminds plaintiff what Buick and its counsel did with their Motion to Dismiss for several months: in order to delay the Court proceedings, they would show no respect to any rules, and argue on the same issue repeatedly, no matter how absurd their position could be. This is why Honorable Judge Healy struck defendant's motion to dismiss in whole, and defendant became at default for failure to plead on October 20, 2005. .
56. In sum, during Court proceedings and Court annexed arbitration process, defendant and its counsel, knowingly and willingly, misinterpret law in outrageous ways, violate Illinois Supreme Court Rules, local rules of the Circuit Court, Illinois Codes of Civil Procedure, and defy Court Orders for the purpose to avoid filing an Answer and deprive plaintiff's right to conduct discovery. And defendant and its counsel have been providing deliberate false statement on material facts, and make every effort to prejudice plaintiff.

WHEREFORE, Plaintiff demands judgment for Count XII against Buick for damages, other legal and equitable relief deemed to be just and proper.

Respectfully submitted,

(Plaintiff's Signature)

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(Date)