

## Auto dealership wins fraud suit

By: Heath Hamacher ◉ May 16, 2016

A plaintiff's allegation that a Charlotte car dealership sold her a lemon didn't get her very far with the judge and jury, and her claims of fraud and misrepresentation, among others, netted her nothing.

Attorney Adam Hocutt of the Dozier Miller Law Group in Charlotte reported the May 11 defense verdict for his client, Queen City Auto Sales Inc. According to Hocutt, plaintiff Felisha Wall claimed that the 2006 BMW 750i she purchased from Queen City in March 2015 "exhibited serious mechanical defects" and that since she was never told that the sale was "as-is," the implied warranty of merchantability should be applied to the transaction.

Wall also sought treble damages, Hocutt said, claiming the dealership misrepresented the vehicle's condition.

Queen City argued that it had no knowledge of mechanical issues with the vehicle and that the car was clearly sold in the condition in which it then existed. Hocutt said evidence included pictures of the car on the lot with an "as-is" buyer's guide taped to its window.

Wall denies that the document was on the vehicle during the transaction.

Further, Hocutt said, the defense was able to show that Wall had driven the car 8,000 miles since the purchase, had no record of having changed the oil and was in an accident six months after buying the car.

According to Wall's attorney, John O'Neal of Greensboro, his client had no choice but to drive the car that she says began displaying signs of trouble the day she drove it off the lot.

"Even with the issues of the indicator lights coming on, the vehicle leaking fluid and it emitting smoke, she had no choice but to drive the vehicle," O'Neal said. "She would be driving sometimes 40-50 miles to work, one way, in addition to having to take her young son essentially for day care purposes."

Hocuff said that before trial, Queen City offered to refund the purchase price if Wall returned the vehicle. Wall, who Hocuff said initially demanded more than \$25,000, said she would accept a full refund plus an extra \$1,000.

Queen City declined.

"The defense refused to give Plaintiff any money in addition to the purchase price, which left settlement unobtainable," Hocuff said.

O'Neal said that initially there was no offer and agreed that a meeting of the minds was not in the cards.

"When we went to mediation in the fall of last year, even then the dealer did not agree to just buy back the vehicle, he only wanted to pay off the loan balance and get the vehicle back and that wasn't acceptable to Ms. Wall," O'Neal said. "The first mention that they made of buying the vehicle back was not made until right before the first scheduled trial date, back to March of this year."

O'Neal added: "We counter demanded and we did not get a response ... at that point they didn't respond to anything so we had to try the case."

At the close of evidence, Judge Forrest Bridges granted Queen City's motion for directed verdict on all claims except the rescission of contract claim, which was sent to the jury.

Hocuff said the jury deliberated about two hours before finding that Wall had failed to prove a contractual breach or misrepresentation that would warrant rescission.

He added that since Queen City had placed an offer of judgment for \$500 on Wall two months prior to trial, the used automobile dealership is now seeking to recover costs and expenses.

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Amount: \$0

Case name: Felisha Wall v. Queen City Auto Sales Inc. et al.

Court: Mecklenburg County Superior Court

Case No.: 15 CVD 10256

Judge: Forrest Bridges

Date of verdict: May 11

Demand: Rescission of contract plus \$1,000

Attorneys for plaintiff: John O’Neal of Greensboro

Attorney for defendant: Adam Hocutt of the Dozier Miller Law Group in Charlotte

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