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Details details details

by *Gil Van Over*

Details are the things that lawsuits against dealers are made of. Many of the lawsuits I have read about or helped with litigation support have very little to do with the consumer actually being harmed or wronged.

Most of the lawsuits appear to be opportunities taken. The genesis of many of the lawsuits start with a technical violation or oversight, then escalates into a deceptive practice claim, and sometimes snowballs into a class action.

Here are a few of the technical oversights that I've seen or read about recently.

Used Car Buyers Guides

I recently became aware of a lawsuit filed against a dealer because the dealer neglected to completed the dealer's name, address and contact person on the back side of the Buyer's Guide.

I can't really figure out how the consumer was damaged because of this, but that didn't matter. The plaintiff's attorney argued that not completing the form in its entirety was a violation of the state's deceptive practice act and filed the lawsuit.

Missing Signatures

Still other plaintiff's attorneys are puffing their chests about a dealer neglecting to sign any of the forms where a dealer's signature is required, be it the odometer statement, the Buyer's Order, the Retail Installment Sales Contract or product enrollment forms.

They then claim that there is not a valid contract in place and that their client can rescind the transaction.

Blank Signed Forms

The opposite of missing signatures is having blank forms in the deal file signed by the consumer. Sometimes the blank forms are innocuous forms such as limited power of attorney forms or agreement to provide insurance forms. The dark side uses the fact that there are blank, signed forms to support their argument that the consumer signed a blank contract or credit application which was filled in later with information or structure the consumer did not agree to.

Morale of the Story

Even if the dealers in these cases prevail and do not have to pay a fine or settlement, there can still be an inordinate amount of time and attorney expenses wasted to defend the lawsuits.

I know that dealing with the details may not necessarily sell more cars, hold more gross or facilitate the sale of ancillary F&I products.

Dealing with the details, though, appears to help to hold onto the profitability.

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