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## **Stuff I Read in Depositions – Used Car Rule**

*by Gil Van Over*

I've read more than a few depositions over the last couple of years. Some of the questions asked by plaintiff's attorneys shed light on the risks faced in a dealership's operations. Today I will discuss the FTC Used Car Rule.

### **Background**

The basis for this lawsuit was that the dealership sold a used vehicle to a consumer. The consumer did not pay for the vehicle and ended up with a repossession. The consumer was sued for the deficiency balance and then counter-sued the lender and the dealer alleging deceptive practices in the sales process.

### **Interrogation**

Attorney: Mr. Salesperson, thank you for coming today. Are you still employed at XYZ Motors?

SP: No, I left the dealership about three years ago.

Attorney: Where are you employed now?

SP: I am at ABC Car Sales. Been there about three months.

Attorney: How many dealerships have you worked at since you left XYZ Motors?

SP: Probably four. Yeah, four.

Attorney: You are listed as the sales person on my client's deal. Do you remember my clients?

SP: Nope.

Attorney: Here are copies of their driver's licenses. Do you remember them now?

SP: Nope.

Attorney: They claim they went to AA meetings with you. Do...

SP: Don't know what they talking about. I ain't never been to no AA meeting.

Attorney: Well, they claim to know you and that is why they went to XYZ Motors to buy a car from you.

SP: They are wrong.

Attorney: Let's move on. You sold my clients a used car. Can you explain why there is not a copy of the used car buyer's guide as required by the FTC in the deal jacket?

SP: No.

Attorney: Do you know you are required by the FTC to give the consumer a copy of the used car buyer's guide on used car sales?

SP: You mean the as-is sticker?

Attorney: Yes.

SP: They are on the cars. Why do I have to give the buyers a copy?

Attorney: It's the law.

SP: News to me.

Attorney: My clients do not speak English. They are Spanish speaking only. Did you give them a Spanish version buyer's guide when you sold the car?

SP: Why would I do that?

### **Solution**

The FTC Used Car Rule is very simple, yet explicit in your disclosure requirements. Your sales people, managers and F&I Managers should be intimately familiar with the requirements under the rule. An excellent source of a dealer's requirements under the rule can be found at <http://www.ftc.gov/bcp/online/pubs/buspubs/usedcarc.shtm>.

Gil Van Over is the President and founder of gvo3 & Associates, a nationally recognized F&I, Sales and Red Flag Rule compliance consulting and training firm ([www.gvo3.com](http://www.gvo3.com)).

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