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STATE OF WASHINGTON
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No. 71011-7

IN THE COURT OF APPEALS,
OF THE STATE OF WASHINGTON
DIVISION I

C. COOK

Appellant

v

ADVANCED AUTO BROKERS, LLC
dba CARMAX BROKERS

Respondents

PLAINTIFF'S RESPONSE TO

DEFENDANT'S BRIEF OF RESPONDENT

AND REQUEST FOR ORAL ARGUMENTS

C. Cook
14912 Northpark Ave N
Seattle, WA 98133

Appellant, *pro se*

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I. PLAINTIFF'S MOTION FOR DEFAULT AND FOR SANCTIONS

On March 14, 2014 Plaintiff filed his Appellant's Motion for Default Judgment and for Sanctions, which is set for hearing on May 23, 2014.

Plaintiff requests that this be heard with oral arguments on the set hearing date. It is Plaintiff's understanding that this is how the hearing is presently set.

II. RESPONSE TO DEFENDANT'S BRIEF OF RESPONDENT

1. Case Law

In reviewing Defendant's Brief of Respondent, it is clear that Defendant simply reiterates the arguments and case law which they relied on in the trial court action. There is no notice taken nor mention made of the relevant and applicable case law cited by Plaintiff.

Such relevant case law was cited during the trial case by Plaintiff in his Plaintiff's Opposition to Defendant's Motion to Dismiss for Lack of Personal Jurisdiction (CP p 67), being

decided by this Court, Davis v. Opacki (CP p 70), and Brown v. Garrett (CP p 70). Plaintiff also cited Precision Laboratory Plastics v. Micro Test, Inc., (CP p 71), et al, however Defendant makes no mention of any of these cases, much less rebuttal of their case law. Such omission would normally indicate that it is malefic to Defendant's case, and Plaintiff believes this is so.

2. Settlement Request

Although it is true that Defendant had offered to refund Plaintiff's purchase price, when Plaintiff immediately agreed and attempted to complete this transaction, Defendant became completely unresponsive. Plaintiff suggests that such assertions by Defendant are insincere, at best.

3. Late Filing of Respondent's Brief

Plaintiff objects to the additional time granted Defendant to file their respondent's brief, given their pattern of conduct in neglecting Plaintiff's claim, as well as the trial court action, the trial court's generosity and its admonitions, as well as Defendant's continual use of the company name “CarMax” in violation of trademark law.

Plaintiff respectfully submits that Defendant's very late Brief of Respondent be viewed skeptically by the Court, and moves that it be stricken. Such late filing has given advantage to Defendant and has been prejudicial to Plaintiff's case, in that he has had only 8 days to research and respond to the Brief of Respondent before the resignation of Defendant's counsel, rather than 30 days as provided by RAP 10.2(d).

III. CONCLUSION

This case is about a used car dealer who sold a vehicle with significant material defects which were or should have been known to him, and a purchaser who is trying to hold him to account so that he may think twice with the next customer. A car dealer who is knowingly misusing the trademark of a far larger reputable car firm without their permission. A car dealer who has refused repeatedly and over a long period of time to 'do the right thing'.

Plaintiff requests that this honorable Court grant his Motion for Default and for Sanctions, and strike Defendant's Brief of Respondent.

VERIFICATION

I declare under penalty of perjury under the laws of the State of Washington that all statements in the foregoing Plaintiff's Response to Defendant's Brief of Respondent and Request for Oral Arguments are true and correct to the best of my knowledge.

A true and correct copy of this Motion has been forwarded this day to Defendants' counsel, Wendy E. Lyon, Riddell-Williams, 1001 4th Ave #4500, Seattle WA.

Dated: 8 May, 2014

C. Cook

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