

Car Dealer Found Liable In Fraud Case

Farmington Firm May Have To Pay \$1 Million

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What started as a nasty overdue bill notice to a young Navajo couple could end up as a \$1 million lesson in business practices for a Farmington car dealership.

A federal jury this week found the dealership and its affiliated finance company liable for fraud and other violations related to the sale of a \$4,000 Chevy Blazer.

In May 1996, Norvin and Bernita Lee of Littlewater, N.M., a tiny community northwest of Crownpoint, got an overdue notice from the loan company through which they'd financed a used Chevy Blazer purchased a few months earlier. The bill, on bright orange paper, said they were past due on \$705 in payments.

But it was the drawing on the notice that really got their attention.

Two burly, unshaven "repo men" — one holding a sledgehammer and the other pulling out a gun — stand over a presumed deadbeat consumer who is on the ground in a smashed garbage can. Two shiny metallic stars were pasted above the trash can.

When actual repo men showed up a few weeks later, the couple didn't hesitate to consent to having the vehicle taken away, even though legally they weren't bound to do so, their attorneys said.

Albuquerque attorneys Rick Feferman and Susan Warren claimed in the lawsuit they filed on the couple's behalf that the notice amounted to threats "of physical violence." That harm, a violation of state law and "an unconscionable trade practice,"

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came on top of a false odometer reading and outright lies about the Blazer's condition, the suit alleged.

Late Wednesday, a civil jury of eight that heard testimony before Chief U.S. Magistrate Judge William Deaton found Gallup Auto Sales, doing business as Friendly Motors in Farmington, and its affiliated finance company Montana Mining, liable for fraud, negligent misrepresentation and violations of New Mexico's Unfair Trade Practices Act and the Federal Odometer Act.

The jury awarded a total of \$669,000, including \$450,000 in punitive damages. The \$100,000 in compensatory damages jurors awarded on each of two counts, however, could be tripled if Deaton finds the company's actions willful. That could bring the total judgment to more than \$1 million.

Thomas Hynes of Farmington, who represented the defendants, declined comment on the jury finding.

"Things can happen between the verdict and the judgment," he said.

Large verdicts for plaintiffs are usually fought in post-trial motions in which the defense tries to persuade the judge to order a new trial or to reduce the amount awarded by the jury.

Montana Mining filed a counter-



COLLECTION NOTICE: The message from a Farmington loan company says, "If your check is in the mail, please disregard this notice."

claim for \$3,245 based on allegations the Lees breached terms of their installment contract. Jurors found the Lees were not in breach of contract.

Warren, who tried the case, said she hopes the jury verdict sends a message to car dealers in the state "that they can't lie about their products. I really feel there are a

lot of predatory business practices toward people with little education and little English."

One of the issues that came out at trial, Warren said, was that the Lees went in with \$200 and picked out a 1989 Chevy pickup, but were told they didn't qualify for that and were steered to the 1985 Blazer.

"It was classic bait and switch," she said.

The Lees claimed they were told the Blazer had 67,000 miles on it, when in fact the odometer had turned over once and wasn't working — meaning it had more than 167,000 miles, Warren said.

The dealership also represented that the four-wheel-drive worked, when it didn't, and that the engine had been overhauled, when it hadn't been, she said.

"Norvin kept making payments," she said. "Then the engine went out and he got behind."

Warren, who spent six years as a lawyer with DNA Legal Services in Shiprock, said she saw similar business practices "over and over."

She said she believes there's a huge problem with odometer fraud statewide and with car dealers misrepresenting the condition of their "as-is" vehicles.

"It's really important that somebody stand up to that kind of oppression," she said.