

LAW OFFICES
OF
STEPHEN L. SWANN
ATTORNEY AT LAW
1702 NORTH WAKEFIELD STREET
SUITE 930
ARLINGTON, VIRGINIA 22207

TELEPHONE 703.243.7938 TELEFAX 703.342.0403 LEMONLAWS@MSN.COM

WWW.CARLAWS.COM
WWW.BOATLEMONLAW.INFO
WWW.RVLEMONLAW.INFO

July 23, 2008

Federal Trade Commission
Office of the Secretary
Room H-135
Annex H
600 Pennsylvania Avenue NW
Washington, DC 20580

RE Used Car Regulatory Review,
Matter No. P087604



Sir or Madam:

I am writing in response to the recent FTC solicitation for public comments regarding the "Used Car Rule." I have practiced consumer law since 1988 in Virginia, and have represented hundreds of victims of used car dealer deceptive practices, breaches of contract and warranty, and fraud. I applaud the FTC's efforts in this review, and am hopeful that your agency will more clearly establish rules for and aggressive enforcement of non-complying used car dealers.

In my experience, many dealerships in Arlington, Prince William, Fairfax and Loudoun counties actively resist declaring their inventory for sale "as is." The two most common devices in my experience include, first, intentionally refusing to display the Buyers Guide on the subject vehicle, while slipping the warning sticker into the package of ten-twelve documents that are quickly signed at the conclusion of negotiations. As a second scheme, for newer vehicle, dealers, still intending the transaction to be "as is," only mark the "warranty" section of the Buyers Guide, and then state words suggesting that "balance of factory warranty, if any, may apply."

Each of these practices is intentionally deceptive and wrongful, and designed to circumvent important disclosure rules. In Virginia, failure to disclose a transaction as "as is" gives the purchaser thirty days to cancel the transaction. In recent years, the Arlington Circuit Court has granted summary judgment in favor of my consumer-client in a rescission complaint for this deceitful conduct.

I strongly favor a buyers order form that requires the selling dealer to clearly identify the sale as a dealer, "as is" transaction, or a dealer, "with warranty" transaction. The current form, while not incorrect, leaves the dealership with an argument that a vehicle while under factory warranty is not "as is." The average consumer is unaware that the dealership intends to avoid liability for the vehicle.

Additionally, in my opinion, FTC (or other) enforcement of the requirement to display the Buyers Guide form is the only deterrent to dealer misrepresentations. Encouragement of public participation for reported dealers in violation of the rule would presumably deter some dealers which do not use Buyers Guides.

I would be pleased to provide additional information upon request.

Sincerely, I am

Stephen L Swann