

Starcher, J., concurring in part and dissenting in part:

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OF WEST VIRGINIA

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I concur with the majority's conclusion that the jury had the right to reject the car dealer's fraud claim against the defendant. We must also apply this test to the jury's verdict for the defendant on the defendant's counter-claim, but the majority has failed to do so.

Specifically, we must assume that the jury believed that the car dealer deliberately "scammed" the defendant into a car purchase with phony financing promises. We must also assume that the jury entirely disbelieved the car dealer's "innocent" version of events.

Based on such findings, the jury could have found that the car dealer's improper conduct caused the defendant's original car to be repossessed, at a time that there was \$16,000 owing on it -- leaving the plaintiff to owe over \$7,000 on it after repossession and resale.

To be deliberately scammed by a car dealer under these circumstances *is* worth \$15,000. This jury verdict should stand. Accordingly, I dissent in part.