

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA

CARESSA DELANEY,

Plaintiff,

vs.

CASE NO.: 18-C-75

**DAN'S CAR WORLD, LLC a West Virginia
Limited Liability Company dba DAN CAVA'S
TOYOTA WORLD**

Defendant.

ORDER OF JUDGMENT

On this 5th day of December 2019, came the Plaintiff, Caressa Delaney by her counsel, John Ellem and Jane Deak and the Defendant, Dan's Car World, LLC, by counsel, Gregory H. Schillace, for a jury trial on the amount of damages, to be awarded in the above styled matter. The Defendant's objection to this matter being tried only with respect to damages was preserved on the record. Whereupon a properly qualified panel of six jurors and one alternate were selected by the parties and given their oath. Both parties through their respective counsel made opening statements and then the Plaintiff proceeded to call its first witness, the Plaintiff Caressa Delaney, and then its second witness, expert witness Anthony Jakicic, as well as introduce various exhibits into evidence. The Plaintiff then rested her case and the Defendant moved the Court for a Directed Verdict, pursuant to Rule 50(a) of the W.Va. R. Civ. P., on the issue of damages. The Defendants Motion for Directed Verdict was denied. Whereupon, the Defendant rested its case without calling any witnesses or presenting any evidence and renewed its Motion for Directed Verdict which was denied.

Whereupon after being instructed on the law by the Court, the jury retired for deliberations. After the jury retired, Defendant, for the first time objected to the revised verdict form. After hearing the arguments of counsel and a compromise offered by the Plaintiff, the Court revised the revised verdict form with the agreement of the parties and, again with agreement of the Parties, summoned the jury back to the courtroom for instruction by the Court on the revision to the revised verdict form. The jury then retired to the jury room to deliberate. Upon returning to the courtroom, the jury, rendered a verdict in favor of the Plaintiff for damages on all remaining counts of her complaint to wit:

1. For Revocation of acceptance, the jury awards to Plaintiff a refund of the purchase price in the amount of \$12,662.09, and nothing for finance charges or annoyance, nuisance and aggravation.
2. For breach of warranty/Magnuson-Moss Warranty Act, the jury finds the violations serious enough to require the Defendant to buy back the vehicle and awards \$12,662.09.
3. For violation of the West Virginia Consumer Credit Protection Act, the jury awards \$2,000.00.
4. For misrepresentation, the jury awards \$2,000.00.
5. For punitive damages, the jury awards \$2,000.00.

The Jury's verdict is hereby Ordered received and recorded. It is further Ordered that counsel for the Plaintiff will file a petition for fees and costs and set an appropriate hearing date on the same.

Based on the jury's findings and given that there can be only one recovery of the purchase price, the Court hereby Orders that the total judgment in favor of the Plaintiff is \$18,662.09. The Court further awards Plaintiff prejudgment interest in the amount of 5.5% annually from February 24, 2017, the date of the vehicle purchase, through the date of this Judgment Order. Also, post-judgement interest at the rate of 5.5% annually shall begin accruing as of the date of this Judgment Order. The Defendant's objections to the jury verdict, the imposition of prejudgment and post-judgment interest, the awarding of any fees or costs to the Plaintiff, and to this Order are hereby noted and preserved.

The Clerk is directed to mail certified copies of this Order to all counsel of record.

JAN 15 2020

Entered this _____ day _____

Susan D. Tucker
SUSAN TUCKER, Judge

ENTERED: JAN 15 2020

BOOKET LINE 166 Clerk Friend, Clerk

PREPARED BY:

AGREED TO BY:

John N. Ellem
John N. Ellem
(WV State Bar #6027) (Ohio S. Ct. #0062842)
ELLEM LAW OFFICE, PLLC
914 Market St., Suite 207
Mail to: P.O. Box 322
Parkersburg, WV 26102-0322
(304) 424-5297 - Telephone
(304) 865-1585 - Facsimile
john@ellemlawoffice.com
Co-Counsel for Plaintiff

Gregory H. Schillace
(State Bar# 5597)
SCHILLACE LAW OFFICE
Hunting Banks Building
PO Box 1526
Clarksburg, WV 26302-1526
(304) 624-1000 - Telephone
(304) 624-9100 - Facsimile
Counsel for Defendant Dan's Car
World, LLC

Jane E. Peak (WV Bar #7213)
ALLAN N. KARLIN & ASSOCIATES
174 Chancery Row
Morgantown, WV 26505
Telephone – (304) 296-8266
jep@wvjustice.com
Co-Counsel for Plaintiff

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