

LAW OFFICES OF MITCHELL SENS, P.A.

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2006 MAR 27

ADMINISTRATIVE

NHTSA

Certified Mail

Return Receipt Requested

March 15, 2006

Ford Motor Credit
16800 Executive Plaza Drive
Mail Drop 3NE-B
Dearborn, MI 48126

10154119

RE:

VIN #1LNMH87A7

<Page 1 of 2>

Dear Sir/Madam:

This office has been retained by Joseph S. Vargo (hereafter called "Consumer") for the reasons stated below.

As you can see from the attached *Request for Arbitration by the Florida New Motor Vehicle Arbitration Board*, the Consumer took possession of the 2004 Lincoln LS (hereafter called "Vehicle") on 09/21/04. It was a new vehicle. Less than 24 months have elapsed since delivery.

The Consumer is not a litigious individual. Your records will show that he has had six (6) Lincoln vehicles over the past 15 years, along with seven (7) Ford Explorers. Of course there have been maintenance problems. He never complained, and accepted that as part of the cost.

With the instant Vehicle, he did not complain about the ignition/starter problems on 02/04/06. He had it repaired and moved on. Even when he initially suffered complete brake failure in traffic, he did not over-react. It is unconscionable and shocking for you to expect or even allow a consumer to continue driving any vehicle whose brakes have failed three (3) times, and two (2) of those times in traffic. The Vehicle has now been serviced for brake failures on 01/25/06, 02/06/06, 02/14/06, and a final inspection on 03/03/06.

As this is a defect "which could cause a crash or could cause injury or death", the Consumer provides a copy of this letter, and thereby satisfies any legal or ethical obligation to notify the NHTSA.

Given the number of notices that you have of the problem, you really dodged the bullet when nobody was killed by the inevitable collision in traffic on 02/06/06. Fortunately, the Consumer struck another vehicle rather than a child, crosswalk pedestrian or state trooper. The Consumer can do no more to mitigate damages. He cannot afford to purchase another car. Nor can he afford to rent another car while he continues with his monthly installments to you.

2006 MAR 27

NAC
2/28/06
2/28/06

RE: [REDACTED]

VIN #1LNMH87A [REDACTED]

<Page 2 of 2>

The Consumer feels that you have not been as proactive in mitigating damages. The dealership personal have been courteous, but the Consumer is still driving with one hand on the parking brake. As nothing else has provided the necessary motivation, please take this Lemon Law notice as another request that you do the safe thing.

If you have an insurance policy which has the standard conditions and prerequisites for coverage - requiring both efforts to mitigate and notice to the insurer of dangerous conditions - then you should probably take the required steps. Otherwise you risk the insurer's exclusion of future claims on the policy.

Regardless of how this is resolved by arbitration, please consider that the Consumer's efforts do not relieve you of liability for personal injury or death to third-parties. If you prevail, then that only establishes that the Consumer did all he could do to eliminate the dangerous condition. Rather than provide a defense, it would show that that the dangerous condition was perpetuated by your action.

Please move quickly. This is a large, heavy car. South Florida has heavy traffic, both pedestrian and vehicular. Without being facetious, consider that unless the next car which the Vehicle strikes is a Hummer, there are problems.

Lest you think that my only concern is for innocent third-parties, please also take this as notice that the Consumer is sixty-five (65) years old, at an age where he will not heal as well from injuries. Further be on notice that he does not presently suffer from spinal or soft tissue injuries.

At your written request, he will prove anything stated herein. As the Consumer has repeatedly advised you of what you should do to reduce the risk of injury or death, he invites you to give any recommendations of what more he can do. It is his position that he has already done more than any person should have to, but still makes the invitation. He will take your silence as affirmation and agreement that he has done all that can be done.

Sincerely,


MITCHELL SENS, ESQ.

Enclosures

cc: NHTSA
400 Seventh Street
U.S. Department of Transportation
Washington, DC 20590
Certified Mail No. [REDACTED]

Office of Attorney General Charlie Crist
State of Florida
The Capitol PL-01
Tallahassee, FL 32399-1050
Certified Mail No. [REDACTED]