FORD 12/2/2004 APPENDIX F-2 PART 4 OF 4 BOOK 2 OF 4

DISTRICT COURT, WELD COUNTY, COLORADO P.O. Box 2038
Greeley, CO 80632-2038

Plaintiff:

Defendant: FORD MOTOR COMPANY, a Delaware Corporation

Donaid E. Janklow, #885
Attorney for Plaintiff
710 11th Avenue, Suize 205
Greeley, Colorado 80631
Phone Number: (970) 353-4000

COMPLAINT

COMES NOW the Plaintiff the Complete by and through his attorney, Donald E. Jankiow, and complains of the Defendant as follows:

- Defendant Ford Motor Company, hereinafter referred to as "Ford", is a
 Defewere corporation authorized to do business in the state of Colorado and doing
 business in Weld County, Colorado through its egent and dealer Gamaey & Wheeler
 Company, d/b/a Gamaey & Wheeler Ford.
 - Plaintiff Carl Rackley, Jr. is a resident of Weld County, Colorado.
- On or about July 17, 2003 Garnsey & Wheeler Ford soid a new 2003
 Ford F-350 pickup truck Vehicle Identification Number 1FTWX33P13E
 Plaintiff.
- 4. The 2003 Ford F-350 suffered from engine driveability problems which the Plaintiff took to Ford dealers for repair on more than four (4) occasions and they were not able to properly repair the vehicle to conform to Ford's warranty.
- The Ptaintiff has resorted to informal dispute settlement procedures with the Dispute Settlement Board pursuant to C.R.S. 42-10-106.
- The Plaintiff submitted this matter to the Dispute Settlement Board used by Ford on or about April 27, 2004 and the Dispute Settlement Board (DSB) closed

report 4-15-04

its file and concluded its case by letter dated June 17, 2004.

- The Pleintiff provided prior written notification by certified meil to Ford by letter dated July 7, 2004 and delivered to Ford on July 12, 2004 and provided Ford with an opportunity to cure the defect.
 - 8. This claim is brought pursuant to C.R.S. 42-10-101, et seq.

WHEREFORE the Plaintiff respectfully requests that the Court enter judgment in favor of the Plaintiff and against the Defendant either replacing the motor vehicle or refunding the Plaintiff's purchase price including taxes, fees and charges less a reasonable allowance for the Plaintiff's use of the ribotor vehicle together with his costs, reasonable attorney fees and expert witness fees.

Deted this 20th day of July, 2004.

Respectfully submitted,

Donald E. Janklaw

Robert M. Silverman, Esquire Identification No. 55914 KIMMEL & SILVERMAN, P.C. 30 East Butler Pike Ambier, PA 19002 (215) 549-8888 ATTORNEY FOR PLAINTIFF

THIS IS AN ARBITRATION MATTER. ASSESSMENT OF DAMAGES HEARING IS REQUESTED.

Butler, Penerylvani

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

FORD MOTOR COMPANY C/O CT Corporation 1515 Market Street, Suite 1210 Philadelphia, PA 19103 CIVIL ACTION

COMPLAINT CODE: 1900

- I. Plaintiff, is an adult individual citizen and legal resident of the Commonwealth of Pennsylvania Butler, Pennsylvania
- 2. Defendant, Ford Motor Company, is a business corporation qualified to do business and regularly conduct business in the Commonwealth of Pennsylvania, and is a corporation of the State of Delaware, with its legal residence and principal place of business located at 300 Renaissance Center, P.O. Box 43301. Detroit, MI, 48243, and can be served at c/o CT Corporation, 1515 Market Street, Suite 1210, Philadelphia, PA, 19103.

BACKGROUND

- On or about February 01, 2003, Plaintiff purchased a new 2003 Ford F-250, manufactured and warranted by Defendant, bearing the Vehicle Identification Number 1FTNX21P93E
- The vehicle was purchased in the Commonwealth of Pennsylvania and is registered in the Commonwealth of Pennsylvania.

- The contract price of the vehicle, including registration charges, document fees, sales tax, finance and bank charges, but <u>excluding</u> other collateral charges not specified, yet defined by the Lemon Law, totaled more than \$20,000.00.
- 6. In consideration for the purchase of said vehicle, Defendant issued to Plaintiff several warranties, guarantees, affirmations or undertakings with respect to the material or workmanship of the vehicle and/or remedial action in the event the vehicle fails to meet the promised specifications.
- The above-referenced warranties, guarantees, affirmations or undertakings are/were part
 of the basis of the bargain between Defendant and Plaintiff.
- The parties' bargain includes an express 3-year / 36,000 mile warranty, as well as other guarantees, affirmations and undertakings as stated in Defendant's warranty materials and owner's manual.
- 9. However, as a result of the ineffective repair attempts made by Defendant through its authorized dealer(s), the vehicle is rendered substantially impaired, unable to be utilized for its intended purposes, and is worthless to Plaintiff.
- 10. Plaintiff has or may have resorted to Defendant's informal dispute settlement procedure, to the extent said procedure complies with 16 CFR 703.
- 11. Plaintiff avers that the Federal Trade Commission (FTC) has determined that no automobile manufacturer complies with 16 CFR 703. See, Fed. Reg. 15636, Vol. 62, No. 63 (Apr. 2, 1997).

COUNT I PENNSYLVANIA AUTOMOBILE LEMON LAW

- 12. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.
 - 13. Plaintiff is a "Purchaser" as defined by 73 P.S. §1952.

- 14. Defendant is a "Manufacturer" as defined by 73 P.S. §1952.
- 15. Northland Ford is and/or was at the time of sale a Motor Vehicle Dealer in the business of buying, selling, and/or exchanging vehicles as defined by 73 P.S. §1952.
- 16. On or about February 01, 2003, Plaintiff took possession of the above mentioned vehicle and experienced nonconformities as defined by 73 P.S §1951 et seq., which substantially impair the use, value and/or safety of the vehicle.
- 17. The nonconformities described violate the express written warranties issued to Plaintiff by Defendant.
 - 18. Section 1955 of the Pennsylvania Automobile Lemon Law provides:

If a manufacturer falls to repair or correct a nonconformity after a reasonable number of attempts, the manufacturer shall, at the option of the purchaser, replace the motor vehicle... or accept return of the vehicle from the purchaser, and refund to the purchaser the full purchase price, including all collateral charges, less a reasonable allowance for the purchasers use of the vehicle, not exceeding \$.10 per mile driven or 10% of the purchase price of the vehicle, whichever is less.

- 19. Section 1956 of the Pennsylvania Automobile Lemon Law provides a presumption of a reasonable number of repair attempts if:
 - (1) The same nonconformity has been subject to repair three times by the manufacturer, its agents or authorized dealers and the nonconformity still exists; or
 - (2) The vehicle is out-of-service by reason of any nonconformity for a cumulative total of thirty or more calendar days.
- 20. Plaintiff has satisfied the above definition as the vehicle has been subject to repair more than three (3) times for the same nonconformity, and the nonconformity remained uncorrected.
- 21. In addition, the above vehicle has or will be out-of-service by reason of the nonconformities complained of for a cumulative total of thirty (30) or more calendar days.
- 22. Plaintiff has delivered the nonconforming vehicle to an authorized service and repair facility of the Defendant on numerous occasions as outlined below.
- 23. After a reasonable number of attempts, Defendant was unable to repair the nonconformities.
- 24. During the first 12 months and/or 12,000 miles, Plaintiff complained on at least three (3) occasions about defects and or non-conformities to the following vehicle components: abnormal

rough idle, stalling condition, loss of power condition, fuel light on, coolant leak, defective emblem, fuel gauge, fuel sensor and water drain. True and correct copies of all invoices in Plaintiff possession are attached hereto, made a part hereof, and marked Exhibit "A".

25. Plaintiff avers the vehicle has been subject to additional repair attempts for defects and conditions for which Defendant's warranty dealer did not provide or maintain itemized statements as required by 73 P.S. § 1957.

26. Plaintiff avers that such itemized statements, which were not provided as required by 73.
P.S. § 1957 also include technicisms' notes of diagnostic procedures and repairs, and Defendant's Technical Service Bulletins relating to this vehicle.

27. Plaintiff avers the vehicle has been subject to additional repair attempts for defects and conditions for which Defendant's warranty dealer did not provide the notification required by 73 P.S. § 1957.

28. Plaintiff has and will continue to suffer damages due to Defendant's failure to comply with the provisions of 73 P.S. §§ 1954 (repair obligations), 1955 (manufacturer's duty for refund or replacement), and 1957 (itemized statements required).

29. Pursuant to 73 P.S. § 1958, Plaintiff seeks relief for losses due to the vehicle's nonconformities, including the award of reasonable attorneys' fees and all court costs.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the price of the subject vehicle, plus all collateral charges, attorneys' fees, and court costs.

COUNT (I <u>MAGNUSON-MOSS (FTC) WARRANTY IMPROVEMENT ACT</u>

30. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

31. Plaintiff is a "Consumer" as defined by 15 U.S.C. §2301(3).

- 32. Defendant is a "supplier", "warrantor", and a "service contractor" as defined by 15 U.S.C. § 2301 (4),(5) and (8).
 - 33. The subject vehicle is a "consumer product" as defined by 15 U.S.C. § 2301(1).
- 34. By the terms of its written warranties, affirmations, promises, or service contracts, Defendant agreed to perform effective repairs at no charge for parts and/or labor.
- 35. The Magnuson-Moss Warranty Improvement Act requires Defendant to be bound by all warranties implied by state law. Said warranties are imposed on all transactions in the state in which the vehicle was delivered.
- 36. Defendant has made attempts on several occasions to comply with the terms of its express warranties; however, such repair attempts have been ineffective.
 - 37. The Magnuson-Moss Warranty Improvement Act, 15 U.S.C. §2310(d)(2) provides:

If a consumer finally prevails on an action brought under paragraph (1) of this subsection, he may be allowed by the court to recover as part of the judgment a sum equal to the argument of aggregate amount of costs and expenses (including attorney fees based upon actual time expended), determined by the court to have been reasonably incurred by the Plaintiff for, or in connection with the commencement and prosecution of such action, unless the court, in its discretion shall determine that such an award of attorney's fees would be inappropriate.

- 38. Plaintiff has afforded Defendant a reasonable number of opportunities to conform the vehicle to the aforementioned express warranties, implied warranties and contracts.
- 39. As a direct and proximate result of Defendant's failure to comply with the express written warranties, Plaintiff has suffered damages and, in accordance with 15 U.S.C. §2310(d)(1), Plaintiff is entitled to bring suit for such damages and other legal and equitable relief.
- 40. Defendant's failure is a breach of Defendant's contractual and statutory obligations constituting a violation of the Magnuson-Moss Warranty Improvement Act, including but not limited to: breach of express warranties; breach of implied warranty of merchantability; breach of implied warranty of fitness for a particular purpose; breach of contract; and constitutes an Unfair Trade Practice.
- 41. Plaintiff avers Defendant's Dispute Resolution Program is not in compliance with 16 CFR 703 by the FTC for the period of time this claim was submitted.

42. Plaintiff avers that upon successfully prevailing upon the Magnuson-Moss claim herein, all attorney fees are recoverable and are demanded against Defendant.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the price of the subject vehicle, plus all collateral charges, incidental and consequential damages, reasonable attorneys' fees, and all court costs.

COUNT HI PENNSYLVANIA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW

- 43. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.
 - 44. Plaintiff is a "Person" as defined by 73 P.S. §201-2(2).
 - 45. Defendant is a "Person" as defined by 73 P.S. §201-2(2).
- 46. Section 201-9.2(a) of the Act authorizes a private cause of action for any person "who purchases or leases goods or services primarily for personal, family or household purposes."
- 47. Section 1961 of the Pennsylvania Automobile Lemon Law, provides that a violation of its provisions shall automatically constitute a violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Act, 73 P.S. 201-1 et seq.
- 48. In addition, the Pennsylvania Unfair Trade Practices and Consumer Protection Act, 73

 P.S. §201-2(4), defines "unfair or deceptive acts or practices" to include the following conduct:
 - (vii). Representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model, if they are of another,
 - (xiv). Failing to comply with the terms of any written guarantee or warranty given to the buyer at, prior to, or after a contract for the purchase of goods or services is made;
 - (xv). Knowingly misrepresenting that services, replacements or repairs are needed if they are not needed;
 - (xvi). Making repairs, improvements or replacements on tangible, real or personal property of a nature or quality inferior to or below the standard of that agreed to in writing;
 - (xvii). Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.

49. Plaintiff avers Defendant has violated these, as well as other provisions, of 73 P.S. §201-2 at sec.

50. Section 201-3.1 of the Act provides that the Automotive Industry Trade Practice rules and regulations adopted by the Attorney General for the enforcement of this Act shall constitute additional violations of the Act.

51. Defendant's conduct surrounding the sale and servicing of the subject vehicle falls within the aforementioned definitions of "unfair or deceptive acts or practices."

52. The Act also authorizes the Court, in its discretion, to award up to three (3) times the actual damages sustained for violations.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount not in excess of Fifty Thousand Dollars (\$50,000.00), together with all collateral charges, attorneys' fees, all court costs and treble damages.

KIMMEL & SILVERMAN, P.C.

Bv:

ROBERT M. SILVERMAN, ESQUIRE

Attorney for Plaintiff 30 East Butler Pike Ambler, Pennsylvania 19002

(215) 540-8888

VERIFICATION

Robert M. Silverman, states that he is the attorney for the Plaintiff herein; that he is acquainted with the facts set forth in the foregoing Complaint; that same are true and correct to the best of his knowledge, information and belief; and that this statement is made subject to the Penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsifications to authorities.

ROBERT M. SILVERMAN, ESQUIRE Attorney for Plaintiff



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Robert M. Silverman, Esquire Identification No. 55914 KIMMEL & SILVERMAN, P.C. 35 East Butler Pike Ambler, PA 19902 (215) 540-8888 ATTORNEYS FOR PLAINTIFF

Acres de la Contra

THIS IS AN ARBITRATION MATTER. ASSESSMENT OF DANIAGES HEARING IS REQUESTED.

Willow Grove, Pennsylvania

COURT OF COMMON PLEAS PHILADELPHIA COUNTY

FORD MOTOR COMPANY C/O CT Corporation 1515 Market Street, Suite 1210

Philadelphia, PA 19103

CIYIL ACTION

COMPLAINT CODE; 1900

1. Plaintiff, is an adult individual citizen and legal resident of the Commonwealth of Pennsylvania, Willow Grove, Pennsylvania

2. Defendant, Ford Motor Company, is a corporation qualified to do and regularly conduct business in the Commonwealth of Pennsylvania, with its address and principal place of business located at 300 Renaissance Center, P.O. Box 43301, Detroit, MI 48243, and can be served at C/O CT Corporation, 1515 Market Street, Suite 1210, Philadelphia, PA 19103.

BACKGROUND

- On or about July 31, 2003, Plaintiff purchased a new 2003 Ford F-350, manufactured and warranted by Defendant, bearing the Vehicle Identification Number 1FTSX31P631
- The vehicle was purchased in the Commonwealth of Pennsylvania and is registered in the Commonwealth of Pennsylvania.

- 5. The contract price of the vehicle, including registration charges, document fees, sales tax, finance and bank charges, but <u>excluding</u> other collateral charges not specified, yet defined by the Lemon Law, totaled more than \$20,000.00.
- 6. In consideration for the purchase of said vehicle, Defendant issued to Plaintiff several warranties, guarantees, affirmations or undertakings with respect to the material or workmanship of the vehicle and/or remedial action in the event the vehicle fails to meet the promised specifications.
- The above-referenced warranties, guarantees, affirmations or undertakings are/were part
 of the basis of the bargain between Defendant and Plaintiff.
- The parties' bargain includes an express 3-year / 36,000 mile warranty, as well as other guarantees, affirmations and undertakings as stated in Defendant's warranty materials and owner's manual.
- 9. However, as a result of the ineffective repair attempts made by Defendant through its authorized dealer(s), the vehicle is rendered substantially impaired, unable to be utilized for its intended purposes, and is worthless to Plaintiff.
- 10. Plaintiff has or may have resorted to Defendant's informal dispute settlement procedure, to the extent said procedure complies with 16 CFR 703.
- 11. Plaintiff avers that the Federal Trade Commission (FTC) has determined that no automobile manufacturer complies with 16 CFR 703. See, Fed. Reg. 15636, Vol. 62, No. 63 (Apr. 2, 1997).
- 12. Within the warranty period, Plaintiff complained on at least three (3) occasions about defects and or non-conformities to the following vehicle components: abnormal no-power condition, rough transmission, stalling condition, blue smoke when starting, runs rough, defective vacuum line, transmission and power mirrors. True and correct copies of all invoices in Plaintiff possession are attached hereto, made a part hereof, and marked Exhibit "A".

- 13. Plaintiff avers the vehicle has been subject to additional repair attempts for defects and conditions which Defendant's warranty dealer did not provide or maintain itemized statements or records as required by law.
- 14. Piaintiff avers that such itemized statements which were not provided also include technicians' notes of diagnostic procedures and repairs, and Defendant's Technical Service Bulletins relating to this vehicle.
- 15. Plaintiff has and will continue to suffer damages due to Defendant's failure to maintain and provide itemized statements of repair.

COUNT I MAGNUSON-MOSS (FTC) WARRANTY IMPROVEMENT ACT

- 16. Plaintiff hereby incorporates alt facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.
 - 17. Plaintiff is a "Consumer" as defined by 15 U.S.C. §2301(3).
- 18. Defendant is a "supplier", "warrantor", and a "service contractor" as defined by 15 U.S.C.
 § 2301 (4),(5) and (8).
 - The subject vehicle is a "consumer product" as defined by 15 U.S.C. § 2301(1).
- 20. By the terms of its written warranties, affirmations, promises, or service contracts, Defendant agreed to perform effective repairs at no charge for parts and/or labor.
- 21. The Magnuson-Moss Warranty Improvement Act requires Defendant to be bound by all warranties implied by state law. Said warranties are imposed on all transactions in the state in which the vehicle was delivered.
- 22. Defendant has made attempts on several occasions to comply with the terms of its express warranties; however, such repair attempts have been ineffective.
 - 23. The Magnuson-Moss Warranty Improvement Act, 15 U.S.C. §2310(d)(2) provides:
 - If a consumer finally prevails on an action brought under paragraph (1) of this subsection, he may be allowed by the court in recover as part of the judgment a man equal to the material of aggregate amount of

costs and expenses (including attorney fees based upon actual time expended), determined by the court to have been reasonably incurred by the Plaintiff for, or in connection with the commencement and prosecution of such action, unless the court, in its discretion shall determine that such an award of attorney's fees would be inappropriate.

- 24. Plaintiff has afforded Defendant a reasonable number of opportunities to conform the vehicle to the aforementioned express warranties, implied warranties and contracts.
- 25. As a direct and proximate result of Defendant's failure to comply with the express written warranties, Plaintiff has suffered damages and, in accordance with 15 U.S.C. §2310(d)(1), Plaintiff is entitled to bring suit for such damages and other legal and equitable relief.
- 26. Defendant's failure is a breach of Defendant's contractual and statutory obligations constituting a violation of the Magnuson-Moss Warranty Improvement Act, including but not limited to: breach of express warranties; breach of implied warranty of merchantability; breach of implied warranty of fitness for a particular purpose; breach of contract; and constitutes an Unfair Trade Practice.
- 27. Plaintiff avers Defendant's Dispute Resolution Program is not in compliance with 16 CFR 703 by the FTC for the period of time this claim was submitted.
- 28. Plaintiff avers that upon successfully prevailing upon the Magnuson-Moss claim herein, all attorney fees are recoverable and are demanded against Defendant.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the price of the subject vehicle, plus all collateral charges, incidental and consequential damages, reasonable attorneys' fees, and all court costs.

COUNT II PENNSYLVANIA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW

- 29. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.
 - 30. Plaintiff is a "Person" as defined by 73 P.S. §201-2(2).
 - 31, Defendant is a "Person" as defined by 73 P.S. §201-2(2).

- 32. Section 201-9.2(a) of the Act authorizes a private cause of action for any person "who purchases or leases goods or services primarily for personal, family or household purposes."
- 33. Section 1961 of the Pennsylvania Automobile Lemon Law, provides that a violation of its provisions shall automatically constitute a violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Act, 73 P.S. 201-1 et seq.
- 34. In addition, the Pennsylvania Unfair Trade Practices and Consumer Protection Act, 73
 P.S. §201-2(4), defines "unfair or deceptive acts or practices" to include the following conduct:
 - (vii). Representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model, if they are of another;
 - (xiv). Failing to comply with the terms of any written guarantee or warranty given to the buyer at, prior to, or after a contract for the purchase of goods or services is made;
 - (xv). Knowingly enlarepresenting that services, replacements or repairs are needed if they are not needed;
 - (xvi). Making repairs, improvements or replacements on tangible, real or personal property of a nature or quality inferior to or below the standard of that agreed to in writing;
 - (xvii). Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of mismoderstanding.
- 35. Plaintiff avers Defendant has violated these, as well as other provisions, of 73 P.S. §201-2 at seq.
- 36. Section 201-3.1 of the Act provides that the Automotive Industry Trade Practice rules and regulations adopted by the Attorney General for the enforcement of this Act shall constitute additional violations of the Act.
- 37. Defendant's conduct surrounding the sale and servicing of the subject vehicle falls within the aforementioned definitions of "unfair or deceptive acts or practices."
- 38. The Act also authorizes the Court, in its discretion, to award up to three (3) times the actual damages sustained for violations.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount not in excess of Fifty Thousand Doltars (\$50,000.00), together with all collateral charges, attorneys' fees, all court costs and treble damages.

KIMMEL & SILVERMAN, P.C.

Bv:

ROBERT M. SILVERMAN, ESQUIRE

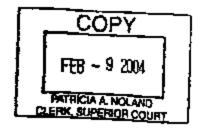
Attorney for Plaintiff 30 East Butler Pike Ambler, Pennsylvania 19002 (215) 540-8888

VERIFICATION

Robert M. Silverman, states that he is the attorney for the Plaintiff herein; that he is acquainted with the facts set forth in the foregoing Complaint; that same are true and correct to the best of his knowledge, information and belief; and that this statement is made subject to the Penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsifications to authorities.

ROBERT M. SILVERMAN, ESQUIRE Attorney for Plaintiff Marshall Meyers (#020584)
KROHN & MOSS, LTD.
111 W. Monroe, Ste. 1124
Phoenix, AZ 85003
(602) 275-5588
mmeyers@consumerlawcenter.net
IN THE SUPERIOR

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IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA, IN AND FOR THE COUNTY OF PIMA

Defendant.	CHARLES 5. SABALOS
FORD MOTOR COMPANY,	BREACH OF WARRANTY
VS.	} № C20040726
Plaintiff,	{
)

- This Court has jurisdiction to hear this matter pursuant to 15 U.S.C. §2310(d) and
 A.R.S. Const. Art. 6 §14.
- Plaintiff, Patrick Hoilins ("Consumer"), is an individual who was at all times
 relevant hereto residing in the State of Arizona.
- 3. Defendant, Ford Motor Company ("Warrantor"), is a foreign corporation authorized to do business in the State of Arizona, County of Pima, and is engaged in the manufacture, sale, supply and distribution of motor vehicles and related equipment and services, such as written warranties. Warrantor supplies its products and services to the public at large through a system of authorized dealerships, including Bell Ford Inc. ("Dealer").
- 4. On or about May 14, 2003, Consumer purchased a 2003 Ford F-350 ("F-350") manufactured and supplied by Warrantor, Vehicle Identification No. 1FTSW30P431 for \$36,534.25, inclusive of all collateral charges incurred at the time of purchase. See Purchase Order, attached hereto as Exhibit "A."

- 5. In conjunction with Consumer's purchase of the F-350, Warrantor issued and supplied to Consumer its written warranty, which included three (3) year or thirty-six thousand (36,000) mile bumper to bumper coverage, as well as other warranties fully outlined in the Warrantor's New Vehicle Warranty booklet.
- 6. On or about May 14, 2003, Consumer took possession of the F-350 and shortly thereafter experienced various defects and non-conformities within the F-350 that diminish its value and/or substantially impair its use and value to Consumer. These defects include, but are not limited to a defective transmission, Persistent vibrations, persistent fluid leaks, a defective flywheel, a defective brake hydraulic boost assembly, a defective starter, a defective interior trim, a defective ICP sensor, persistent recalls, a defective electrical system, and, any other complaints actually made, whether contained on the defendant's company's invoices or not.
- Consumer provided Warrantor, through its authorized dealership network,
 sufficient opportunities to repair the defects, non-conformities and conditions within the F-350.
- Despite being given more than a reasonable number of attempts/reasonable
 opportunity to cure said defects, non-conformities and conditions, Warrantor failed to do so.
- Warrantor's failure to correct said defects violate Warrantor's statutory duty to
 Consumer and the expectations created by Warrantor's warranty.
- 10. Consumer avers that as a result of the ineffective repair attempts made by Warrantor through its authorized dealership network, the F-350 cannot be utilized for use as intended by Consumer at the time of acquisition and that the use and value of the F-350 has been diminished and/or substantially impaired to Consumer.

- 11. Consumer relied on Warrantor's product advertisements, written, verbal, electronic and/or otherwise, regarding the length and duration of Defendant's bumper to bumper warranty when deciding to purchase the subject vehicle.
- 12. Consumer provided Warrantor written notification of the defects within the subject vehicle, an offer for a final opportunity to cure, and Consumer's demand for compensation on November 19, 2003. See Notice Letter, attached hereto as Exhibit "B."
- 13. Warrantor refused Consumer's demand for compensation and has refused to provide Consumer with the remedies to which Consumer is entitled.
- i 4. Consumer has been and will continue to be financially damaged due to

 Warrantor's failure to comply with Warrantor's statutory duty to Consumer and the provisions of

 its express warranty.
- Consumer has met all obligations and preconditions as provided in Warrantor's written warranty and by statute(s).
- As a direct and proximate result of Warrantor's failure to comply with its written warranty, Consumer has suffered damages and, in accordance with 15 U.S.C.

 §2310(d) and A.R.S. §44-1263, Consumer is entitled to bring suit for such damages and other legal and equitable relief.

WHEREFORE, Patrick Hollins prays for relief against Ford Motor Company in the form of a refund or replacement, an award of diminution in value damages, any equitable relief to which Plaintiff may be entitled, all attorney fees, expert fees and court costs incurred during the commencement and prosecution of this matter, and all other relief described just and appropriate by this Court.

Marshall Meyers (020584) KROHN & MOSS, LTD. Attorneys for Plaintiff 111 W. Monroe, Stc. 1124 Phoenix, AZ 85003 (602) 275-5588

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Krohn & Moss, Ltd.

Assaons Office 111 West Mauron, Suite 1124 Phonaix, AZ, 86008

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Also precticing in: Missis Plavida Graegis Indiana Missouri Ohio Wissourin

November 19, 2003

SENT VIA U.S. MAIL

Ford Motor Company Crastomer Relationship Center P.O. Box 6248 Deathorn, MI 48126

Re:

Our Clients

Your Chent

Vehicles

· VIN:

Our File Number

Ford Motor Company 2003 Ford F-350

1FTEW30P431

A03033810Z

Dear Siz/Madam:

Please he advised that this office represents the above-named individual regarding claims against your company purcuisat to the Federal Magnuson-Moss Warmenty Act, the Arizona Lamon Law and/or the Uniform Commercial Code with regard to the above-listed vehicle. Please direct all future contacts and correspondence to the office listed shows.

HAVING BEEN FORMALLY NOTIFIED OF OUR REPRESENTATIONS, YOU ARE INSTRUCTED NOT TO CONTACT OUR CLIENT UNDER ANY CIRCUMSTANCES.
DIRECT ALL INQUIRIES TO THIS OFFICE. IF YOU FAIL TO ACT IN CONFORMITY WITH THIS DIRECTIVE, INJUNCTIVE RELIEF WILL BE SOUGHT AGAINST YOU.

IN ADDITION, YOU ARE HEREBY NOTIFIED OF OUR ATTORNEYS' LIEN.

COPY

There were numerous non-conformities with my dient's automobile for which raise is sought, and numerous attempts to repair the vehicle have been unsuccessful. There were also numerous violations of both Federal and State law in connection with the delivery and/or repair of the aforementional vehicle. The primary non-conformities and violations include, but are not limited to:

- 1. Defective Brake Hydraulic Boost Assembly,
- 2. Defective Blactrical System.
- 3. Paraletant Vibration,
- 4. Persistent Pluid Lank
- Pensistent Stalling in Flight Condition.
- Possistent Recall,
- 7. Defective ICP Sensor.
- 8. Defective Interior Trim.
- 9. Defective Transmission, and,
- Any additional complaints actually made, whether contained on your company's invoices or otherwise.

The non-conformities listed above constitute a substantial impairment of the use, value and existy of the subject valuele. Accordingly, my client has had enough! Because of the inordinate amount of repairs within the applicable warranty period, my client has justifiably lost confidence in the valuele. As one court has stated,

For a majority of people the purchase of a new car is a major investment, rationalized by the peace of mind that flows from its dependability and safety. Once their faith is shaken, the vehicle losse not only its real value in their eyes, but becomes an instrument whose integrity is substantially impaired and whose operation is frought with appealension. Zehriskie Chevrolet. Inc. v. Smith, 240 A.2d 196.

Concerning the amount of grief a person need take with a vehicle, one court expressed the consumer's lament in the following manner:

There comes a time when enough is enough — when an entrenchile purchaser, after having to take his our into the shop for repairs an inordinate number of times and experiencing all of the attendant inconvenience, is entitled to say, "That's all," and revoke, notwithstending the seller's repeated good faith efforts to fix the car. Review v. Monrow, 491 So.2d 204.

My client's repetr history clearly shows there was a breach of written warranty "based upon the generally accepted rule that an unsuccessful effort to remark defects found to exist renders the warranter liable; the buyer is not bound to allow him the opportunity or parmit him to timber with the article indefinitely in the hope that it may ultimately be made to comply with the warranty." <u>Kure v. Chevrolet Motor Division</u>, 581 P.2d 603, 608.

Therefore you are hereby notified that my dient is revoking acceptance of the vehicle. Please return all funds paid towards the vehicle, cancel all applicable contracts, and compensate

my client for the demages sustained to date. This latter also constitutes prior direct written notification of the defacts within my client's vahiols and of my client's intent to pursue a claim pursuant to A.R.S. 844-1261 et. reg. If you have "final opportunity rights" under A.R.S. 844-1264 (C), and wish to ensures said rights, you are hereby directed to contact this office within fourteen (14) days.

Please be edvised that under U.C.C. § 2-711(3) my client has a security interest in the car for return of the total amount above, plus expenses in handling and inspecting the car. Until you pay this amount, my client will hold the car and use it to the extent necessary to preserve it, to protect its security interest, and to minimize your demages. Moreover, my client useds return of the monies listed above before substitute goods can be sequired. In addition, any attempt by you or your agents to repossess the car will be wroughd and will subject you to liability for convension and for wroughd repossession under U.C.C. §§ 9-503 and 9-507 as well as other applicable. Arisons Consumer Fraud remedies.

If the seller [or, if applicable the assigner or any conditor subject to the FTC Holder Rule] has filed a financing statement covering the goods, I demand, present to U.C.C. 8 9-404, that you file a termination statement within ten days to terminate your security interest and forward a copy to this office. Since my client has revoked acceptance, there is no outstanding secured obligation. If you do not file a termination statement within ten days and cooperate in comoving the lien, you will be liable under U.C.C. 8 9-404(1) in the amount of \$100.00 plus any loss caused my client by your failure.

To avoid any litigation, my client memby requests a refund for the defective product, plus payment of our attenties's fast presument to the fee-shifting provisions of the Magnuson-Moss Warranty Aut and/or Arizona Lemon Lew. Our atterneys' fees are minimal at this stage and we would prefer to resolve this matter without the need for any more time spent on our part or on the part of your attenneys. A great deal of time, money and effort would be saved by both sides with a quick resolution of this claim.

Accordingly, if you wish to resolve this matter annivably, please feel free to contact my office within fourteen (14) days. If the matter has not been resolved within that time, we will file a formal claim.



MSM/tld Ce: Patrick Holling

Marshali Meyers KROHN & MOSS, LTD. PATRICIA A. NOLAND 111 W. Montoe, Ste. 1124 CLERK, SUPERIOR COURT Phoenix, AZ 85003 (602) 275-5588 Attorney No. 020584 mmeyers@consumerlawcenter.net In The Superior Court Of The State Of Arizona, In And For The County Of Pima CASE NO: C20040726 Plaintiff(s). VB. FORD MOTOR COMPANY, CERTIFICATE OF COMPULSORY ARBITRATION Defendant(s). CHARLES 5. SABALOS The undersigned certifies that he or she knows the dollar limits and any other limitations set forth by the local rules of practice for the applicable Superior Court, and further certifies that this case (is) (is not subject to Compulsory Arbitration, as provided by Rules 72 through 76 of the Arizona Rules of Civil Procedure. Dated this 2nd day of Jan SIGNATURE Party or Attorney for Plaintiff Attorney for Plaintiff(s) Marshall Meyers KROHN & MOSS, LTD. (602) 275-5588 AZ Bar# 020584 Attorney for Defendant(s) Name Address

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Marshall Meyers 2 KROHN & MOSS, LTD. 3 111 W. Monroe, Stc. 1124 Phoenix, AZ 85003 4 5 (602) 275-5588 6 Attorney No. 020584 7 Attorney for Plaintiff mmeyers@cegsumerlawcenter.net 9 In The Superior Court Of The State Of Arizona, 10 In And For The County Of Pima 11 12 13 NO. C20040726 Plaintiff(s), 14 15 16 vs. 17 18 FORD MOTOR COMPANY. PLAINTIFF'S DEMAND FOR 19 A TRIAL BY JURY 20 21 CHARLES 5. SABALOS 22 Defendant(s). 23 24 Pursuant to 38(a) Ariz.R.Civ.P., Plaintiff, demands a trial by jury on al! 25 claims on which he has the right to trial by jury. RESPECTFULLY SUBMITTED on this and day of 26 27 28 29 Marshall Meyers 30 KROHN & MOSS, LTD. 31 111/W. Monroe, Ste. 1124 32 Phoenia, AZ 85003 33 (60g) 273-5588 34 Attorney No. 020584 35 Attorney for Plaintiff(s) 36

Robert M. Silverman, Esquire identification No. 55914 KIMMEL & SILVERMAN, P.C. 30 East Butler Pike Ambler, PA 19002 (215) 540-8888 ATTORNEY FOR PLAINTIFF

THIS IS AN ARBITRATION MATTER. ASSESSMENT OF DAMAGES HEARING IS REQUESTED.

Springfield, PA

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

FORD MOTOR COMPANY C/O CT Corporation 1515 Market Street, Suite 1210 Philadelphia, PA 19103 CIVIL ACTION

COMPLAINT CODE: 1906

- Plaintiff, see an adult individual citizen and legal resident of the Commonwealth of Pennsylvania

 Springfield, PA
- 2. Defendant, Ford Motor Company, is a corporation qualified to do and regularly conduct business in the Commonwealth of Pennsylvania, with its address and principal place of business located at 300 Renaissance Center, P.O. Box 43301, Detroit, MI 48243, and can be served at C/O CT Corporation, 1515 Market Street, Suite 1210, Philadelphia, PA 19103.

BACKGROUND

- On or about January 18, 2003, Plaintiff purchased a new 2003 Ford F-350, manufactured and warranted by Defendant, bearing the Vehicle Identification Number 1FTSX31P83F
- The vehicle was purchased in the Commonwealth of Pennsylvania and is registered in the Commonwealth of Pennsylvania.
- The contract price of the vehicle, including registration charges, document fees, sales tax,finance and bank charges, but excluding other collateral charges not specified, yet defined by the

Lemon Law, totaled more than \$48,692.80. A true and correct copy of the contract is attached hereto, made a part hereof, and marked Exhibit "A".

- 6. In consideration for the purchase of said vehicle, Defendant issued to Plaintiff several warranties, guarantees, affirmations or undertakings with respect to the material or workmanship of the vehicle and/or remedial action in the event the vehicle fails to meet the promised specifications.
- The above-referenced warranties, guarantees, affirmations or undertakings are/were part
 of the basis of the bargain between Defendant and Plaintiff.
- 8. The parties' bargain includes an express 5-year / 60,000 mile warranty, as well as other guarantees, affirmations and undertakings as stated in Defendant's warranty materials and owner's manual.
- 9. However, as a result of the ineffective repair attempts made by Defendant through its authorized dealer(s), the vehicle is rendered substantially impaired, unable to be utilized for its intended purposes, and is worthless to Plaintiff.
- 10. Plaintiff has or may have resorted to Defendant's informal dispute settlement procedure, to the extent said procedure complies with 16 CFR 703.
- 11. Plaintiff avers that the Federal Trade Commission (FTC) has determined that no automobile manufacturer complies with 16 CFR 703. See, Fed. Reg. 15636, Vol. 62, No. 63 (Apr. 2, 1997).

COUNT I PENNSYLVANIA AUTOMOBILE LEMON LAW

- 12. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.
 - Plaintiff is a "Purchaser" as defined by 73 P.S. §1952.
 - Defendant is a "Manufacturer" as defined by 73 P.S. §1952.

- 15. Springfield Ford is and/or was at the time of sale a Motor Vehicle Dealer in the business of buying, selling, and/or exchanging vehicles as defined by 73 P.S. §1952.
- 16. On or about January 18, 2003, Plaintiff took possession of the above mentioned vehicle and experienced nonconformities as defined by 73 P.S §1951 et seq., which substantially impair the use, value and/or safety of the vehicle.
- 17. The nonconformities described violate the express written warranties issued to Plaintiff by Defendant.
 - 18. Section 1955 of the Pennsylvania Automobile Lemon Law provides:

If a manufacturer fails to repair or correct a nonconformity after a reasonable number of attempts, the manufacturer shall, at the option of the purchaser, replace the motor vehicle... or accept return of the vehicle from the purchaser, and refund to the purchaser the full purchase price, including all collateral charges, less a reasonable allowance for the purchasers use of the vehicle, not exceeding \$.10 per mile driven or 10% of the purchase price of the vehicle, whichever is less.

- 19. Section 1956 of the Pennsylvania Automobile Lemon Law provides a presumption of a reasonable number of repair attempts if:
 - (1) The same nonconformity has been subject to repair three times by the manufacturer, its agents or authorized dealers and the nonconformity still exists; or
 - (2) The vehicle is out-of-service by reason of any nonconformity for a cumulative total of thirty or more calendar days.
- 20. Plaintiff has satisfied the above definition as the vehicle has been subject to repair more than three (3) times for the same nonconformity, and the nonconformity remained uncorrected.
- 21. In addition, the above vehicle has or will be out-of-service by reason of the nonconformities complained of for a cumulative total of thirty (30) or more calendar days.
- 22. Plaintiff has delivered the nonconforming vehicle to an authorized service and repair facility of the Defendant on numerous occasions as outlined below.
- After a reasonable number of attempts, Defendant was unable to repair the nonconformities.
- 24. During the first 12 months and/or 12,000 miles, Plaintiff complained on at least three (3) occasions about defects and or non-conformities to the following vehicle components: chronic

stalling. True and correct copies of all invoices in Plaintiff possession are attached hereto, made a part hereof, and marked Exhibit "B".

25. Plaintiff avers the vehicle has been subject to additional repair attempts for defects and conditions for which Defendant's warranty dealer did not provide or maintain itemized statements as required by 73 P.S. § 1957.

26. Plaintiff avers that such itemized statements, which were not provided as required by 73 P.S. § 1957 also include technicians' notes of diagnostic procedures and repairs, and Defendant's Technical Service Bulletins relating to this vehicle.

27. Plaintiff avers the vehicle has been subject to additional repair attempts for defects and conditions for which Defendant's warranty dealer did not provide the notification required by 73 P.S. § 1957.

28. Plaintiff has and will continue to suffer damages due to Defendant's failure to comply with the provisions of 73 P.S. §§ 1954 (repair obligations), 1955 (manufacturer's duty for refund or replacement), and 1957 (itemized statements required).

29. Pursuant to 73 P.S. § 1958, Plaintiff seeks relief for losses due to the vehicle's nonconformities, including the award of reasonable attorneys' fees and all court costs.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the price of the subject vehicle, plus all collateral charges, attorneys' fees, and court costs.

COUNT II MAGNUSON-MOSS (FTC) WARRANTY IMPROVEMENT ACT

- 30. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.
 - 31, Plaintiff is a "Consumer" as defined by 15 U.S.C. §2301(3).

- 32. Defendant is a "supplier", "warranter", and a "service contractor" as defined by 15 U.S.C. § 2301 (4),(5) and (8).
 - The subject vehicle is a "consumer product" as defined by 15 U.S.C. § 2301(1).
- 34. By the terms of its written warranties, affirmations, promises, or service contracts, Defendant agreed to perform effective repairs at no charge for parts and/or labor.
- 35. The Magnuson-Moss Warranty Improvement Act requires Defendant to be bound by all warranties implied by state law. Said warranties are imposed on all transactions in the state in which the vehicle was delivered.
- 36. Defendant has made attempts on several occasions to comply with the terms of its express warranties; however, such repair attempts have been ineffective.
 - 37. The Magnuson-Moss Warranty Improvement Act, 15 U.S.C. §2310(d)(2) provides:

(f a consumer finally prevails on an action brought under paragraph (f) of this subsection, he may be allowed by the court to recover as part of the judgment a sum equal to the amount of aggregate amount of costs and expenses (including attorney fees based upon actual time expended), determined by the court to have been reasonably incurred by the Plaintiff for, or in connection with the commencement and prosecution of such action, unless the court, in its discretion shall determine that such an award of attorney's fees would be inappropriate.

- 38. Plaintiff has afforded Defendant a reasonable number of opportunities to conform the vehicle to the aforementioned express warranties, implied warranties and contracts.
- 39. As a direct and proximate result of Defendant's failure to comply with the express written warranties, Plaintiff has suffered damages and, in accordance with 15 U.S.C. §2310(d)(1), Plaintiff is entitled to bring suit for such damages and other legal and equitable relief.
- 40. Defendant's failure is a breach of Defendant's contractual and statutory obligations constituting a violation of the Magnuson-Moss Warranty Improvement Act, including but not limited to: breach of express warranties; breach of implied warranty of merchantability; breach of implied warranty of fitness for a particular purpose; breach of contract; and constitutes an Unfair Trade Practice.
- 41. Plaintiff avers Defendant's Dispute Resolution Program is not in compliance with 16 CFR 703 by the FTC for the period of time this claim was submitted.

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42. Plaintiff avers that upon successfully prevailing upon the Magnuson-Moss claim herein, all attorney fees are recoverable and are demanded against Defendant.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the price of the subject vehicle, plus all collateral charges, incidental and consequential damages, reasonable attorneys' fees, and all court costs.

COUNT III PENNSYLVANIA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW

- 43. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.
 - 44. Plaintiff is a "Person" as defined by 73 P.S. §201-2(2).
 - 45. Defendant is a "Person" as defined by 73 P.S. §201-2(2).
- 46. Section 201-9.2(a) of the Act authorizes a private cause of action for any person "who purchases or leases goods or services primarily for personal, family or household purposes."
- 47. Section 1961 of the Pennsylvania Automobile Lemon Law, provides that a violation of its provisions shall automatically constitute a violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Act, 73 P.S. 201-1 et seq.
- 48. In addition, the Pennsylvania Unfair Trade Practices and Consumer Protection Act, 73

 P.S. §201-2(4), defines "unfair or deceptive acts or practices" to include the following conduct:
 - (vii). Representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or mode), if they are of another;
 - (xiv). Failing to comply with the terms of any written guarantee or warranty given to the buyer at, prior to, or after a contract for the purchase of goods or services is made;
 - (xv). Knowingly misrepresenting that services, replacements or repairs are needed if they are not needed;
 - (xvi). Making repairs, improvements or replacements on tangible, real or personal property of a nature or quality inferior to or below the standard of that agreed to in writing;
 - (xvii). Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.

49. Plaintiff avers Defendant has violeted these, as well as other provisions, of 73 P.S. §201-2 et seq.

50. Section 201-3.1 of the Act provides that the Automotive Industry Trade Practice rules and regulations adopted by the Attorney General for the enforcement of this Act shall constitute additional violations of the Act.

51. Defendant's conduct surrounding the sale and servicing of the subject vehicle falls within the aforementioned definitions of "unfair or deceptive acts or practices."

52. The Act also authorizes the Court, in its discretion, to award up to three (3) times the actual damages sustained for violations.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount not in excess of Fifty Thousand Dollars (\$50,000.00), together with all collateral charges, attorneys' fees, all court costs and treble damages.

KIMMILL & SILVERMAN, P.C.

By:

ROBERT M. SILVERMAN, ESQUIRE

Attorney for Plaintiff 30 East Butler Pike

Ambler, Pennsylvania 19002

(215) 540-8888

VERIFICATION

Robert M. Silverman, states that he is the attorney for the Plaintiff herein; that he is acquainted with the facts set forth in the foregoing Complaint; that same are true and correct to the best of his knowledge, information and belief; and that this statement is made subject to the Penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsifications to authorities.

ROBERT M. SILVERMAN, ESQUIRE Attorney for Plaintiff

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50 Baltimore Pike SPRINGFIELD, PA 19064 Phone: (610) 544-0700 Fax: (610) 544-3090

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Advant Special for Earl				

Motorcraft : ***

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MICHAEL R FALCONE

BODY SHOP



. 50 Baltimore Pike

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SPECIAL PROPERTY OF AN ARCHITECTURE OF THE PROPERTY OF THE PRO

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PAGE 2 OF 2

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PAGE 1 OF 1

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SPRINGFIELD FORD, Inc.

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PAGE 1 OF 2

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(CONTINUED ON MEXT PAGE) 11:22am



SPRINGFIELD FORD, Inc. 50 Baltimore Pike SPRINGFIELD, PA 19064 Phone: (610) 544-0700 Fax: (610) 544-3090

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Motorcraf

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PRODUCTION SHIP

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/03 MO: 5273 CE DEPARTMENT HOURS: 7:30 A.M. - 5:00 P.M. FR". CAY 7:00 A.M. - 3:00 P.M. STATE INSPECTION

TED LABOR WARRANTY

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> 7hank You. Ve a**pp**reciate our business!



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PAGE 1 OF 1

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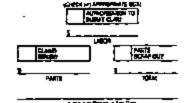


PAGE 1 OF 1

GUSTOMER COPY

SPRINGFIELD FORD, Inc. 50 Baltimore Pike SPRINGFIELD, PA 19064

1 1 2 2 1 2 2 1		.,	
Phone:	(610)	544-(3700
Fax: ((810) 5	44-30	90



164394	BOB W	653 VA	0 NO.	05/13/03 (60.6)	FOCS160483
	TENER/MAKES WOODS.			DK SHADOW 6	7C0533
SPRINGFIELD, PA	volume to the	UCK/F350/TRK SUPS	HILAS SKH	LIMBORADA NO.	MODUCTION DATE
	F, 1. F. HQ.	F. O. AC.		05/12/03	
	EF 99 P	·			HD: 7312
XEF 1 CHARGES				SERVICE DEPAR	L TMENT HOURS
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* Payment received date.	*			PARTIES APPLYING TO TO WHACH WAT BE OFFICED BY	
Springfield Ford Appreciates Your Businessi	44			THE SELLME DEALER HERE ALL WARRANTES, ETHER	YEDHESEYODGANG OFFICE OF FILED.
I authorize discarding of replaced perts.			į	HICZEDNICANT MPURCHY AMELITY ON PRINCISE FOR A AND JUSTIMEN ASSAMLS CITHER PERMIT TO ANGLA IN CORRESCION WITH THE	MATEURAL PURPOSE. MON AUTHORISES MAY SE POR ET ANT LIMITUTY
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50 Baltimore Pike SPRINGFIELD, PA 19064 Phone: (610) 544-0700 Fax: (610) 544-3090

AUTH Sydia	POWER TO
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PARTS	THA

Motorcraft:

164394	NANCY PECIL		228 TAGNO.	09/02/03	F0CS167524
	LABORTANE	LICENSE PO.	15,127	DK SHADOW 6	
SPRINGFIELD, PA	03/FORD TRU	JCK/F350/TR	K SUPERCAB SRW	01/18/03	010
SPRINGFILLD, FA	versuria ∖o. 1 F T 5 X			MOLINES CHARLES NO.	MEDUCTON DATE
	F. T. E. N.S.		Co.wa	09/02/03	
	27°95p				MO: 15127
JOB# 1 CHARGES				SERVICE DEPAR	TMENT HOURS:
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1 3C12-6731-AA 3 20-15M40-5Q5D	KIT-DIL 848445 DIL-ENG 804940	TOTAL - 1	38.09 38.09 12.89 38.67 PARTS 76.76	YOUR STATE	INSPECTION
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UBB 3 TOTALS			}	DUMBLES FOR LOSS OF USE OF PROFITE, OR MICENSE, OF	E. LORDE OF THATE, LOADS
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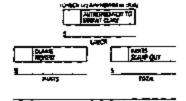
PAGE 2 OF 2

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SPRINGFIELD FORD, Inc.

50 Baltimore Pike SPRINGFIELD, PA 19064 Phone: (610) 544-0700

Phone: (610) 544-0700 *Fax: (610) 544-3090*



Motorcraft

264394		NANCY PECI	LLO	228		09/02/03	F0C5167524
		LABOR INCO.	Lichter red.	450	15,127	DK SHADOW	7C0533
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SPRINGFIELD, PA		VOLUME AND THE NAME OF THE PARTY OF THE PART	3 1 P 8 3		20 2112	SELENGOTALE NO.	PRODUCTION CATE
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						ITED WHITEHATY IS DO	CONTAINATION, 1765 LTA- TENGES TO THE VEHICLE
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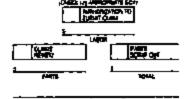
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CUSTOMERCOPY

SPRINGFIELD FORD, Inc.

50 Baltimore Pike SPRINGFIELD, PA 19064 Phone: (610) 544-0700

Fax: (610) 544-3090



164	394	DAN K	893		12/04/03	FÖCŠ172618
		EASON MATE	(JOHN HC.	21,807	DK SHADOW G	
CONTRACTOR OF	in the second		UCK/F350/TRK SU	PERCAB SRM	01/18/03	DIO DIO
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en valuente erretaren	er to the er exten	E# 99₽				MO: 21807
JOHF 1 CHMRES					SERVICE DEPAR	THENT HOURS
JACR JAF 1 31 ROBEZZZ SZRANE OKTON	ERINEMERITY.	TECH(S UNS ROUGH/ SHOKING/ CHECO	1:149 915 (& REPORT	HARRANTY	MOR - FAIL TO	30 AM - 5:00 P.M.
HOS TE	ST. HAD DIL AND FUEL	NIXTURE CONDIG OUT OF THE	LIL PIPE ENOMED		SATURDAY 7	60 A.M 3300 P.M.
FRUIK	T SYSTEM AND CLEAR	D DIL/FUEL FROM SYSTEM RE AMED, REASEMBLED AND RE RE	HOYED		YOUR STATE	INSPECTION
	3C3Z-9E327-AE	DESCRIPTION	UNIT PRICE	WARRANIT	IS DUE	<u>/_/</u>
1 5	3C3Z-6K582-AARH PH-4	KIT-189 882527 501,4-40 545944		MARKANTY	LWATED LASO	R WARRANTY
2 7	15496486 3C3Z-9E527-AE	4-14-1 40% ASY 978075		HARRANTY	USED W PERFORMING T	
3 1	3C3Z-6731-AA VC-7-A	KIT-DIL 848445 AKTI/FZ 719562	•	HARRANTY	THIS PERMIT OFFICE AGE OF THE BUILD SHALLS MOON T	HE CATTE BUCH REPARTS
	XD-25840-5Q\$D 5806	QT1ENG 804940		HANGARITY	CHICALLY EXCLUDES IN	CONT AND ALIENSAMENTS.
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JOSEF 1 TOTALS		***************************************			MARCH MAY BE OWNERED BY	THE MULCINETHINGS.
.108# 2 CHARGES		JOSEP 1 JOURNAL PREFIX	FOCS JOB# 1 TOTAL	0.60	ALL PAREWRIET STREET MICHIGAN ANY BIFLIED TO ARRIVE OR PITHERS POR A	PERMITS OF MERCHANT
LARIN	TEACHER INCOME	one of the second section (Second Section 1987)	-915	IMPERMAL	AND METHER ASSAULT OTHER PERSON TO ASSAU	ME SON IT WAS INSCITLED
Added Operation (D)	NOK @ 12/04/2003 15 s Lubrication	:43)	1-44		IN COMMETTEN WITH THE MINISTER SEPRICE, BLYCH I	BANT MAL BE BALLITAD
(1)(E3)	HOME END				TO PRECEDENT FROM THE SE SECURITIVE DAMAGES, D DAMAGES FOR LOSE OF U	MANAGES TO PROPERTY,
J08# 2 TUTAL5					OF PROPIES ON MICHAEL TAL GRANDEL IN ADDITION	OR ANY OTHER MODES.
		JOSEF 2 JOHNAL MEETIX	FOCS JOB# 2 TOTAL	0.00	ES ANT DEALER LIMITATIVE TO SAPETY OR PERFORMAN LIMITATY, NEDLOCATE OF	DE DEPORTE PERTAMBLE TOTAL BY THE TANK OF STREET
COMENTS	87796 19 DAYS		.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	`	7kank	4
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					SPECIAL PROPERTY.	7 PG2D, Inc. es 70s

(CONTINUED ON NEXT PAGE) 11:25cm



50 Baltimore Pike SPRINGFIELD, PA 19064 Phone: (610) 544-0700

Phone: (610) 544-070 *Fax: (610) 544-3090*

\$-95.49. ###################################						
CANE RETEXT	Paren. BONAPOLA					
AAH,	S THEFAS					

Motorciaft = 3

PUTOMENTAL 164204	ADVINIT		TAGUS	MOCESTI 12/04/02	1000E 10
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	CARON NAME	LIÇENSE NO.	21,807	DK SHADOW 6	7C0533
	YEAR / LANCE / MICHAEL			DEVINEAL DICE	DESCRIPTION AND DRA
	03/FORD TRU	CK/F350/TRK :	SUPERCAB SKW	01/18/03	010
SPRINGFIELD, PA	VERSELF CO. Sec.			BELLEVO DEALERADO.	NACORIE MONDALE
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* [] American Depress	:	RITAL TAX	0.00		
T I THE LICHIE TABLES E I HAVE		IGINE INC		YOUR STATE	INSPECTION
* Payment received by[Inftiels]	ţ	TOTAL INVO	CE \$ 9.00		
Payment received date				IS DUE	
Springfield Ford Appreciates Your Business:				LIMITED LABOR	D WANDAMTY
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CUSTOMER COPY

{ BID OF INVOICE] 11,20pm

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PARTS	······OESCRIPTION		LHERMAN	YOUR STATE INSPECTION
1 3C3Z-6731-AA 2 20-193N-5050 5 20-193N0-Q50 1 27-5-Q60 1 27-5-Q60	KIT-OIL 846445 OIL-DIG 884940 OIL DIG GLSIJAB FLO TRA 846673 FLOTO - 486885		LURRANTY WARRANTY WARRANTY WARRANTY	IS DUE
, visam	Linth - elitera	TOTAL - PARTS	4.00	LIMITED LABOR WARRANTY
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1089 2 CHARGES	JOS 1 JURON REFI		********	WHITE CONFLICTION THAT CONTROL WARRANTY SPE- OFFICIALLY EXCLUDES FROM SHE ALERANDITY.
LAGOR- CHEZ: LIFOZ-TRIOT: CREMINISTON Service Auto Trensmis RECOMMENDE MINIMAND PERFORM TRANS SERVICE	sion, Minor	(S):269	* WARRANT	GLECTRICAL TRIBNIC AND SHORTEL AND FUEL SYSTEM WHEN CLIE TO CONTINUOM TOOL THE LIMITED INFORMATION IS SCHOOLED TO THE VEHICLE DAMERICASTOMER AND IS NOT TRANSPERSON. TO, NOT ENFORCEMENT BY, ANY OTHER PERSON.
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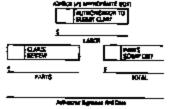
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Robert M. Sdverman, Esquire Identification No. 55914 KIMMEL & SILVERMAN, P.C. 30 East Butler Pike Ambler, PA 19002 (215) 540-8888 ATTORNEY FOR PLAINTIFFS

THIS IS AN ARBITRATION MATTER. ASSESSMENT OF DAMAGES HEARING IS REQUESTED.

Glenokien, Pennsylvai

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

FORD MOTOR COMPANY C/O CT Corporation 1515 Market Street, Suite 1210

Philadelphia, PA 19103

Y.

CIVIL ACTION

COMPLAINT CODE: 1900

- 1. Plaintiffs, are adult individual citizens and legal residents of the Commonwealth of Pennsylvania, Glenolden, Pennsylvania
- 2. Defendant, Ford Motor Company, is a business corporation qualified to do business and regularly conduct business in the Commonwealth of Pennsylvania, and is a corporation of the State of Delaware, with its legal residence and principal place of business located at 300 Renaissance Center, P.O. Box 43301, Detroit, MI, 48243, and can be served at c/o CT Corporation, 1515 Market Street, Suite 1210, Philadelphia, PA, 19103.

BACKGROUND

- On or about March 20, 2003, Plaintiffs purchased a new 2003 Ford F-350, manufactured and warranted by Defendant, bearing the Vehicle Identification Number 1FTSX31P33E
- The vehicle was purchased in the Commonwealth of Pennsylvania and is registered in the Commonwealth of Pennsylvania.

- 5. The contract price of the vehicle, including registration charges, document fees, sales tax, finance and bank charges, but excluding other collateral charges not specified, yet defined by the Lemon Law, totaled more than \$41,051.91. A true and correct copy of the contract is attached hereto, made a part hereof, and marked Exhibit "A".
- 6. In consideration for the purchase of said vehicle, Defendant issued to Plaintiffs several warranties, guarantees, affirmations or undertakings with respect to the material or workmanship of the vehicle and/or remedial action in the event the vehicle fails to meet the promised specifications.
- The above-referenced warranties, guarantees, affirmations or undertakings are/were part of the basis of the bargain between Defendant and Plaintiffs.
- The parties' bargain includes an express 3-year / 36,000 mile warranty, as well as other guarantees, affirmations and undertakings as stated in Defendant's warranty materials and owner's manual.
- 9. However, as a result of the ineffective repair attempts made by Defendant through its authorized dealer(s), the vehicle is rendered substantially impaired, unable to be utilized for its intended purposes, and is worthless to Plaintiffs.
- 10. Plaintiffs have or may have resorted to Defendant's informal dispute settlement procedure, to the extent said procedure complies with 16 CFR 703.
- 11. Plaintiffs aver that the Federal Trade Commission (FTC) has determined that no automobile manufacturer complies with 16 CFR 703. See, Fed. Reg. 15636, Vol. 62, No. 63 (Apr. 2, 1997).

COUNT I <u>PENNSYLVANIA AUTOMOBILE LEMON LAW</u>

12. Plaintiffs hereby incorporate all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

- 13. Plaintiffs are "Purchasers" as defined by 73 P.S. §1952.
- 14. Defendant is a "Manufacturer" as defined by 73 P.S. §1952.
- 15. Robin Ford is and/or was at the time of sale a Motor Vehicle Dealer in the business of buying, selling, and/or exchanging vehicles as defined by 73 P.S. §1952.
- 16. On or about March 20, 2003, Plaintiffs took possession of the above mentioned vehicle and experienced nonconformities as defined by 73 P.S §1951 et seq., which substantially impair the use, value and/or safety of the vehicle.
- 17. The nonconformities described violate the express written warranties issued to Plaintiffs by Defendant.
 - 18. Section 1955 of the Pennsylvania Automobile Lemon Law provides:

If a manufacturer fails to repair or correct a nonconformity after a reasonable number of attempts, the manufacturer shall, at the option of the purchaser, replace the motor vehicle... or accept return of the vehicle from the purchaser, and refund to the purchaser the full purchase price, including all collateral charges, less a reasonable alkowance for the purchasers use of the vehicle, not exceeding \$.10 per mile driven or 10% of the purchase price of the vehicle, whichever is less.

- 19. Section 1956 of the Pennsylvania Automobile Lemon Law provides a presumption of a reasonable number of repair attempts if:
 - (1) The same nonconformity has been subject to repair three times by the manufacturer, its agents or authorized dealers and the nonconformity still exists; or
 - (2) This vehicle is out-of-service by reason of any necessificating for a cumulative total of thirty or more calendar days.
- 20. Plaintiffs have satisfied the above definition as the vehicle has been subject to repair more than three (3) times for the same nonconformity, and the nonconformity remained uncorrected.
- 21. In addition, the above vehicle has or will be out-of-service by reason of the nonconformities complained of for a cumulative total of thirty (30) or more calendar days.
- 22. Plaintiffs have delivered the nonconforming vehicle to an authorized service and repair facility of the Defendant on numerous occasions as outlined below.
- 23. After a reasonable number of attempts, Defendant was unable to repair the nonconformities.

- 24. During the first 12 months and/or 12,000 miles, Plaintiffs complained on at least three (3) occasions about defects and or non-conformities to the following vehicle components: abnormal oil leak, stalling condition, no-power condition, no-start condition, bad find mileage, rough idle, engine miss, defective injectors, intercooler hose, turbo tube and air intake line. True and correct copies of all invoices in Plaintiffs possession are attached hereto, made a part hereof, and marked Exhibit "B".
- 25. Plaintiffs aver the vehicle has been subject to additional repair attempts for defects and conditions for which Defendant's warranty dealer did not provide or maintain itemized statements as required by 73 P.S. § 1957.
- 26. Plaintiffs aver that such itemized statements, which were not provided as required by 73.
 P.S. § 1957 also include technicians' notes of diagnostic procedures and repairs, and Defendant's Technical Service Bulletins relating to this vehicle.
- 27. Plaintiffs aver the vehicle has been subject to additional repair attempts for defects and conditions for which Defendant's warranty dealer did not provide the notification required by 73 P.S. § 1957.
- 28. Plaintiffs have and will continue to suffer damages due to Defendant's failure to comply with the provisions of 73 P.S. §§ 1954 (repair obligations), 1955 (manufacturer's duty for refund or replacement), and 1957 (itemized statements required).
- 29. Pursuant to 73 P.S. § 1958, Plaintiffs seek relief for losses due to the vehicle's nonconformities, including the award of reasonable attorneys' fees and all court costs.

WHEREFORE, Plaintiffs respectfully demand judgment against Defendant in an amount equal to the price of the subject vehicle, plus all collateral charges, attorneys' fees, and court costs.

COUNT II MAGNUSON-MOSS (FTC) WARRANTY IMPROVEMENT ACT

- 30. Plaintiffs hereby incorporate all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.
 - 31. Plaintiffs are "Consumers" as defined by 15 U.S.C. §2301(3).
- 32. Defendant is a "supplier", "warrantor", and a "service contractor" as defined by 15 U.S.C. § 2301 (4),(5) and (8).
 - 33. The subject vehicle is a "consumer product" as defined by 15 U.S.C. § 2301(1).
- 34. By the terms of its written warranties, affirmations, promises, or service contracts, Defendant agreed to perform effective repairs at no charge for parts and/or labor.
- 35. The Magnuson-Moss Warranty Improvement Act requires Defendant to be bound by all warranties implied by state law. Said warranties are imposed on all transactions in the state in which the vehicle was delivered.
- 36. Defendant has made attempts on several occasions to comply with the terms of its express warranties; however, such repair attempts have been ineffective.
 - 37. The Magnuson-Moss Warranty Improvement Act, 15 U.S.C. §2310(d)(2) provides:

If a consumer finally prevails on an action brought under paragraph (1) of this subsection, he may be allowed by the court to recover as part of the judgment a sum equal to the amount of aggregate amount of costs and expenses (including attorney fees based upon schual time expended), determined by the court to have been reasonably incurred by the Phintiff for, or in connection with the commencement and prosecution of such action, unless the court, in its discretion shall determine that such an award of attorney's fees would be inappropriate.

- 38. Plaintiffs have afforded Defendant a reasonable number of opportunities to conform the vehicle to the aforementioned express warranties, implied warranties and contracts.
- 39. As a direct and proximate result of Defendant's failure to comply with the express written warranties, Plaintiffs have suffered damages and, in accordance with 15 U.S.C. §2310(d)(1), Plaintiffs are entitled to bring suit for such damages and other legal and equitable relief.
- 40. Defendant's failure is a breach of Defendant's contractual and statutory obligations constituting a violation of the Magnuson-Moss Warranty Improvement Act, including but not

limited to: breach of express warranties; breach of implied warranty of merchantability; breach of implied warranty of fitness for a particular purpose; breach of contract; and constitutes an Unfair Trade Practice.

- 41. Plaintiffs aver Defendant's Dispute Resolution Program is not in compliance with 16 CFR 703 by the FTC for the period of time this claim was submitted.
- 42. Plaintiffs aver that upon successfully prevailing upon the Magnuson-Moss claim herein, all attorney fees are recoverable and are demanded against Defendant.

WHEREFORE, Plaintiffs respectfully demand judgment against Defendant in an amount equal to the price of the subject vehicle, plus all coltateral charges, incidental and consequential damages, reasonable attorneys' fees, and all court costs.

COUNT HI PENNSYLVANIA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW

- 43. Plaintiffs hereby incorporate all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.
 - 44. Plaintiffs are "Persons" as defined by 73 P.S. §201-2(2).
 - 45. Defendant is a "Person" as defined by 73 P.S. §201-2(2).
- 46. Section 201-9.2(a) of the Act authorizes a private cause of action for any person "who purchases or leases goods or services primarily for personal, family or household purposes."
- 47. Section 1961 of the Pennsylvania Automobile Lemon Law, provides that a violation of its provisions shall automatically constitute a violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Act, 73 P.S. 201-1 et seq.
- 48. In addition, the Permsylvania Unfair Trade Practices and Consumer Protection Act, 73

 P.S. §201-2(4), defines "unfair or deceptive acts or practices" to include the following conduct:
 - (vii). Representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model, if they are of another;

- (xiv). Failing to comply with the terms of any written guarantee or warranty given to the buyer at, prior to, or after a contract for the purchase of goods or services is made;
- (xv). Knowingly misrepresenting that services, replacements or repairs are needed if they are not needed;
- (xvi). Making repairs, improvements or replacements on tangible, real or personal property of a nature or quality inferior to or below the standard of that agreed to in writing;
- (xvii). Bagaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.
- 49. Plaintiffs aver Defendant has violated these, as well as other provisions, of 73 P.S. §201-2 et sen.
- 50. Section 201-3.1 of the Act provides that the Automotive Industry Trade Practice rules and regulations adopted by the Attorney General for the enforcement of this Act shall constitute additional violations of the Act.
- 51. Defendant's conduct surrounding the sale and servicing of the subject vehicle falls within the aforementioned definitions of "unfair or deceptive acts or practices."
- 52. The Act also authorizes the Court, in its discretion, to award up to three (3) times the actual damages sustained for violations.

WHEREFORE, Plaintiffs respectfully demand judgment against Defendant in an amount not in excess of Fifty Thousand Dollars (\$50,000.00), together with all collateral charges, attorneys' fees, all court costs and treble damages.

KIMMEL & SILVERMAN, P.C.

Bv:

ROBERT M. SILVERMAN, ESQUIRE

Attorney for Plaintiffs 30 East Butler Pike Ambler, Pennsylvania 19002

(215) 540-8888

VERIFICATION

Robert M. Silverman, states that he is the attorney for the Plaintiffs herein; that he is acquainted with the facts set forth in the foregoing Complaint; that same are true and correct to the best of his knowledge, information and belief; and that this statement is made subject to the Penalties of 18 Pa. C.S.A. §4904, relating to unsworn salisifications to authorities.

ROBERT M. SILVERMAN, ESQUIRE Attorney for Plaintiffs

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Acct

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There's No Stoppin' The Robin!' MacDade Blvd. & Qak Lane P.O. Box 166 Gionoiden, PA 19036 Ph. (810) 586-3600

Stock #:30443

Cashier:

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Date Out: 12/18/2003

RO: 252347

Fax, (610) 683-3251

Hours Complaint/Cause/Correction

TAG:

VIN: 1PTSX31P33E

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Delivered: 03/20/2003

GLENOLDEN PA

Work: N/A

Home: Advisor: COEBIS-JEFFERY J OLSZEWSKI

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Hat: 301

Date In: 12/18/2003 Per Unit Extended Price

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BUNIT!

There's No Stoppin' The Robin!"
MacDade Blvd. & Oak Lane P.O. Box 168

Glenolden, PA 19036 Ph. (610) 586-3600

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Customer: 32848 Stock #:30443

GLENOLDEN PA

Work: N/A

Advisor: 008815-JEFFERY J CL8ZEWSKI

Acct . Tech Hours Complaint/Cause/Correction

RO: 252347

Cashier: 14:52-1

Date Out: 12/19/2003

TAG:

Hat: 301

VIN: 1FTSX31P33E

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Date In: 12/18/2003

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Thank you for allowing us to serve you!



Marshall Meyers (020584) KROHN & MOSS, LTD. 111 West Monroe, Suite 711 Phoenix, AZ 85003 (602) 275-5588 (866) 385-5215 (facsimile) Attorney for Plaintiffs

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IN THE SUPERIOR COURT OF ARIZONA IN AND FOR THE COUNTY OF MARICOPA

Pleintiffs, vs.	CV2004-092448 COMPLAINT - BREACH OF STATUTORY WARRANTIES
FORD MOTOR COMPANY,)
Defendant.)))
	-

- This Court has jurisdiction to hear this matter pursuant to 15 U.S.C. §2310(d) and A.R.S. Const. Art. 6 §14,
- Plaintiffs
 — "Consumers"), are individuals who were at
 all times relevant hereto residing in the State of Arizona.
- 3. Defendant, Ford Motor Company ("Warrantor"), is a foreign corporation authorized to do business in the State of Arizona, County of Maricopa, and is engaged in the manufacture, sale, supply and distribution of motor vehicles and related equipment and services, such as written warranties. Warrantor supplies its products and services to the public at large through a system of authorized dealerships, including Berge Ford ("Dealer").
- On or about December 30, 2003, Consumers purchased a 2004 Ford F-350 ("F-350") manufactured and supplied by Warrantor, Vehicle Identification No.

1FTWW33P54E Transfer \$45,936.56, exclusive of all collateral charges incurred at the time of purchase. See Purchase Order, attached hereto as Exhibit "A."

- 5. In connection with Consumers' purchase of the F-350, Warrantor issued and supplied to Consumers its written warranty, which included three (3) year or thirty-six thousand (36,000) mile bumper to bumper coverage, as well as other warranties fully outlined in the Warrantor's New Vehicle Warranty booklet. Warrantor intended Consumers to view the fact the F-350 was "warranted" as an assurance of the F-350's quality, thereby inducing Consumers' purchase.
- 6. After Consumers' purchase of the F-350, Warrantor completely disclosed the terms of its warranty; said warranty terms were not assurances of quality but rather attempts to limit warranty obligations to repair or replacement of parts defective in material and workmanship. Said warranty documents also contained various other terms not previously disclosed, negotiated or agreed to, including but not limited to limitations on damages for breach of warranty.
- 7. By inducing Consumers' purchase with warranties attempting to limit warranty obligations to nothing but repair or replacement of parts defective in material and workmanship Warrantor was required by common law and statute to perform adequate and competent repairs of replacements within a reasonable opportunity and time, as competent repairs within a reasonable opportunity and time, as competent repairs within a reasonable opportunity/amount of time is the essential purpose of warranties restricted to repair or replacement of defective parts.
- 8. On or about the aforementioned date, Consumers took possession of the F-350 and shortly thereafter experienced various defects and non-conformaties within the same that diminish its value and/or substantially impair its use and value to Consumers. These defects

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include, but are not limited to a defective engine, and, any other complaints actually made, whether contained on Warrantor's invoices or not.

- For any defects repairable, Consumers provided Warrantor, through its authorized dealership network, a sufficient opportunity to repair the defects, non-conformities and conditions within the F-350.
- 10. Despite being given more than a reasonable number of attempts/reasonable opportunity to cure said defects, non-conformities and conditions, Warrantor failed to do so and thus the warranty failed its essential purpose.
- Warrantor's failure to correct said defects violate Warrantor's statutory duty to
 Consumers and the expectations created by Warrantor's warranty.
- 12. Consumers aver that as a result of the ineffective repair attempts made by Warrantor through its authorized dealership network, the F-350 cannot be utilized as intended by Consumers at the time of acquisition and that the use and value of the F-350 has been diminished and/or substantially impaired to Consumers.
- 13. Consumers relied on Warrantor's product advertisements, written, verbal, electronic and/or otherwise, regarding the length and duration of Warrantor's bumper to bumper warranty when deciding to purchase the subject vehicle. Consumers also relied Warrantor's statements or representations of general policy concerning customer satisfaction when deciding to purchase the F-350. Warrantor's failure to meet these statements or representations of general policy concerning customer satisfaction is a violation of 16 C.F.R. § 700.5.
- 14. Warrantor's written warranties are replete with limitations and disclaimers never made known to Consumers prior to sale. Warrantor's failure to disclose all their disclaimers and limitations prior to sale constitutes a violation of 15 U.S.C. § 2302 and 16 C.F.R. § 702.3.

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- 15. Consumers provided Warrantor written notification of the defects within the subject vehicle, an offer for a final opportunity to cure, and Consumers' demand for compensation on September 07, 2004. <u>See</u> Notice Letter, attached hereto as Exhibit "B."
- 16. Warrantor refused Consumers' demand for compensation and has refused to provide Consumers with the remedies to which Consumers are entitled.
- 17. Consumers have been and will continue to be financially damaged due to Warrantor's failure to comply with Warrantor's statutory duty to Consumers and the provisions of its written and/or express warranty.
- Consumers have met all obligations and preconditions as provided in Warrantor's warranty and by statute(s).
- 19. As a direct and proximate result of Warrantor's failure to comply with its statutory written warranties, common law implied warranties, statutory obligations, and common law duties. Consumers have suffered damages and, in accordance with 15 U.S.C. §2310(d) and A.R.S. § 44-1263 et. seq., Consumers are entitled to bring suit for such damages and other legal and equitable relief.
- 20. WHEREFORE, pursuant to 15 U.S.C. §2310(d), Consumers pray for relief
- (1) for its written warranty breach, and for this breach Consumers seek an award of diminution in value damages, any equitable relief to which Consumers may be entitled, all attorney fees, expert fees and court costs incurred during the commencement and prosecution of this matter, and all other relied deemed just and appropriate by this Court; and,
- (2) for its violation of 16 C.F.R. § 700.5, and for this violation Consumers seek an award of diminution in value damages, any equitable relief to which Consumers may be entitled.

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all atterney fees, expert fees and court costs incurred during the commencement and prosecution of this matter, and all other relied deemed just and appropriate by this Court; and,

- for its violation of 15 U.S.C § 2302 and 16 C.F.R. § 702.3, and for this violation Consumers seek as an equitable remedy that all of Warrantor's disclaimers within its written warranties be stricken.
- 21. WHEREFORE, pursuant to A.R.S. 44-1261 et seq., Consumers pray for relief against Warrantor in the form of a replacement vehicle or full refund (at Consumers' choice), all attorney fees, expert fees and court costs incurred during the commencement and prosecution of this matter, and all other relied deemed just and appropriate by this Court.

Respectfully submitted this

By:

KROHN & MOSS, LTD. 111 West Morney St., Suite 711

Atthrney #020584

Attorney for Plaintiffs

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Krohn & Moss, Ltd.

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September 7, 2004

SENT VIA U.S. MAIL

Ford Motor Company Customer Relationship, Center P.O. Box 6248 Deathorn, MI 48126

> Re: Our Client:

v. Ford Motor Company

Your Chent:

Ford Motor Company 2004 Fund F-350 1FTWW33P541

A04020410Z

Your Chent: Vahicle:

VIN: Our File Number:

Dear Shi Madam:

Places he advised that this office represents the above-named individual regarding claims against your company pursuant to the Federal Magnuson-Moss Wacronty Act, the Arizona Lamon Law and/or the Uniform Commercial Code with regard to the above-listed vehicle. Places direct all future contacts and correspondence to the office listed above.

HAVING BEEN FORMALLY NOTIFIED OF OUR REPRESENTATIONS, YOU ARE INSTRUCTED NOT TO CONTACT OUR CLIENT UNDER ANY CIRCUMSTANCES. DIRECT ALL INQUIRIES TO THIS OFFICE. IF YOU FAIL TO ACT IN CONFORMITY WITH THIS DIRECTIVE, INJUNCTIVE RELIEF WILL BE SOUGHT AGAINST YOU.

There were numerous non-conformities with my client's automobile for which relief is sought, and numerous attempts to repair the vehicle have been unsuccessful. There were also numerous violations of both Faderal and State law in connection with the delivery and/or repair of the aforementioned vehicle. The primary non-conformities and violations include, but are not limited to:

1. Defective engine, and,

2. Any additional complaints actually made, whether contained on your company's invoices or otherwise.

The non-conformities listed above constitute a substantial impairment of the use, value and meety of the subject value. Accordingly, my client has had anough! Because of the inordinate amount of repairs within the applicable warranty period, my client has justifiably lost confidence in the valids. As one court has stated,

For a majority of people the purchase of a new car is, a major investment, rationalized by the peace of mind that flows from its dependability and safety. Once their faith is shaken, the vehicle loses not only its real value in their eyes, but becomes an instrument whose integrity is substantially impaired and whose operation is fraught with apprehension. Zabriskie Chevrolet, Inc. v. Smith, 240 A.24 195.

Concerning the emount of grief a person need take with a vehicle, one court expressed the consumer's lament in the following manner:

There comes a time when enough is enough - when an automobile purchaser, after having to take his car into the shop for repairs an inordinate number of times and experiencing all of the attendant inconvenience, is entitled to say, "That's all," and revoles, notwithstanding the seller's repeated good faith efforts to fix the cor. Rester v. Morrow, 491 So.2d 204.

My client's repair history clearly shows there was a hearth of written warranty "based upon the generally accepted rule that an unsuccessful affort to remedy defects found to axist random the warranter liable; the buyer is not bound to allow him the opportunity or permit him to tinker with the article indefinitely in the bope that it may ultimately be made to comply with the warranty." Know v. Chevrolet Motor Division, 581 P.24 603, 608.

Therefore you are hereby notified that my client is revoking acceptance of the vehicle. Please return all funds paid towards the vehicle, cancel all applicable contracts, and compensate my client for the damages sustained to date. This letter also constitutes prior direct written notification of the defects within my client's vehicle and of my client's intent to pursue a claim pursuent to A.R.S. \$44-1261 et. eq. If you have "final opportunity rights" under A.R.S. \$44-1264 (C), and wish to exercise said rights, you are hereby directed to contact this office within fourteen (14) days.

Please he advised that under U.C.C. 5 2-711(3) my client has a security interest in the car for nature of the total amount above, plus expenses in handling and inspecting the car. Until

you pay this amount, my client has the right to hold the car and use it to the extent necessary to preserve it, to protect its security interest, and to minimize your damages. In addition, although my client needs nature of the monite listed above before substitute goods can be acquired, my client reserves the right to mitigate all parties damages by cover and reserves the right to claim such damages have. In addition, any attempt by you or your agents to repossess the car will be wroughd and will subject you to liability for convension and for wrongful repossession under U.C.C. 88 9-503 and 9-507 as well as other applicable Azimma Consumer Fraud remedies.

If the saller [ar. if applicable the assignme, or any creditor subject to the FTC Holder Rule] has filed a financing statement devecing the goods, I demand, premant to U.C.C \$ 9-404, that you file a termination statement within ten days to terminate your security interest and forward a copy to this office. Since my client has revolved acceptance, there is no outstanding secured chligation. If you do not file a termination statement within ten days and exoperate in removing the lien, you will be liable under U.C.C. \$ 9-404(1) in the amount of \$100.00 plus any loss caused my client by your failure.

To evoid any litigation, my client merely requests a refund for the defective product, plus payment of our attorney's fees pursuant to the fee-shifting provisions of the Magazaon-Moss Warranty Act and/or Arizona Lancon Law. Our attorneys' fees are minimal at this stage and we would prefer to resolve this matter without the need for any more time spent on our part or on the part of your attorneys. A great deal of time, money and affort would be sweed by both sides with a quick resolution of this claim.

Accordingly, if you wish to resolve this matter ensicably, please feel free to contact my office within fourteen (14) days. If the matter has not been emolved within that time, we will file a formal claim.

Sincerely,

Marshall Mayers Attorney at Law

MSM/jb Ce: Eric & Kathryn Shapbard Marshall Mayers (820584) KROHN & MOSS, LTD. 111 West Mouroe, Suite 711 Phoenix, AZ 85003 (602) 275-5588 (866) 385-5215 (facsimile) Attorney for Plaintiffs

IN THE SUPERIOR COURT OF ARIZONA IN AND FOR THE COUNTY OF MARICOPA

Case No.:

Plaintiffs,

CV2004-092448

CERTIFICATE FORD MOTOR COMPANY. ARBITRATION COMPULSORY

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Defendant.

The undersigned certifies that he or she knows dollar limits and any other limitations set forth by the local rules of practice for the applicable superior court, and further certifies that this case (is) / (is not) subject to compulsory arbitration, as provided by Rules 72 through 76 of the

Arizona Rules of Civil Procedure.

Submitted this

27 28

Marshall Meyers (020584) KROHN & MOSS, LTD. 111 West Monroe, Suite 711 Phoesix, AZ 85003 (602) 275-5588 (866) 385-5215 (facsimile) Attorney for Plaintiffs



IN THE SUPERIOR COURT OF ARIZONA IN AND FOR THE COUNTY OF MARICOPA

Plaintiffs, vs.

CV2004-092448

JURY DEMAND

Case No.:

FORD MOTOR COMPANY,

Defendant.

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Pursuant to 38(a) Ariz.R.Civ.P. Plaintiffs(s) demand(s) a trial by jury on all claims on which the right to trial by jury exists.

RESPECTFULLY SUBMITTED on this

day of _ 10

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Ву

Marshall Meyers KROHN & MOSS, LTD. 111 W. Monroe, Ste. 711 Phoenix, AZ \$5003 (602) 275-5588 Attorney No. 020584