

BACKGROUND

3. On or about August 18, 2005, Plaintiff purchased from Seller, a 2005 Dodge Ram 1500 ("Ram 1500"), manufactured and/or distributed by Manufacturer, Vehicle Identification Number 1D7HU18D65S [REDACTED] as reflected in the document attached hereto as Exhibit 1.

4. The price of the Ram 1500, including certain collateral charges, such as registration charges, document fees, and sales tax, excluding finance charges, totaled more than \$33,391.85.

5. Plaintiff avers that as a result of ineffective repair attempts made by Manufacturer, the Ram 1500 cannot be utilized for personal, family and household use as was intended by Plaintiff at the time of acquisition.

6. In consideration for the purchase of the Ram 1500, Manufacturer issued and supplied to Plaintiff its written warranty which included three (3) year or thirty-six thousand (36,000) mile bumper to bumper coverage.

7. On or about August 18, 2005, Plaintiff took possession of the Ram 1500 and, shortly thereafter, experienced the various defects listed below that substantially impair the use, value and/or safety of the Ram 1500.

8. The defects described below violate the written warranty issued to Plaintiff by Manufacturer.

9. Plaintiff has delivered the Ram 1500 to Manufacturer's authorized servicing dealerships on numerous occasions.

10. Plaintiff has brought the Ram 1500 to Seller and/or an authorized servicing dealership of Manufacturer for attempted repairs to various defects, including but not limited to:

- a. Defective body and/or trim as evidenced by the rear tail light holding moisture and by the passenger window making noise;

- b. Defective engine as evidenced by the vehicle stalling and by the check engine light coming on while driving;
- c. Defective HVAC;
- d. Defective electrical system as evidenced by the blower motor being inoperable, by the remote starter being inoperable, by the turn signals not operating properly, and by the left rear window not working;
- e. Defective transmission as evidenced by slow shifting; and
- f. Any additional complaints made by Plaintiff, whether or not they are contained on any repair orders from Manufacturer's authorized dealerships.

11. Plaintiff has provided Manufacturer sufficient opportunity to repair and/or replace the defects in the Ram 1500 pursuant to its written warranty.

12. After a reasonable number of attempts to cure the defects in Plaintiff's Ram 1500, Manufacturer and its authorized servicing dealerships have been unable and/or have failed to repair the defects as provided in Manufacturer's written warranty.

13. Plaintiff has justifiably lost confidence in the Ram 1500's safety and reliability, and said defects have substantially impaired the use, value and/or safety of the Ram 1500 to Plaintiff.

14. Said defects could not reasonably have been discovered by Plaintiff prior to Plaintiff's acceptance of the Ram 1500.

15. As a result of these defects, Plaintiff revoked his acceptance of the Ram 1500.

16. At the time of revocation, the Ram 1500 was in substantially the same condition as at delivery except for damage caused by its own defects and ordinary wear and tear.

17. Manufacturer has refused Plaintiff's revocation of acceptance and has refused to provide Plaintiff with the remedies to which Plaintiff is entitled upon revocation.

18. The Ram 1500 remains in a defective and unmerchantable condition, and continues to exhibit some or all of the above mentioned defects that substantially impair its use, value and/or safety.

19. Plaintiff has been and will continue to be financially damaged due to Manufacturer's failure to comply with the provisions of its written warranty and its failure to provide Plaintiff with a merchantable Ram 1500.

COUNT I
BREACH OF WRITTEN WARRANTY PURSUANT TO
THE MAGNUSON-MOSS WARRANTY ACT
MANUFACTURER

20. Plaintiff re-alleges and incorporates by reference as though fully set forth herein, all paragraphs of this Complaint as set forth above.

21. Plaintiff is a purchaser of a consumer product who received the Ram 1500 during the duration of a written warranty period applicable to the Ram 1500 and who is entitled by the terms of the written warranty to enforce against Manufacturer the obligations of said warranty.

22. Manufacturer is a "person" engaged in the business of making a consumer product directly available to Plaintiff.

23. Seller is an authorized dealership and agent of Manufacturer designated to perform repairs on vehicles pursuant to Manufacturer's written warranty.

24. Plaintiff's purchase of the Ram 1500 was accompanied by a written warranty covering defects in material or workmanship, an undertaking in writing to repair or replace defective parts, or take other remedial action free of charge to Plaintiff with respect to the Ram 1500 in the event that the Ram 1500 failed to meet the specifications set forth in Manufacturer's written warranty.

25. Said warranty was the basis of the bargain of the contract between the Plaintiff and Manufacturer for the sale of the Ram 1500 to Plaintiff.

26. Said purchase of Plaintiff's Ram 1500 was induced by and Plaintiff relied upon, Manufacturer's written warranty.

27. Plaintiff has met all of his obligations and preconditions as provided in Manufacturer's written warranty.

28. As a direct and proximate result of Manufacturer's failure to comply with its written warranty, 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.

WHEREFORE, Plaintiff, [REDACTED], prays for judgment against Manufacturer as follows:

- a. Return of all monies paid or diminution in value of the Ram 1500, incurred and/or needed costs of repair, and all incidental and consequential damages incurred, including, but not limited to, all finance charges incurred;
- b. All reasonable attorneys' fees, witness fees, court costs and other fees incurred by Plaintiff; and
- c. Such other and further relief that this Court deems just and appropriate.

COUNT II
BREACH OF IMPLIED WARRANTY PURSUANT TO
THE MAGNUSON-MOSS WARRANTY ACT
MANUFACTURER

29. Plaintiff re-alleges and incorporates by reference as though fully set forth herein, all paragraphs of this Complaint as set forth above.

30. The Ram 1500 purchased by Plaintiff was subject to an implied warranty of merchantability as defined in 15 U.S.C. § 2301(7), running from Manufacturer to Plaintiff.

31. Manufacturer is a supplier of consumer goods as a "person" engaged in the business of making a consumer product directly available to Plaintiff.

32. Manufacturer is prohibited from disclaiming or modifying any implied warranty when making a written warranty to the consumer.

33. Plaintiff's Ram 1500 was impliedly warranted to be substantially free of defects in both material and workmanship and thereby fit for the ordinary purpose for which the Ram 1500 was intended.

34. The above-described defects present in the Ram 1500 render the Ram 1500 unmerchantable and thereby not fit for the ordinary purpose for which the Ram 1500 was intended and as represented by Manufacturer.

35. As a result of the breach of implied warranty by Manufacturer, Plaintiff is without the reasonable value of the Ram 1500.

36. As a result of the breach of implied warranty by Manufacturer, Plaintiff has suffered and continues to suffer various damages.

WHEREFORE, Plaintiff, [REDACTED], prays for judgment against Manufacturer as follows:

- a. Return of all monies paid or diminution in value of the Ram 1500, incurred and/or needed costs of repair, and all incidental and consequential damages incurred, including, but not limited to, all finance charges incurred;
- b. All reasonable attorneys' fees, witness fees, court costs and other fees incurred by Plaintiff; and
- c. Such other and further relief that this Court deems just and appropriate.

JURY DEMAND

Plaintiff demands trial by jury on all issues in this action, except for any issues relating to:

1. The amount of attorneys' fees and litigation costs to be awarded should Plaintiff prevail in this action; and

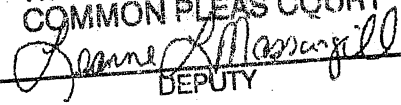
Respectfully Submitted,

By: 

Peter Cozmyk
One of Plaintiff's Attorneys

Peter Cozmyk
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WARREN COUNTY, OHIO
COMMON PLEAS COURT
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DEPUTY