

FILED
JOHN P. HEHMAN
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In the United States District Court
for the Southern District of Ohio

2012 DEC 11 AM 11:32

U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST DIV. COLUMBUS

Snyder Computer Systems, Inc. d.b.a.
Wildfire Motors,

Plaintiff,

v.

United States Department of
Transportation,

Defendant.

Case No. **2:12 cv 1140**

TRIAL BY JURY DEMANDED

JUDGE SAROUS

MAGISTRATE JUDGE DEAVELIS

Complaint for Judicial Review of Final Order

Jurisdiction and Venue

1. This court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1346, and 5 U.S.C. §702 in that it involves federal questions, the United States is a defendant and it includes a request for judicial review of a final administrative order.

2. This court has venue pursuant to 28 U.S.C. § 1391(e), in that the plaintiff resides in the district.

Facts and Allegations Underlying the Claim

3. Snyder Computer Systems, Inc. dba Wildfire Motors ("Wildfire") was an importer of motorcycles, including motorcycles designated WF650-C.

4. The United States Department of Transportation ("DOT") is an agency of the United States government.

5. On October 15, 2012, DOT held an investigative hearing in Washington, DC.

6. DOT did not conduct a reasonable fact-finding investigation.
7. DOT discouraged Wildfire from participating in the hearing.
8. DOT announced in advance that witnesses could not be cross-examined.
9. On November 14, 2012, DOT issued an order finding the following failures

of Wildfire WF650-C motorcycles to comply with certain requirements as follows:

A. FMVSS No. 122, S5.2.1, Service brake system, which is part of the first (preburnish) effectiveness requirement, because the vehicle's service brakes did not stop the vehicle from 30 m.p.h. within 54 feet during NHTSA's testing at TRC;

B. FMVSS No. 122, S5.1.2.1, Master cylinder reservoirs, because the vehicle did not have a separate reservoir for each brake circuit with each reservoir filler opening having its own cover, seal, and cover retention device;

C. FMVSS No. 122, S5.1.3.1, Failure indicator lamp, because the vehicle did not have a failure indicator lamp (which is required to activate for pressure failure, low fluid, and momentarily when the ignition switch is turned to the "on" or "start" position); and

D. FMVSS No. 122, S5.1.2.2, Reservoir labeling, because the vehicle did not have a reservoir label (which indicates the type of brake fluid required for the vehicle and warns that the brake fluid should come from a sealed container and that the filler cap should be cleaned before removing).

10. Based upon testing performed by a competitor of Wildfire, DOT unreasonably, arbitrarily and contrary to fact found that the WF650-C stopping distances failed to meet regulatory standards.

11. DOT refused to allow Wildfire to participate in testing at the test facility owned by a Wildfire competitor to confirm the results and refused to send the NHTSA-owned WF650-C to an independent third party test facility for testing as requested by Wildfire.

12. The DOT finding that the brake systems failed to stop the motorcycle from 30 m.p.h. within 54 feet is false.

13. Other than the stopping distance finding, the remaining findings of standards violation could be easily remedied in a recall.

14. DOT caused other problems that DOT attributes to Wildfire by demanding that Wildfire mail false information to Wildfire's customers.

15. DOT ordered Wildfire to recall all WF650-C motorcycles for destruction and pay consumers the sum of \$3,400 per WF650-c motorcycle.

16. The \$3,400 per motorcycle repurchase price is arbitrary and unreasonable and does not represent the average fair market value of the motorcycles.

17. The DOT order was arbitrary and unreasonable and not based upon substantial evidence.

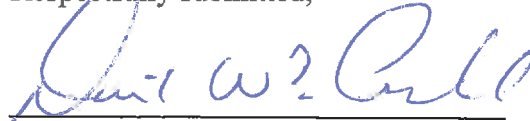
18. Wildfire is entitled to a hearing de novo.

19. Although there are technical issues that can be remedied by recall and repair returning the motorcycles to service, the DOT order requiring recall, repurchase and destruction was unlawful, arbitrary, unreasonable and not based upon the evidence.

NOW WHEREFORE, Plaintiff demands that the court find the DOT order unlawful and unenforceable, and that the court modify the order to permit Wildfire to recall the motorcycles for repairs of the master cylinder reservoirs, reservoir labeling and brake failure indicator lamp issues, so the motorcycles can be returned to service and not destroyed and assess costs against Defendant.

[Signature page follows]

Respectfully submitted,



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Jury Demand

Plaintiff Demands trial by a jury of the maximum number permitted by law. If Plaintiff is not entitled a jury trial as a matter of right, plaintiff requests an advisory jury pursuant to Federal Rule of Civil Procedure 39(c).



David W. T. Carroll
Attorney for Plaintiff