

MICHIGAN RV LAW

A newsletter for RV Dealers and Manufacturers

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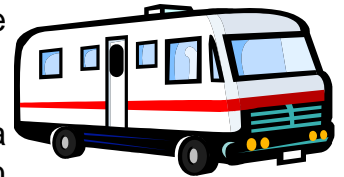
INTRODUCTION

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In the last year the tide of RV litigation has finally turned in the favor of dealerships and manufacturers. We have had such great success defending the industry that we now have an abundance of case law, and results from jury trials, which we use to persuade consumers not to file lawsuits against the industry, settle cases quickly or to show judge's why they should dismiss RV cases.

One of the recent successes came in a lawsuit in the Oakland County Circuit Court. We have dedicated this newsletter to a case study of that lawsuit, including the reactions of the jurors to the evidence submitted and the reasons why they returned a verdict in favor of the RV industry.



Plaintiff v RV Dealership – A Case Study

Plaintiffs filed a multiple count complaint. They sued the RV manufacturer, RV dealership who sold the RV, the chassis manufacturer and some of the repair facilities. The names of the parties will not be used here, but are a matter of public record and can be obtained from the editors of Michigan RV Law Newsletter.

The lawsuit began with our attempts to have much of the case dismissed based upon language in the dealership's Purchase Agreement. Unfortunately, the agreement was not signed. As such, the judge did not enforce its disclaimer language, and the lawsuit proceeded against all Defendants. After depositions, an inspection of the RV, and expert reviews of the service and sales paperwork by the industry's attorneys and the dealership and manufacturers' service personnel, the lawsuit reached a point where the Defendants again attempted to have it dismissed by way of summary disposition motions before the judge. The Defendants had some success with this. In fact, the motions were partially granted, and they put so much fear into the Plaintiffs that they settled for nuisance value amounts with certain Defendants. To that end, the RV manufacturer and some of the servicing facilities settled the claims against them for only a few thousand dollars. The judge then dismissed portions of the case against the chassis manufacturer and the dealership who sold the RV to the Plaintiffs.

how so many parts of the interior of the motor home had broken that they had almost no use of their RV. They also described how they believed the dealership cheated them out of money and attempted to force them to sign a second purchase agreement after the sale had taken place. On cross examination, we poked holes in their story. We showed inconsistencies between their prior deposition testimony, the repair records regarding the motor home and their allegations regarding the sales transaction. In short, we brought the jurors back to the actual facts of the case, removed the emotional pleas, and cast serious doubt on the consumer's veracity.

Plaintiffs called their expert witness to testify next. He described how he inspected the motor home, including an extensive test drive, which allowed him to analyze the vibration issues and the other complaints made by the Plaintiffs. In the end, he made himself look like a well qualified engineer who knew a great deal about heavy duty trucks, buses and RVs, and he testified that this motor home was clearly defective. We used our cross examination to show that this expert did not actually know much about the RV industry, and that although he may be a qualified truck expert, he had never actually worked in the RV industry, and he did not know much about it. In addition, we showed problems with how he performed his inspection, we left the jury wondering what our experts would say.

Plaintiffs closed their case by calling some individuals from the dealership and manufacturers to testify to show how everyone dropped the ball, did not repair the motor home and left the Plaintiffs hanging out to dry. At the conclusion of the Plaintiffs' case we pointed out to the judge and jury that we had asked the Plaintiffs to bring the RV to the courthouse and that they had failed to do so. We argued that they were afraid to show it to anyone because it was not as bad as they claimed and that they were making things up about its condition. In an intriguing move, the Plaintiffs' attorney countered this by indicating that the Plaintiffs would bring the motor home to the courthouse the next day, and that he wanted the jurors to test drive it to show how badly it vibrates. This caused a dilemma for the defense because we were not sure whether the jurors would understand the difference between a motor home that drives like a motor home and a motor home that vibrates excessively. To that end, we brought another motor home for them to ride in, so that they could compare their experiences. After we revealed that, the opposing attorney withdrew his request for a full jury ride, and, instead, made arrangements for one of the defense experts and the attorneys to test drive the RV so that he could cross examine the expert about the test drive. That worked out well for the defense, as the expert testified that the motor home drove like other motor homes that he had.

In addition to that expert witness' testimony, we also had the cooperation of the motor home manufacturer and the chassis manufacturer. To that end, we took testimony from in house experts who described how the chassis are built, and how the motor homes are assembled on top of the chassis. These experts also described the RV industry, how RVs are designed and built, and how this motor home complied with all standards applicable to it. We also subpoenaed witnesses from the servicing facilities. They testified that although the motor home had a number of repairs, the repair history of this RV was not that unusual and the consumers were more particular than the average RV user.

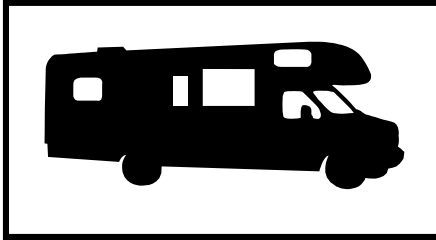
After hearing all this testimony the jurors heard closing arguments. The Plaintiffs' attorney, again, made an emotional plea to the jurors about Plaintiffs nightmare with this lemon RV. We countered by asking the jurors to stick to the facts of the case, apply the law that the judge instructed them about, and to use the testimony of the various experts who were extremely knowledgeable about the RV industry. In the end, they did so, and they returned a verdict of zero, or no cause for action, in favor of the dealership against the consumers.

Plaintiff v RV Dealership – A Case Study

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One juror even commented that she was amazed at how the defense rebutted every claim made by the Plaintiffs, and that it appeared we had “the Plaintiffs’ attorney’s number.” Another juror indicated that she was initially impressed with Plaintiffs’ expert, until our cross examination of him. Then, she felt that we “tore him to shreds” and made him look like someone grasping at theories, which did not exist and someone who had little knowledge of the RV industry as opposed to the experts we used.

As a result of this outcome we have



petitioned the Court for costs and sanctions against the Plaintiffs. We fully anticipate that the Plaintiffs will be liable to the defense for almost \$40,000 because of the verdict in this case. This is the second trial in a row where we have achieved this type of result and sent a clear message to the consumers that litigation against the RV industry has risks associated with it, and that if they do not look to resolve their differences early on, or find reasonable solutions to their alleged issues, the industry will dig in its heels and fight. When it does, and we prevail, the Plaintiff can be sanctioned for not settling.

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