



1. On October 23, 2010, Defendant Larry H. Miller Used Car Supermarket, Inc. (hereinafter "Defendant Supermarket") entered into a "*Motor Vehicle Contract of Sale*" with Plaintiffs regarding a Black, 2007 GMC Acadia 4D Sport Utility SLT, V.I.N. # 1GKEV23797J100392 (hereinafter "Subject Vehicle").

2. The Subject Vehicle at issue in this litigation, prior to being sold to Plaintiffs by Defendant Larry H. Miller Used Car Supermarket, Inc., was a "Motor Vehicle," as defined in Utah Code § 41-3-407(4) and as used throughout the Utah Motor Vehicle Buyback Disclosure Act, Utah Code §§ 41-3-406, *et seq.*

3. The Subject Vehicle at issue in this litigation, prior to being sold to Plaintiffs by Defendant Larry H. Miller Used Car Supermarket, Inc., was a "Buyback Vehicle," as defined in Utah Code § 41-3-407(1) and as used throughout the Utah Motor Vehicle Buyback Disclosure Act, Utah Code §§ 41-3-406, *et seq.*

4. In all dealings with Plaintiffs, Defendant Supermarket was a "dealer," as identified in Utah Code § 41-3-102(8)(a) of the Utah Motor Vehicle Business Regulation Act and Utah Code § 41-1a-102(13) of the Utah Motor Vehicle Act.

5. In all dealings with Plaintiffs, Defendant Supermarket was a "seller," as identified in Utah Code § 41-3-407(7) of the Utah Motor Vehicle Buyback Disclosure Act.

6. In dealing with Defendant Supermarket, each of the Plaintiffs was a "Consumer" as identified in Utah Code § 41-3-407(2) of the Utah Motor Vehicle Buyback Disclosure Act.

7. In connection with its sale of the Subject Vehicle to Plaintiffs, Defendant Supermarket violated Utah Code § 41-3-408(1)(a) of the Utah Motor Vehicle Buyback Disclosure Act.

8. In connection with its sale of the Subject Vehicle to Plaintiffs, Defendant Supermarket violated Utah Code § 41-3-408(2) of the Utah Motor Vehicle Buyback Disclosure Act by failing to make the required “DISCLOSURE STATEMENT.”

9. In connection with its sale of the Subject Vehicle to Plaintiffs, Defendant Supermarket violated Utah Code § 41-3-408(3) of the Utah Motor Vehicle Buyback Disclosure Act by failing to make the required “DISCLOSURE STATEMENT.”

10. The alleged “Nonconformity or nonconformities” as defined in Utah Code § 41-3-407(1) and as used throughout the Utah Motor Vehicle Buyback Disclosure Act, Utah Code §§ 41-3-406, *et seq.*, which resulted in the Subject Vehicle becoming a a “Buyback Vehicle,” as defined in Utah Code § 41-3-407(1) and as used throughout the Utah Motor Vehicle Buyback Disclosure Act, Utah Code §§ 41-3-406, *et seq.*, included the statement that the repurchase was based upon the following alleged or determined defects or conditions: a “Thermal Event under hood.”

11. Prior to being sold to Plaintiffs by Defendant Supermarket, the Subject Vehicle had been issued an Ohio Certificate of Title with a "Buyback Vehicle" Brand.

12. Prior to being sold to Plaintiffs by Defendant Supermarket, the Subject Vehicle had been issued a Wisconsin Certificate of Title with a "Manufacturer Buyback" Brand.

13. The Utah Motor Vehicle Buyback Disclosure Act, Utah Code §41-3-411 provides a private remedy so that, “*Any seller who violates Sections 41-3-406 through 41-3-409 is liable to the purchaser for . . . actual damages if the purchaser elects to retain the buyback vehicle . . . the costs of the action and reasonable attorney fees . . . up to three times the value of the actual damages or the consideration as exemplary damages; and . . . other equitable relief . . . the court determines to be proper in addition to damages and costs.*”

Dated this \_\_\_\_ day of \_\_\_\_\_, 2014.

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JOHN PAUL KENNEDY  
DISTRICT COURT JUDGE

Approval as to Form:

/s/ Aida Neimarlia  
Ms. Aida Neimarlia  
Burbidge Mitchell & Gross  
Attorney for Defendant  
Larry H. Miller Used Car Supermarket

Date: May 19, 2014

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 19, 2014, a true and correct copy of the foregoing, proposed  
“AMENDED ORDER GRANTING MOTION FOR PARTIAL SUMMARY JUDGMENT” and this  
“CERTIFICATE OF SERVICE” are being filed through a court-approved Electronic Filing Service with  
electronic service/noticing to:

Ms. Aida Neimarlia  
Burbidge Mitchell & Gross  
Attorneys for Defendant  
Larry H. Miller Used Car Supermarket  
215 South State Street, Suite 920  
Salt Lake City, UT 84111

        /s/ Jon H. Rogers          
JON H. ROGERS  
Attorney for Plaintiffs