

proba...@sanilacounty.net
<probatereg@sanilacounty.net>
unread,
May 10, 2021, 11:51:15 AM



to madcm@googlegroups.com
Good morning.

Just looking to get some feedback on a small claims case I have this Wednesday. Caveat emptor vs express oral warranty?

FACTS:

Private seller sold **16 year old** car to buyer. Seller provided receipts of car repairs to the buyer to support its good condition. Seller talked the condition of the car up by saying: working good, good shape, even better shape than when I bought it. Turns out frame is so rusted that the car is not driveable.

My conclusion is caveat emptor. Buyer should have inspected the car, especially since the car is 16 years old. Maybe buyer could prevail if seller knew about the condition and failed to disclose it. Not sure if innocent misrepresentation would apply to this type of case.

Myla L. Ford
Probate Register
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Skorich, Dan
<SkorichD@clinton-county.org>
unread,
May 10, 2021, 11:55:13 AM



to madcm@googlegroups.com

Harsh lesson, but for me the Seller prevails.

Dan Skorich

Magistrate/Court Administrator (P26689)

65A District Court

100 E State St, Ste 3400

St. Johns, Mi 48879

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Email: skor...@clinton-county.org

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Zacharie Stephen

<ZStephen@livgov.com>

unread,

May 10, 2021, 11:56:18 AM



to madcm@googlegroups.com

Did the seller know it was not drivable? I would be hard pressed to believe the seller didn't know that.

When you say, "working good, in good shape and even better than when I bought it" I suppose that could include that it doesn't drive, didn't drive when I bought it, etc., but that seems disingenuous at best, fraudulent at worst.

From: ma...@googlegroups.com <ma...@googlegroups.com> **On Behalf Of** Myla L. Ford

Sent: Monday, May 10, 2021 11:51 AM

To: ma...@googlegroups.com

Subject: [EXT] ROTTEN CAR FRAME-PRIVATE SELLER

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Good morning.



--



Zacharie Stephen

<ZStephen@livgov.com>

unread,

May 10, 2021, 11:56:27 AM



to madcm@googlegroups.com

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From: ma...@googlegroups.com <ma...@googlegroups.com> **On Behalf Of** Myla L. Ford
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Good morning.



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Chris Rockafellow
<ChrisR@cassco.org>
unread,
May 10, 2021, 12:16:12 PM



to madcm@googlegroups.com

I always go by Michigan is a As-Is sale state, unless specified in writing.



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james brennan

<jamesbrennanlaw64@gmail.com>

unread,

May 10, 2021, 12:19:27 PM



to Jonathan Morse

I agree with Dan, "Buyer be ware!". The car is 16 years old, not a classic. Bought as a used car, for a nominal amount because the case is in small claims, I would imagine that the buyer test drove and may have had a mechanic check it out. Brennan



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Millmore, Laura

<Laura.Millmore@lansingmi.gov>

unread,

May 10, 2021, 12:20:16 PM



to madcm@googlegroups.com

In my humble opinion, I agree with Dan. Taking the vehicle to a mechanic would reveal the obvious issues. If the seller knew about the condition, you might have a fraud complaint, but in this fact pattern, the inspection could have discovered it easily. I wouldn't find any fraud here.

Sent from my iPad

On May 10, 2021, at 11:55 AM, Skorich, Dan <Skor...@clinton-county.org> wrote:



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Laura Rahe

<l.rahe@co.hillsdale.mi.us>

unread,

May 10, 2021, 1:15:25 PM



to madcm@googlegroups.com

It's the plaintiff's burden to prove that the seller's statements went beyond ordinary puffery. Used cars often have problems. If buyers recovered every time they weren't satisfied (especially if they could have had the car inspected before buying), small claims dockets would get pretty full.

Sincerely,

Laura T. Rahe

District Court Administrator and Attorney Magistrate

Hillsdale County 2B District Court

From: ma...@googlegroups.com <ma...@googlegroups.com> **On Behalf Of** Myla L. Ford

Sent: Monday, May 10, 2021 11:51 AM

To: ma...@googlegroups.com

Subject: ROTTEN CAR FRAME-PRIVATE SELLER

Good morning.



--





Greenfelder, Kent
<kgreenfelder@saginawcounty.com>
unread,
May 10, 2021, 1:33:33 PM



to madcm@googlegroups.com

If the buyer did not show some fraud on the part of the seller, I would find for seller.



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matt.friedrich
<matt.friedrich@sbcglobal.net>
unread,
May 10, 2021, 1:43:22 PM



to madcm@googlegroups.com

Considering that, generally speaking, you can't bring a fraud claim in small claims, I think it has to be based on a breach of contract or breach of warranty. It doesn't sound like there is any written contract or warranty language upon which buyer can rely.

The car is 16 years old. If buyer wanted to be sure it was in good condition and worked properly, buyer should have had it inspected by a mechanic first.

Matt





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May 11, 2021, 11:35:44 AM



to MADCM

Thank you everyone for the great feedback. Seems like we are all on the same page. Thank you for the reminder that fraud claims cannot be heard in small claims.



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