

In the District Court of Garland County, Arkansas

John Gibson Auto Sales, Inc.

Plaintiff

v.

Case No. HTCV-19-1100

Shelby C. Cheatham

Defendant

Answer

Defendant Shelby C. Cheatham (Cheatham) files this Answer to Plaintiff John Gibson Auto Sales, Inc.'s Complaint.

Admissions and Denials

1. With respect to the averments in paragraph 1 of the Complaint, Defendant responds as follows:
 - a. Defendant is without sufficient information to form a belief about whether Plaintiff is an Arkansas corporation with its principal place of business in Hot Springs, Garland County, Arkansas, and therefore denies the same;
 - b. Defendant admits that his purchase of the 2012 Honda CBR 100 occurred in Garland County, Arkansas;
 - c. Defendant admits that this Court has jurisdiction of the parties and subject matter, and venue is proper in Garland County;
 - d. All averments in paragraph 1 of the Complaint not specifically admitted herein are denied.
2. Defendant admits the averments in paragraph 2 of the Complaint.
3. With respect to the averments in paragraph 3 of the Complaint,
 - a. Defendant admits that he returned the 2012 Honda CBR 100 to Plaintiff;

- b. Defendant admits that the return of the 2012 Honda CBR 100 to Plaintiff resulted in Plaintiff repossessing the 2012 Honda CBR 100;
 - c. Defendant denies the 2012 Honda CBR 100 was sold in a commercially reasonable manner after notice to him;
 - d. Defendant denies he owes any remaining balance under a contract to Plaintiff; and
 - e. All averments in paragraph 3 of the Complaint not specifically admitted herein are denied.
- 4. Defendant denies the averments in paragraph 4 of the Complaint.
 - 5. Defendant denies Plaintiff is entitled to any Judgment against him.

Affirmative Defenses

6. Plaintiff is not entitled to the relief it seeks because it did not send an authenticated notice of disposition that complied with Ark. Code Ann. § 4-9-611, which operates as an absolute bar to the relief Plaintiff seeks in the Complaint.

7. Plaintiff is not entitled to the relief it seeks because it did not comply with Ark. Code Ann. § 4-9-610 by conducting a commercially reasonable sale, which operates as an absolute bar to the relief Plaintiff seeks in the Complaint. Alternatively, Defendant is entitled to a rebuttable presumption that the fair market value of the vehicle is equal to and satisfies any debt, account or deficiency claimed by Plaintiff.

Therefore, Defendant prays for the following relief:

- 1) Render judgment in his favor, and Plaintiff takes nothing;
- 2) Dismiss Plaintiff's Complaint with prejudice;

- 3) Award Defendant his attorney's fees and costs for defending against the Complaint as allowed by Ark. Code Ann. § 16-22-308; and
- 4) Award Defendant all other relief the Court deems appropriate.

Respectfully submitted,

By: /s/ Corey D. McGaha
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Certificate of Service

I, Corey D. McGaha, certify that on October 2, 2019, consistent with the requirements of Ark. R. Civ. P. 5, a complete copy of the foregoing was electronically filed with the Clerk of the Court using the AOC Electronic Filing Systems (eFlex system) and electronically served on all parties of record in the eFlex system, per Arkansas Supreme Court Administrative Order 21, § 7(a), to the following:

McKendra Adams
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/s/ Corey D. McGaha