

**COURT OF COMMON PLEAS
FOR THE STATE OF DELAWARE**

KENT COUNTY COURTHOUSE
38 THE GREEN
DOVER, DELAWARE 19901
PHONE: (302) 735-3910

**CHARLES W. WELCH, III
JUDGE**

July 9, 2015

Victoria J. Hoffman, Esq.
Legal Services Corporation of DE, Inc.
24A Hiawatha Lane
Dover, DE 19904

Robert C. McDonald, Esq.
Silverman McDonald & Friedman
1010 N. Bancroft Parkway, Suite 22
Wilmington, DE 19805

RE: Curtis Bowers v. Robin Drive Auto, LLC
C.A. No.: CPU5-14-000500

Decision on Plaintiff's Motion to Compel

Dear Ms. Hoffman and Mr. McDonald:

The Court has received the Plaintiff's Motion to Compel for the above-referenced matter that was filed with the Court on May 20, 2015, plus all written submissions by the parties regarding the motion. Please be advised that based on the submissions, the Court is granting the Motion to Compel with request to the Plaintiff's Request for Production 1, copies of paperwork related to all sales of cars for the period of six months.

As you know, the plaintiff has sued the defendant for alleged violations of the Truth in Lending Act, Unlawful Repossession and Breach of Warranty. Court of Common Pleas Civil Rule 26(b)(1) provides that "[p]arties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking

discovery.” Ct. Comm. Pl. Civ. R. 26(b)(1). Discovery requests may be limited by the Court if they are “unreasonably cumulative or duplicative,” if the party requesting the information can get it from a “more convenient, less burdensome, or less expensive” source, and if the “discovery is unduly burdensome or expensive, taking into account the parties’ resources, and the importance of the issues at stake in the litigation.” *Id.*

In this case, the plaintiff has requested copies of paperwork related to all sales of cars for a six month period. It is the Court’s understanding that the plaintiff has granted permission to the defendant to redact the identity of the customers for these transactions. The defendant has objected to the plaintiff’s request on the basis that it is unduly burdensome and not reasonably calculated to lead to admissible evidence.

The Truth in Lending Act applies to a party who “regularly extends, whether in connection with loans, sales of property or services, or otherwise, consumer credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required.” 15 U.S.C. § 1602(g). To be subject to the terms of the Act, the party must also be the party “to whom the debt arising from the consumer credit transaction is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement.” *Id.*

To make a showing that the defendant violated the terms of the Act, the plaintiff must not only show that the defendant was the party to whom the plaintiff was required to make payments, but also must show that the defendant “regularly extends credit” of the sort described in the Act. The plaintiff has no other venue to obtain information about the defendant’s prior lending actions than through discovery. Further, the plaintiff has agreed to limit its request to a period of six months, greatly minimizing the burden on the defendant. Despite the defendant’s claim that it would have to sort through 500 transactions to obtain this information, the information is vital to the plaintiff’s case and the search of the requested documentation is not unduly burdensome. Therefore, the

Court grants the plaintiff's motion to compel the production of the documentation. The defendant must provide the requested documentation within 30 days.

IT IS SO ORDERED.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles W. Welch, III".

Charles W. Welch, III

CWW:mek