IN THE SUPERIOR COURT OF DELAWARE

MELVIN ANTHONY WATERS-El,	)	
Plaintiff,	)	
	)	
v.	)	Civ. Act. No. N25C-08-255 DJB
	)	
	)	
NISSAN MOTOR ACCEPTANCE	)	
CO., LLC	)	
Defendant.	)	

Date Submitted: July 1, 2026
Date Decided: September 23, 2026

Memorandum Opinion

On Defendant's Motion for Judgment on the Pleadings – **GRANTED**
On Plaintiff's Motion to Compel – **DENIED AS MOOT**
On Plaintiff's Motions for Sanctions – **DENIED AS MOOT**
On Plaintiff's Motion for Default Judgment – **DENIED**

Melvin Anthony Waters-El, *Pro se*

Angelica M. Mamani, Esquire, Hudson, Jones, Jaywork & Fisher, LLC, Dover, Delaware, and Jonathan Marmo, Esquire, admitted *pro hac vice*, Holland & Knight LLP, *attorneys for Defendant Nissan Motor Acceptance Company, LLC*

BRENNAN, J.

I. INTRODUCTION

Melvin Anthony Waters-El, (hereinafter "Plaintiff") filed this action against Defendant Nissan Motor Acceptance Company, LLC (hereinafter "NMAC")[1] and Defendant Hertrich Nissan of Newark (hereinafter "Hertrich") alleging claims related to his purchase of a 2023 Nissan Pathfinder on May 19, 2023.[2] Defendant Hertrich has since been dismissed from this action.[3] In the Complaint, Plaintiff asserts claims for Fraudulent Inducement (Count I), Misrepresentation under the Delaware Consumer Fraud Act (Count II), Breach of Contract/Failure of Consideration (Count III), Revocation of Acceptance (Count IV), Unconscionability (Count V), Truth In Lending Violations (Count VI), and Assignee Liability (Count VII).[4] Pending before the Court is NMAC's Motion for Judgment on the Pleadings.[5]

For the following reasons detailed below, Plaintiff has failed to state a cognizable claim for relief, and any attempt to amend would be futile. Therefore, Defendant NMAC's Motion to Dismiss is **GRANTED**.

[1] Plaintiff's Complaint list states the suit is against "Nissan Motor Acceptance Corporation" erroneously; Defendant's proper title is Nissan Motor Acceptance Company, LLC." D.I. 1.
[2] D.I. 1.
[3] D.I. 16, 36.
[4] D.I. 1.
[5] D.I. 44.

II. RELEVANT FACTS

Plaintiff purchased a 2023 Nissan Pathfinder from Hertich on May 19, 2023.[6] A retail instalment contract (hereinafter "Contract") controlled the sale. Plaintiff immediately paid Hertrich a down payment of $2,500.00 and financed the remaining balance of the purchase price though Nissan financing.[7] At the time of the sale, Plaintiff signed an Odometer Disclosure Statement which acknowledged that the "new" vehicle he was purchasing had 5,088 miles on the odometer.[8] Following the execution of the Contract, Hertrich assigned its interests in the contract to NMAC, who assumed the financing obligations.[9]

On May 5, 2025, Plaintiff sent NMAC and Hertrich a Notice of Rescission of Contract, "citing fraudulent inducement, misrepresentation, defective assignment, failure of consideration, and unconscionability" and demanded they "refund monies paid, remove liens, or correct adverse credit reporting."[10] Neither party acknowledged the Notice.[11]

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[6] D.I. 1 at ¶ 6.
[7] D.I. 1 at ¶¶ 6-7.
[8] D.I. 44, Ex. B, Odometer Disclosure Statement. This exhibit, while identified as "Exhibit B" and referenced as an attachment in the Motion, was not actually attached. However, the Parties acknowledged the documents existence during the June 3, 2026, hearing.
[9] D.I. 1 at ¶ 8, D.I. 44 at 2.
[10] D.I. 1 at ¶¶ 12-13. Note: the Complaint cites the date of service as "May 5, 2028."
[11] D.I. 1 at ¶ 13.

Plaintiff defaulted on the Contract, which was charged off and acquired by LVNF Funding LLC on July 1, 2024, with a balance of $55,961.37, and is currently being serviced by Resurgent Capital Services L.P.[12] During oral argument Plaintiff informed the Court that he is still in possession of the vehicle.[13] Plaintiff, *pro se*, filed suit in August of 2025, seeking a declaratory judgment rescinding the sale contract, a refund of his $2,500 downpayment, $218,000 in "statutory damages," $100,000 in punitive damages, $400,000 in "Actual damages", the "Costs of suit and attorney's fees," "Release of any and all Liens and Delivery of Unencumbered title" and "any other just compensation deemed appropriate by the Court."[14]

III. PROCEDURAL HISTORY

Plaintiff filed the instant action on August 29, 2025; the cover letter to Plaintiff's Complaint additionally requests the Prothonotary process it as a Motion for Default Judgment.[15] NMAC filed its Answer and Affirmative Defenses on October 28, 2025.[16] On November 5, 2025, Plaintiff filed a Motion to Dismiss Defendant Hertrich Nissan of Newark without prejudice, stating he "[sought] to streamline the current litigation by severing claims . . . and pursing them separately,

[12] D.I. 30, Ex. B at 1.
[13] D.I. 68.
[14] D.I. 1.
[15] D.I. 1.
[16] D.I. 13.

in a more targeted proceeding."[17] On November 7, 2025, Defendant Hertrich was dismissed from the proceeding without prejudice.[18]

Plaintiff filed his Reply to NMAC's Answer and Affirmative Defenses on November 13, 2025.[19] On November 17, 2025, a Trial Scheduling Order was entered.[20] On November 20, 2025, Plaintiff filed Motions for Sanctions, Restraining Order, and Permanent Injunction on the grounds that following Plaintiff's written demand, NMAC failed to provide "(1) a complete, authenticated accounting of the secured obligation, and (2) an authenticated listing of collateral," which he contends is required.[21] On November 24, 2025, Plaintiff filed a "Formal Objection to Defendant's Request for Extension of Time to Respond to Discovery."[22] On December 16, 2025, Plaintiff filed his written response to NMAC declining to extend time for discovery and a Motion objecting to a consolidated hearing to address all pending motions filed in this case.[23]

NMAC filed the instant Motion for Judgment on the Pleadings on January 9, 2026.[24] On January 15, 2026, Plaintiff filed a "Memorandum of Law in Support of

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[17] D.I. 14.
[18] D.I. 16.
[19] D.I. 17.
[20] D.I. 29.
[21] D.I. 30.
[22] D.I. 32.
[23] D.I. 38.
[24] D.I. 44.

Rule 37(b) Sanctions."[25] NMAC filed its Response in Opposition to Plaintiff's Motion for Sanctions on February 10, 2026.[26]

Plaintiff filed his opposition to NMAC's Motion for Judgment on the Pleadings on February 16, 2026.[27] On March 24, 2026, Plaintiff filed an "Affidavit of Facts," a "Petition to Strike with Prejudice Unsupported Assertions Raised by Defendant," and a "Continued Targeted Request for Discovery and Forensic Accounting."[28] On April 24, 2026, Plaintiff moved for default judgment against NMAC.[29]

Oral argument was held on June 3, 2026, addressing all pending motions.[30] During the hearing, Plaintiff's Motions for Temporary Restraining Order and Preliminary Injunction were heard and denied.[31] Plaintiff's Motion to Compel and two Motions for Sanctions were passed, pending the outcome of the instant Motion; discovery was stayed.[32] This is the Court's decision on all pending motions.

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[25] D.I. 48.
[26] D.I. 55.
[27] D.I. 56.
[28] D.I. 61-64.
[29] D.I. 67.
[30] D.I. 68.
[31] *Id*.
[32] *Id*.

IV. STANDARD OF REVIEW

Superior Court Civil Rule 12(c) controls a motion for judgment on the pleadings.[33] When making a determination on a motion filed under Rule 12(c), the Court accepts all well-pled facts in the complaint as true and must view the facts in the light most favorable to the non-moving party. Such an inference must be given.[34] The Court must afford a party opposing a Rule 12(c) motion the same protections as a party opposing a 12(b)(6) motion.[35] A motion for judgment on the pleadings must be granted "when no material issue of fact exists and the movant is entitled to judgment as a matter of law."[36] However, the motion must be denied if the nonmovant "presents any reasonably conceivable set of facts susceptible of proof to support its claim."[37]

Under such a review, the Court may provide leave to amend a Complaint that is subject to dismissal under the Rule 12(b)(6)/(c) standard. "Leave to amend, however, is properly denied if an amendment would be futile."[38] Amendment is

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[33] Del. Super. Ct. Civ. R. 12(c).
[34] *Festival Fun Parks, LLC v. MS Leisure Co.,* 2023 WL 8714994, at *4 (Del. Super. Dec. 18, 2023) (citing *Desert Equities, Inc. v. Morgan Stanley Leveraged Equity Fund, II, L.P.*, 624 A.2d 1199, 1205 (Del. 1993)).
[35] *Id.* (citing *McMillan.*, 768 A.2d at 500).
[36] *Id.*
[37] *Id.* (citing *Velocity Exp., Inc. v. Office Depot, Inc.*, 2009 WL 406801, at *4 (Del. Super. 2009) (internal citations omitted)).
[38] *McLeish v. Caesar Rodney Sch. Dist.*, 2026 WL 1482777, at *3 (Del. Super. May 27, 2026).

futile where "changes to the complaint could not permit recovery under any reasonably conceivable set of circumstances susceptible of proof."[39]

V. ANALYSIS

A. Count I: Fraudulent Inducement

Superior Court Civil Rule 9 controls the pleading standard for allegation of fraud. Here, Plaintiff alleges "Fraudulent Inducement" in Count I. To successfully state a claim for fraudulent inducement a plaintiff must allege:

> (1) That the defendant made a false representation, usually one of fact; (2) with the knowledge or belief that the representation was false, or with reckless indifference to the truth; (3) with an intent to induce the plaintiff to act or refrain from acting; (4) that plaintiff's action or inaction was taken in justifiable reliance upon the representation; and (5) damage to the plaintiff as a result of her reliance on the representation.[40]

Rule 9(b) requires a claim of fraudulent inducement to be pled with particularity. It further requires a plaintiff to "specify the time, place, and contents of the false representations, as well as the identity of the person or persons making those representations."[41]

NMAC alleges Plaintiff has failed to state a claim for fraudulent inducement. Here, Plaintiff alleges that NMAC "knowingly made false representations of

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[39] *McLeish*, 2026 WL 1482777, at *2.
[40] *Ahmad v. Porche Cap. Ltd.,* 2025 WL 417351, at *3 (Del. Super. Feb. 6, 2025) (citing *Grunstein v. Silva*, 2009 WL 4698541, at *12 (Del. Ch. Dec. 8, 2009)).
[41] *Ahmad*, 2025 WL 417351, at *3 (citing *Grunstein*, 2009 WL 4698541, at *12).

material fact intending to induce Plaintiff's reliance, including misrepresentations as to creditor status, the condition of the vehicle and their possession of the original note."[42] Plaintiff's claim is deficient because "there are no specific allegations of what these misrepresentations were, when they were made, or why they are attributable to [NMAC]."[43] Notwithstanding the fact that NMAC was the financing arm in the vehicle purchase deal and was not present when Plaintiff purchased his vehicle, Plaintiff's fraud claims have not been pled with particularity as required under Rule 9(b).

Further, even assuming NMAC is a proper party to Count I, which it is not, Plaintiff's claim lacks reference to a false statement or omitted fact that NMAC had a duty to disclose when Plaintiff executed the agreement to purchase his vehicle. Simply put, Plaintiff's claim does not plead adequate facts explaining how NMAC mispresented their creditor status. To the extent Plaintiff alleges NMAC misrepresented the "new" condition of the vehicle at the time of purchase due to his claim regarding the vehicle mileage, any such argument is undermined by the fact that Plaintiff signed the Odometer Disclosure Statement when he executed the Contract.[44] Plaintiff merely generalizes that NMAC made misrepresentations

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[42] D.I. 1 at 4.
[43] *Yu v. GSM Nation, LLC*, 2018 WL 2272708, at *12 (Del. Super. Apr. 24, 2018).
[44] See *supra* note 9 explaining that Odometer Disclosure Statement was referenced as an attachment in Defs. Motion, but was not included with the materials filed.

without pleading adequate facts informing what these supposed misrepresentations made were, how they were false, nor articulated any false statements that NMAC made with the belief and knowledge that they were false. Plaintiff's claims are conclusory and have not been pled with the requisite particularity, therefore dismissal is warranted.[45]

As noted briefly above, Plaintiff cannot assert a claim for fraudulent inducement against NMAC, the assignee, absent an assertion that NMAC had knowledge of Plaintiff's potential claims against Hertrich, the assignor.[46] When contractual rights and interests are transferred from an assignor to an assignee, the assignee is liable to the same extent as the assignor only when they have "full knowledge that a third party has potential claims."[47] In such instances, "the assignee's recourse would be to seek indemnification from the assignor."[48]

Here, the Complaint fails to identify that NMAC knew of the agreement between Plaintiff and Hertrich. The Complaint is devoid of any assertion that NMAC had full knowledge of Plaintiff's potential claims against Hertrich. Though Plaintiff contends that NMAC and Hertrich misrepresented certain aspects of the

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[45] *Cytotheryx, Inc. v. Castle Creek Biosciences, Inc.*, 2025 WL 3142373, at *3 (Del. Ch. Nov. 10, 2025) (citing *Ramunno v. Cawley*, 705 A.2d 1029, 1034 (Del. 1998) (internal citations omitted)).
[46] *Change Cap. Partners Fund I, LLC v. Volt Elec. Sys.*, 2018 WL 1635006, at *10 (Del. Super. Apr. 3, 2018).
[47] *Change Cap. Partners Fund I, LLC*, 2018 WL 1635006, at *10.
[48] *Id*.

transaction and that "NMAC, as an assignee without possession of the original note, is subject to all defense and claims that Plaintiff may assert against Hertrich Nissan, the original seller,"[49] this does not establish NMAC had the requisite knowledge to impute any potential or alleged liability of Hertrich on it stemming from this transaction.[50]

B. Count II: Violation of the Delaware Consumer Fraud Act

Delaware's Consumer Fraud Act is found in Title 6 of the Delaware Code, Chapter 25. Under 6 *Del. C.* § 2513:

> [t]he act, use or employment by any person of any deception fraud, false pretense, false promise, misrepresentation, or the concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale, lease or advertisement of any merchandise, whether or not any person has in fact been misled, deceived or damaged thereby, is an unlawful practice.[51]

This Section is intended to shield "consumers and legitimate business enterprises from unfair or deceptive merchandising practices in the conduct of any trade or commerce in part of wholly within this State."[52] Under 6 *Del. C.* § 2513, a plaintiff

[49] D.I. 1 at ¶ 40.
[50] *Change Cap. Partners Fund I, LLC*, 2018 WL 1635006, at *10.
[51] *Adams v. Gelman*, 2016 WL 373738, at *5 (Del. Super. Jan. 28, 2016) (citing 6 *Del. C.* § 2513)).
[52] *Adams*, 2016 WL 373738, at *5.

must also satisfy the heightened pleading standard required under Rule 9(b) and state the time, place, and contents of the supposed deceptive offering.[53]

NMAC challenges Plaintiff's Count II for having failed to allege a valid violation under 6 *Del. C.* § 2513, as Plaintiff's factual basis for his claim is immaterial to such a challenge here. Plaintiff alleges that "the retail installment sale contract was securitized and converted into an investment security…" which he argues demonstrates that NMAC had been divested "of any lawful right to collect, report, or charge of the account."[54] Plaintiff's vague assertion, that NMAC's failure to disclose the securitization and sale of the note was a misrepresentation of their creditor status, does not sufficiently allege a violation of the Delaware Consumer Fraud Act.

Plaintiff has not specified the time, place, and contents of the supposed misrepresentations concerning NMAC's creditor status and the securitization of the sale of the note. Furthermore, by Plaintiff's own omission, he only learned of the securitization after he pursued his own investigation on the issue. Thus, he cannot substantiate any claim that NMAC made a misrepresentation of fact: Plaintiff acknowledges he learned of NMAC's creditor status and the securitization through

[53] *Rinaldi v. Iomega Corp.,* 1999 WL 1442014, at *8 (Del. Super. Sept. 3, 1999).
[54] D.I. 44 at 6.

his own independent research rather than through NMAC's knowing representations.

The purpose of the Consumer Fraud Act is to protect consumers from deceptive sales practices. Plaintiff's complaint is devoid of factual allegations that any of the supposed misrepresentations made amount to a deceptive sales practice or fraudulently induced him to purchase the vehicle. Further, the disclosures Plaintiff identified had no bearing on Plaintiff's decision to purchase the vehicle and thus are immaterial to a claim under the Consumer Fraud Act. Consequently, Plaintiff's claim fails.

C. Count III: Breach of Contract

Plaintiff claims NMAC breached the Contract by allegedly providing defective goods and by concealing alleged material defects.[55] In so moving here, NMAC contends Plaintiff cannot successfully plead a breach of contract claim, as NMAC was not a party to the original sales contract and necessarily could not have made any representations about the vehicle Plaintiff purchased; NMAC's role was limited to the financing arm in the transaction, not sales.[56]

To successfully state a claim for breach of contract a plaintiff must demonstrate the existence of "a contractual obligation; a breach of that obligation by

[55] D.I. 1, ¶¶ 24-28.
[56] D.I. 44 at 8.

the defendant; and a resulting damage to the plaintiff."[57] The pleading requirements are liberal and do not require the plaintiff to "plead specific facts to state an actionable claim," but a plaintiff must include "a short and plain statement of the claim showing that the pleader is entitled to relief."[58] Such statements are deemed sufficient as long as they put the defendant on notice of the claim being asserted against them.[59] However, " simply referring generally to the parties' contract will not sustain a claim for breach of contract."[60] A claim for breach of contract will fail unless a party "identif[ies] the particular contractual terms that were breached."[61]

Further, a basic principle of contract law states, "only a party to a contract may be sued for breach of that contract."[62] Here, NMAC was not a party to the sale contract that Plaintiff executed with Hertrich when he purchased his Nissan Pathfinder. Plaintiff's breach of contract claim arises from Plaintiff's purchase of the vehicle from Hertrich. NMAC was not a party to that contract, nor did it assume

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[57] *Sunstone Partners Mgmt., LLC v. Synopsys, Inc.,* 2024 WL 3813266, at *2 (Del. Ch. Aug. 14, 2024).

[58] *VLIW Tech., LLC v. Hewlett-Packard Co*., 840 A.2d 606, 611 (Del. 2003).

[59] *Id.*

[60] *Marydale Pres. Assocs., LLC v. Leon N. Weiner & Assocs., Inc.*, 2022 WL 4446275, at *17 (Del. Super. Ct. Sept. 23, 2022) (citing *BET FRX LLC v. Myers*, 2022 WL 1236955, at *1 (Del. Ch. Apr. 27, 2022) ("The plaintiff's claims for breach of the express and implied terms of the LLC agreement fail because the plaintiff fails to identify any express or implied terms allegedly breached.").

[61] *Id*.

[62] *Aviation W. Charters, LLC v. Freer*, 2015 WL 5138285, at *9 (Del. Super. July 2, 2015).

any such liability as the financing arm of the sale. Notwithstanding that deficiency, Plaintiff has not articulated which terms of the contract he alleges were breached. Plaintiffs are required under Delaware law to "identify a provision of the relevant contract that allegedly was breached and provide a basic explanation [of] why a breach occurred" to ensure the defendant is "fairly placed on notice of the nature of the plaintiff's claim."[63] Consequently, Plaintiff's breach of contract claim fails.

D. Count IV: Revocation of Acceptance Pursuant to UCC § 2-608

Plaintiff's Court IV alleges he accepted non-conforming goods, the vehicle, the "non-conformity [] substantially impaired their [sic] value," the "non-conformity was not discovered at the time of acceptance due to Defendants' concealment and/or because the defects were latent and not reasonably discoverable," and "upon discovery…Plaintiff promptly notified Defendants and revoked acceptance [of the vehicle]."[64] Under the UCC § 2-608, or Delaware's adjacent statute 6 *Del. C.* § 2-608:

> (1) The buyer may revoke his acceptance of a lot or commercial unit whose non-conformity substantially impairs its value to him if he has accepted it:
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> > (a) on the reasonable assumption that its non-conformity would be cured and it has not been seasonably cured; or

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[63] *An v. Cosman*, 2025 WL 2180575, at *10 (Del. Ch. July 31, 2025) (citing *IAC Search, LLC v. Conversant LLC*, 2017 WL 3500244, at *1 (Del. Ch. Jan. 13, 2017)).
[64] D.I. 1, ¶¶31-33.

> (b) without discovery of such non-conformity, if his acceptance was reasonably induced either by the difficulty of discovery before acceptance or by the seller's assurances.
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> (2) Revocation of acceptance must occur within a reasonable time after the buyer discovers or should have discovered the ground for it and before any substantial change in condition of the goods which is not caused by their own defects. It is not effective until the buyer notifies the seller of it.[65]

NMAC argues Plaintiff's vague assertions "Defendants" concealed non-conforming goods is insufficient to establish a revocation of acceptance under 6 *Del. C.* § 2-608.[66]

Plaintiff's Complaint is not only vague and lacks factual allegations to support his claims, but the facts bar any potential recovery here. It is assumed, because his Complaint fails to articulate under Count IV, that the non-conformity of which Plaintiff alleges is the odometer reading Plaintiff avers in paragraph 9 of the "Factual Allegations" portion of his Complaint. Section 2-608 requires the revocation to be made within a reasonable time after discovery of the nonconformity, or within a reasonable time the buyer should have discovered the nonconformity and before a substantial change in condition has been made.[67]

Plaintiff's Complaint, filed in August of 2025, claims that he did not discover the defects until almost two years after he purchased the vehicle. The vehicle was

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[65] 6 *Del. C.* § 2-608.
[66] D.I. 44 at 9.
[67] 6 *Del. C.* § 2-608.

purchased "on or about May 19, 2023."[68] As acknowledged in open court, Plaintiff signed a document that disclosed the odometer reading at the time of the sale. Therefore, there are no set of conceivable circumstances where Plaintiff would be able to revoke his acceptance under 6 *Del. C.* § 2-608.

To the extent Plaintiff is attempting to allege a different non-conformity in Count IV, his Complaint lacks specificity. The Complaint is so lacking that the Court, even giving all inferences to Plaintiff as both a *pro se* litigant and the non-moving party, cannot discern any other articulable claim. Therefore, Plaintiff has not sufficiently stated a claim for revocation of acceptance pursuant to 6. *Del. C.* § 2-608.

E. Count V: "Unconscionability" pursuant to UCC § 2-302

Plaintiff's Count V claims the contract's terms were "grossly unreasonable and oppressive at the time of formation, further aggravated by undisclosed securitization, inflated charges, and one-sided terms."[69] This is the extent of his allegations under this count. NMAC moves for judgment on the pleadings on this count, arguing Plaintiff fails to identify facts consistent with a showing of either

[68] D.I. 1, ¶ 6.
[69] D.I. 1, ¶ 36.

substantive or procedural unconscionability.[70] Further, NMAC argues Plaintiff's claim is vague and insufficient to sustain an unconscionability claim.[71]

An unconscionable contract is one where "no man in his senses and not under delusion would make on the one hand, and as no honest or fair man would accept, on the other."[72] The determination of whether a contract is unconscionable requires answering "the question of whether the provision amounts to the taking of an unfair advantage by one party over another," but "mere disparity between the bargaining powers of parties to a contract will not support a finding of unconscionability."[73] Instead, "[a] court must find that the party with superior bargaining power used it to take unfair advantage of his weaker counterpart."[74]

NMAC is correct; Plaintiff's Complaint fails to plead facts sufficient to establish a claim for unconscionability. Mere conclusory allegations alone stating the terms of the contract are unfair are insufficient to sustain a claim for unconscionability. Therefore, Plaintiff's unconscionability claim does not survive Defendant's motion.

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[70] D.I. 44 at 12.
[71] D.I. 44 at 13.
[72] *Davis v. First Horizon Home Loan Corp*., 2016 WL 9000111, at *2 (Del. Com. Pl. Jan. 21, 2016) (citing *Reserves Mgmt., LLC v. Am. Acquisition Prop. I, LLC*, 86 A.3d 1119 (Del. 2014) (quoting *Tulowitzki v. Atl. Richfield Co.*, 396 A.2d 956, 960 (Del. 1978)).
[73] *Davis*, 2016 WL 9000111, at *2.
[74] *Id*., at *2.

E. Count VI: Violation of the Truth in Lending Act

Plaintiff's Count VI alleges "Defendants failed to disclose the assignment and securitization of the retail instalment contract into an investment trust, constituting a violation of Plaintiff's right to clear and accurate disclosures under federal law."[75] While Plaintiff asserts a claim under the Truth in Lending Act, he cites to 15 U.S.C. §§ 1601 et seq. NMAC challenges this Count as vague and conclusory, and for failing to articulate how the Truth in Lending Act requires disclosure of the "assignment and securitization" of the sales contract.[76]

The Truth in Lending Act provides that creditors must make certain disclosures to borrowers "before credit is extended."[77] Such disclosures include the identity of the creditor as well as the amount financed.[78] The Act does not impose any such requirements as Plaintiff alleges. While, "[v]agueness or lack of detail in the pleaded claim are not sufficient grounds alone to dismiss a complaint for failure to state a claim,"[79] Plaintiff's Count VI fails to set forth any viable basis upon which relief can be granted. This Count is another conclusory statement, unsupported by sufficient facts or law. Accordingly, this Count cannot survive Defendant's motion.

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[75] D.I. 1, ¶ 38.
[76] D.I. 44 at pp. 13-14.
[77] 15 U.S.C.A. § 1638.
[78] 15 U.S.C.A. § 1638(a).
[79] *Delaware Hum. & C.R. Comm'n v. Schell Bros.,* 2025 WL 1253611, at *2 (Del. Super. Apr. 28, 2025) (citing *Diamond State Tel. Co. v. Univ. of Del.*, 269 A.2d 52, 58 (Del. 1970) (citing *Morgan v. Wells*, 80 A.2d 504, 505 (Del. Ch. 1951)).

F. Count VII: Assignee Liability

Finally, NMAC maintains that Plaintiff's seventh claim for assignee liability fails because it is not an actionable legal claim nor supported by any legal or factual support.[80] Plaintiff's Count VII states, "NMAC, as assignee and without possession of the original note, is subject to all defenses and claims that Plaintiff may assert against Hertrich Nissan, the original seller."[81] Plaintiff cites to UCC 3-305, which provides defenses and claims in recoupment. This is not a standalone cause of action. And simply making this assertion in his Complaint does not purport to assign liability to NMAC.

Plaintiff's Count VII cites to both the UCC 3-305 and the case *First Natl' Bank of Amarillo v. Lajoie* without providing a legal citation. In the Court's research, it appears as if Plaintiff attempts to cite to an Oklahoma Supreme Court case of this name, 1975 OK 95, 537 P.2d 1207, decided June 24, 1975. In *First Natn'l*, a replevin action was filed by a bank who had lent credit to the purchaser of a Corvette. The Corvette was repossessed and LaJoie challenged replevin. The Court ultimately found the bank's security interest void under Oklahoma Statute 14A O.S. 1971 § 2-407. While this case discusses assignee/assignor rights, this case is dealing with the opposite situation: NMAC relayed at oral argument that not only

[80] D.I. 44 at 14.
[81] D.I. 1, ¶ 40.

did it not seek replevin or repossession upon Plaintiff's non-payment of the loan, but it has since assigned its rights and no longer holds an interest in the vehicle.

Nevertheless, Plaintiff's allegations, which are difficult to ascertain, do not state a viable claim. Although Delaware's pleading standards are liberal, this claim is not supported by allegations of fact. Count VII consists of a single broad statement concerning what rights Plaintiff believes he has against NMAC, as an assignee. Consequently, this Count cannot survive NMAC's motion.

G. PLAINTIFF'S ALTERNATIVE ARGUMENT RAISED AT ORAL ARGUMENT ALSO FAILS

At oral argument, for the first time, Plaintiff argued he is entitled to funds because NMAC concealed the fact that they were profiting from his loan.[82] Plaintiff clarified that because NMAC assigned this loan without telling him, and was set to make a profit from the assignment, he is seeking the contract value of the Nissan from NMAC. Plaintiff was unable to cite any authority to support his position.

Plaintiff's position is not supported by any authority and belies not only the written contract in the case, but basic principles of business. Such a notion, that a borrower is entitled to money simply because the lending entities profit on the lending agreement, is inconceivable. Plaintiff's logic, even if somehow supported by the law, fails here, where Plaintiff is currently in default of the loan, not only is

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[82] *See* D.I. 68. Oral argument was held on June 3, 2026.

there no profit to be made, but NMAC assigned its interest in the loan to cut its losses. The Court finds this recently raised argument to be wholly without merit.

H. CONCLUSION

For the foregoing reasons NMAC's Motion is **GRANTED**. The dismissal is with prejudice, as any amendment to the complaint would be futile. Plaintiff's Motion to Compel, which was previously stayed, is **DENIED AS MOOT**. Plaintiff's multiple Motions for Sanctions are likewise **DENIED AS MOOT**. And finally, Plaintiff's Motion for Default Judgment, filed contemporaneously with his Complaint and prior to service being attempted, is **DENIED** on its merits. Clearly, an Answer has been filed in this matter and the Court is hereby **DISMISSING** Plaintiff's Complaint as a result of the **GRANT** of Defendant NMAC's Motion for Judgment on the Pleadings.

IT IS SO ORDERED.

Danielle J. Brennan, Judge

cc: All counselled parties via LexisFile&Serve Express
Mr. Waters-El, via U.S. Mail