

**IN THE MATTER OF THE *MOTOR DEALER ACT R.S.B.C. 1966 C. 316* and the
MOTOR DEALER CUSTOMER COMPENSATION FUND REGULATION B.C. REG.
102/95, O.C. 271/95**

FILED BY:

Manigandan Govindaraj

Claimant

INVOLVING:

**Pinnacle Car Sales and Leasing Ltd. dba Pinnacle Motors
30793/Cancelled**

Motor Dealer

DECISION OF THE MOTOR DEALER CUSTOMER COMPENSATION FUND BOARD

By way of written submissions.

[1] On April 12, 2017, the claim for compensation from the Motor Dealer Customer Compensation Fund (the "Fund") filed by Manigandan Govindaraj (the "claimant") was presented to the Motor Dealer Customer Compensation Fund Board (the "Board") for hearing.

Decision

[2] This claim has been denied.

Claim summary

[3] This claim is for \$4,403.34 and is based on the transaction between the claimant and Pinnacle Motors ("Pinnacle") on September 13, 2016, in which the claimant:

- (a) Purchased a 2010 Dodge Journey (the "Dodge") from Pinnacle which was represented as fully loaded and equipped with a rear DVD player that was an important feature for the claimant to have for his baby.
- (b) At the time of the purchase, the claimant made a deal with the salesperson that Pinnacle would fix the brakes. Pinnacle never fixed the brakes.
- (c) On September 28, 2016, the battery in the Dodge died. On September 29, 2016, the claimant had the battery and the front brake rotors replaced by Jas Auto Repair Ltd.
- (d) After the rear DVD video system stopped working on September, 28, 2016, the claimant had the DVD system checked by Butchs Brake & Muffler Ltd. – an authorized service center for the Four Star Global Warranty that the claimant purchased for the Dodge. The warranty did not cover the repairs because they found two quarters stuck in the DVD system. The claimant also discovered that Pinnacle sold the Dodge to the claimant with two open recalls.

Process summary

[4] The Board heard this claim on February 15, 2017. The claim hearing was adjourned because the Board found that additional information was required to adjudicate the claim, specifically:

- (a) a breakdown of how the claim amount was calculated; and
- (b) documents pertaining to the trade-in of the Dodge.

Legislative authority and the Board's findings

[5] In reviewing the eligibility of the claimant's alleged loss, the Board applied Section 5(1) of the *Motor Dealer Customer Compensation Fund Regulation* (the "Regulation") which outlines the losses eligible for compensation from the Fund with respect to the purchase of a motor vehicle. In addition, section 7(a) of the Regulation stipulates that a claim based on cost, quality or value of a motor vehicle received is not eligible for compensation from the Fund.

[6] The Board reviewed the documents on file, copies of which were provided to the claimant and to Pinnacle at the pre-hearing stage and to which both parties had an opportunity to respond. The documents under review included the Claim Application and the claimant's additional submissions.

[7] The Board found that each loss specified by the claimant in the calculation the claim amount was based on the cost, quality or value of the Dodge. The Board determined that the claim was for reimbursement of expenses related to the repairs to the Dodge. Therefore, the claim was not eligible for compensation from the Fund.

[8] The Board has jurisdiction to assess claims which fall within the specific terms of the Regulation only. Claimants may have other legal remedies available to them and are encouraged to do their own investigations into, or speak with a lawyer about, other possible remedies. Attached is the Vehicle Sales Authority of BC (the "VSA") Fact Sheet *Where to go for help*.

Finality of decision

[9] Decisions of the Board cannot be appealed. According to Section 16(2) of the *Motor Dealer Act*, "A decision, order or ruling of the Board ... is final and conclusive and is not open to question or review in court except on a question of law or excess of jurisdiction".

[10] **Reconsideration:** The Board may, at its discretion, reconsider its decision. The Board will consider a request for reconsideration from a party to a claim, provided that the request is made in writing and includes relevant evidence that was not previously considered by the Board and was not known or available to the party before the hearing. All parties to a claim will be notified if the Board decides to reconsider its decision. The Board's policy requires that an application for reconsideration be made within 30 days of the decision.

[11] Judicial Review: The Board's decision may be challenged on a question of law or excess of jurisdiction in the BC Supreme Court pursuant to the *Judicial Review Procedure Act*. According to Section 57 of the *Administrative Tribunals Act*, an application for judicial review must be made within 60 days of the date the decision is issued. We suggest contacting a lawyer to obtain legal advice regarding this option.

Date: May 8, 2017



Darlene K. Hyde
Chair, Motor Dealer Customer Compensation Fund Board

Attachment
DH/af/ag



Where to go for help...

...if you're looking for **legal advice**:

Access Pro Bono

For those that cannot afford a lawyer, legal advice in most areas of law is given through free clinics held throughout Vancouver. Appointments can be booked by calling 604-878-7400 or 1-877-762-6664, or online at www.accessprobono.ca.

Dial-a-Law

A free service available in English, Chinese and Punjabi that offers general information on a variety of law topics. Publications can be accessed online at www.dialalaw.org. Dial-a-Law can be reached at 604-687-4680 or 1-800-565-5297.

Lawyer Referral

Gives the opportunity to discuss a case with a lawyer for up to 30 minutes for a small fee. The consultation will determine if there is a legal problem. The service operates by telephone and can be reached at 604-687-3221 or 1-800-663-1919.

Clicklaw

Provides access to legal information and offers several options on solving legal problems. It is available online at www.clicklawbc.ca.

Legal Services Society

A non-profit organization that provides legal information and advice for low income families. For general inquiries, call 604-601-6000 or access their website at www.legalaid.bc.ca.

Multilingual Legal Website

A new online resource that provides legal information in a variety of languages, such as Arabic, Chinese, English, French, Korean, Persian, Punjabi, Spanish, and Vietnamese. Search publications at www.multilingolegal.ca.

UBC Law Students' Legal Advice Program

UBC law students provide advice under the supervision of a practicing lawyer throughout the Lower Mainland. Call 604-822-5791 to book an appointment or visit their website at <http://www.lslap.bc.ca/main/>.

The Law Centre

The Law Centre provides legal assistance to people in the Greater Victoria area who cannot afford a lawyer. Call 250-385-1221 for further assistance, or visit their website at www.thelawcentre.ca.



Where to go for help...

...if you're looking for **consumer protection information**:

Consumer Protection BC

A non-profit corporation established to strengthen consumer protection in BC. They enforce consumer protection laws (except regarding motor dealers, lawyers and some other professions) and encourage fair business practices. Complaint handling and resource guides are available on their website at www.consumerprotectionbc.ca. They are also accessible at 1-888-564-9963.

Better Business Bureau (BBB)

Includes an accredited business and charity directory, consumer tips, alerts, and guides. Those in the Lower Mainland call 604-682-2711; the rest of BC call toll free at 1-888-803-1222. More information can be found online at www.mbc.bbb.org/consumers.

Canadian Motor Vehicle Arbitration Plan (CAMVAP)

Helps consumers resolve disputes with a manufacturer on vehicle defects or warranty through arbitration. All services are free. To see if you qualify, visit www.camvap.ca or call 1-800-207-0685.

Canadian Consumer Association

Gives information on consumer issues and provides tools and resources. Also offers a step-by-step roadmap on how to make a consumer complaint. Visit them at www.consumerinformation.ca.

Mediate-BC

Specializes in dispute resolution through mediation and offers mediation information and services, as well as a directory of available mediators. They can be contacted by going to their website at www.mediatebc.com.

Office of the Information and Privacy Commissioner for B.C. (OIPC)

Oversees B.C.'s access and privacy acts and works to protect the privacy rights of B.C. residents. They can investigate privacy and access complaints. More information can be found on their website at www.oipc.bc.ca.

Office of the Ombudsperson

Investigate complaints about unfair administrative actions from provincial public authorities. Call them toll-free at 1-800-567-3247 or visit www.bcombudsperson.ca for more information.

Note: This fact sheet provides general information and is not intended to be legal advice.