

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2003-024185

11/24/2004

HONORABLE REBECCA A. ALBRECHT

CLERK OF THE COURT
K. Ballard
Deputy

FILED: 11/25/2004

NATHAN WARREN

MARSHALL SCOTT MEYERS

v.

MERCEDES-BENZ U S A

DAVID WENDALL WILLIAMS

CASE PARTIALLY DISMISSED

The Defendant's Motion for Partial Summary Judgment has been under advisement. The Court has reviewed the memoranda filed, the applicable case law, and considered the arguments of counsel.

Based on the matters presented to the Court, the Court finds the proposed expert witness of the Plaintiff who will present testimony regarding the diminished value/current value of the vehicle is not qualified to give that opinion. He has disclosed no method upon which he reached any decision, he has no experience that would permit him to opine on the current value, and has no knowledge that would aid the jury in determining the current value/diminished value.

No evidence has been disclosed upon which a jury can determine the diminished value of the vehicle.

The warranty on the vehicle has not 'failed of its essential purpose' as argued by the Plaintiff. The warranty is valid and enforceable.

IT IS ORDERED granting the Defendant's Motion for Summary Judgment.

IT IS ORDERED dismissing the Plaintiffs' claim for damages pursuant to the Magnuson-Moss Act which includes diminution in value and damages for incidental and consequential damages, loss of use damages, and damages for aggravation and inconvenience.

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The Court has further reviewed the Plaintiff's Notice of Trial Conflict and the response. The basis upon which the notice was filed is not a conflict in Plaintiff's counsel's schedule, but rather the fact that the Plaintiff has something else to do that conflicts with the trial date. Therefore, the Notice of Trial Conflict is in fact a Motion to Continue the Trial.

This matter was set for trial in June, 2004. Therefore, Plaintiff has been aware of the dates for trial for six months. Even if Plaintiff did not know when his final exams would be until he started classes, Plaintiff has known since August that a conflict existed. Plaintiff need not be present for the entire trial. If his exam schedule conflicts with portions of the trial, he need not be present.

IT IS ORDERED denying the Motion to Continue the Trial.

/S/ Honorable Rebecca A. Albrecht

HONORABLE REBECCA A. ALBRECHT
JUDICIAL OFFICER OF THE SUPERIOR COURT