Often a car will have known mechanical problems, but will not be repurchased pursuant to a state lemon law. Instead, the manufacturer or dealer may take the car back as a sign of “goodwill” or as part of a settlement, and claim that the state lemon laundering law does not require that the vehicle be treated as a returned lemon. Other times, the car will just be traded in for a different car. Whatever the facts, a dealer may have a car with known problems that does not fall under any lemon title branding laws. Nevertheless, the sale of such a car without disclosure of the mechanical problems raises a number of legal claims.

? How to investigate sales of cars with undisclosed mechanical problems is examined in §§ 2.2–2.5 [1], infra.

? Sale of a car with undisclosed mechanical problems may involve common law fraud, which may lead to punitive damages. See Ch. 8 [2], infra.

? Sale of a car with undisclosed mechanical problems may involve a breach of implied or express warranties, which may lead to revocation of acceptance, withholding of installment payments, and a claim for damages, even if the seller had no knowledge of the mechanical problems. See § 9.2 [3], infra.

? A breach of an implied or written warranty in a sale of a car with undisclosed mechanical problems case may also lead to a Magnuson-Moss Warranty Act claim, which would provide for attorney fees. See § 9.2 [3], infra.

? Sale of a car with undisclosed mechanical problems also will violate a state UDAP statute, which will often provide attorney fees, minimum, multiple, or punitive damages, and which may not require proof of the defendant’s intent or knowledge. See § 9.4 [4], infra.

? Sale of a car with undisclosed mechanical problems may violate a state’s automobile dealer licensing statute or regulations, which will either provide a cause of action, leverage with the dealer, or an indirect cause of action under a UDAP, warranty, or fraud claim. See § 7.7 [5], infra.

? How to litigate a case involving sale of car with undisclosed mechanical problems is examined in Chapter 10 [6], infra, including: advising the client, who to sue, what claims to plead, jurisdictional issues, res judicata, class actions, evidentiary issues (such as how to introduce evidence of the defendant’s misconduct against other consumers), trial of the case, damage issues, settlements, attorney fees, and collecting judgments against the defendant, the defendant’s surety, related lenders, and auction companies.

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