

H.2.4 Sample Request to Prior Owner for Production
of Documents¹

IN THE CIRCUIT COURT
FOR MONTGOMERY COUNTY, MARYLAND

[plaintiff]WALTER C. CONSUMER,
Plaintiff,

[vs.]

[defendant]PETERSON AUTOPARK, INC., et al.,
Defendants.

[action]Civil Action No. 166498

**PLAINTIFF'S INITIAL REQUEST FOR PRODUCTION OF DOCUMENTS
BY BMW FINANCIAL SERVICES N.A., INC.**

To: BMW Financial Services N.A., Inc.
c/o Corporation Trust, Inc.

Plaintiff, pursuant to Maryland Rule 2-422,² requests that this defendant produce and permit the plaintiff and his counsel to inspect and copy the documents described below at offices made available to Plaintiff's Attorney at [address], on May 5, 1997 at 10:15 a.m. or at such other time and place as may be agreed.

INSTRUCTIONS

1. Please take notice that Rule 2-422 requires that you respond in writing within a period of forty-five days from the date of service of the requests set forth below and state with respect to each item or category that you will permit the inspection and related activities as requested unless you object, in which event, you must state the

¹These document requests were drafted by Mark Steinbach, an attorney with O'Toole, Rothwell, Nassau & Steinbach in Washington D.C., who has a practice with a specialty in automobile fraud.

²[Editor's Note: Citations throughout this document request as in original.]

reasons for your objection. If you object to part of a request, you must specify that part.

2. These requests encompass all documents and tangible things as defined below which are in your possession, custody or control, including the possession, custody or control of any person acting currently or at a prior time as your employee, agent or representative.

3. These requests encompass the time period from January 1, 1993 to the date of your responses except where otherwise noted. Related documents prepared or received at an earlier time are also included.

4. Should you claim that any document within the scope of these requests is privileged from discovery, please describe the document and specify the privilege upon which your response is based.

5. The use in a request of a specific term or item by way of example or inclusion is not intended to limit the generality of the request or of the definition applicable to it.

6. Documents included within more than one of the requests need be produced only in response to the initial request.

7. You should produce documents as they are kept in the usual course of business or organize and label them to correspond with the categories in this request.

DEFINITIONS

As used in these requests, the following terms have the following meanings:

A. "Documents" includes tangible things and means the original and all non-identical copies of: accounts, agreements, appointment calendars, bills, bill of sale, blueprints, books, books of account, brochures, bulletins, certificates, charts, checkbooks, checks, check stubs, circulars, claims, colored cards, commentaries, communications reduced to tangible form, computer programs, disks, tapes, and printouts, contracts, correspondence, data sheets, deposit and withdrawal slips, desk pads, diaries, drafts of documents (whether or not used), engineering

commentary, drawings or specifications, file memos, files, filings, film, financial statements, forms, graphs, headings, internal or external memoranda (including written, typed or printed memoranda of telephone conversations, other conversations, discussions, agreements, acts or activities of any kind), intra-office and inter-office communications, invoices, journals, laboratory reports, leases, ledges, letters, logs, magazine articles, notes, maintenance instructions, or manuals, marginals, memos, markings, microfilm, minutes, models, proposals, negatives, newspaper articles, operating instructions or manuals, papers, periodicals, plans, pleadings, photographs, photostats, prototypes, registers, requests or repair orders, repair instructions or manuals, reports, samples, scrapbooks, service requests or orders, shop drawings, sound recordings, specifications, spread sheets, statements, stickers, studies, tapes, technical drawings or reports, telegrams, telex printouts, test results, titles, trade journals, transcripts, warranty claims, way bills, work sheets (including, without limitation, accountants' work papers) and any other physical objects containing written or printed material of a visible image or sound.

B. "Recording" or "referring," when used to identify documents, means documents (a) the contents of which are themselves the means by which relevant information was noted, represented, reported or otherwise put into written form, as well as documents (b) which comment upon, mention, anticipate or respond to other documents which (c) list, summarize or otherwise relate to information presented elsewhere in written form.

C. "Relating to" or "related to" means documents the contents of which describe, refer to, comment upon, corroborate, question, support, contradict or otherwise contain information about the matter under inquiry.

D. "You" or "BMW Financial" means BMW Financial Services NA, Inc., including its agents, employees and representatives.

E. "Vehicle" means the 1994 BMW 530i plaintiff purchased from Peterson, as described in the Complaint.

F. "Trade-in" refers to the 1992 Nissan Maxima plaintiff traded in on the 1994 BMW 530i.

G. "Peterson" means Peterson Autopark, Inc., including its agents, employees and representatives.

DOCUMENTS

1. All documents you received from or sent to BMW of North America, Inc. (BMW) in connection with the vehicle at any time, including:

a. all correspondence, including recall notices or notices of goodwill programs or other customer satisfaction initiatives;

b. Technical Service Bulletins or other maintenance, service or repair advisories which refer to the power train (including engine and transmission) or the electrical system of the 1994 BMW 530i model;

c. all other documents which refer to potential problems with the V8 engine in the 1994 BMW 530i model;

d. any documents which constitute or refer to BMW's written warranty, or to warranty extensions or enhancements on the vehicle;

e. the factory invoice for the vehicle;

f. the Certificate of Origin;

g. each odometer statement;

h. damage to the vehicle, at any time, by any means.

2. All documents, and documentation of all information, which you provided to all persons or entities to whom you were interested in selling the vehicle after you obtained its return from Allen or Sue Owner. In the event you offered the vehicle for sale by wire or other announcement, produce a copy of the wire or other announcement, and all documents furnished to interested persons or entities in connection with the vehicle.

3. Each estimate or repair order prepared by any person in connection with any vandalism, theft, accident damage or other damage to the vehicle at any time.

4. All correspondence and other documents which relate or refer to insurance claims or coverage in connection with the vehicle, including all checks, drafts, confirmation of wire transfers or other evidence of payment made by or received by you, by Allen or Sue Owner or others in connection with damage to the vehicle at any time.

5. Each other repair, maintenance or service order (including customer, warranty and shop copies) for or other documentation of mechanical or body work performed on the vehicle at any time, when it was in the possession of Allen or Sue Owner, BMW Financial, Peterson, plaintiff or any other person or entity.

6. All documents (including, without limitation, handwritten notes and a hard copy printout of any computer entries) which refer to any inspection of or observations about the vehicle's condition at any time by any persons or entities.

7. All correspondence or other documents which you received from or sent to plaintiff or his representatives, or to Allen or Sue Owner or any other person who owned or leased the car at any time.

8. The following documents and things which refer to plaintiff's purchase of the vehicle, to the plaintiff or to the vehicle:

- a. each Purchase Order and Sales Invoice;
- b. each Retail Installment Contract or other loan agreement;
- c. each odometer statement;
- d. each application for financing or questionnaire about plaintiff's income, assets or liabilities, including any documents which refer to any prior credit problems or explanations of same;
- e. each credit report on plaintiff or other document which refers to plaintiff's income, assets, liabilities or prior credit history;
- f. each document which identifies plaintiff's relatives or references;

g. each document which refers to plaintiff's employer or history of employment;

h. each document which refers to plaintiff's residence or history of his place of residence;

i. all other documents submitted by plaintiff or Peterson to you in connection with plaintiff's purchase or financing of the vehicle, including without limitation all documentation of plaintiff's income, finances, assets and liabilities and/or explanation of any past credit problems;

j. each document which refers to the temporary or permanent registration of the vehicle, or temporary or permanent tags to the vehicle, including power of attorney forms;

k. each document which constitutes or refers to title to the car at any time, including without limitation each Application for Certificate of Title and related documents;

l. each McArthur Statement or "Spot Delivery/Financing" document;

m. each BMW Financial deal jacket for the vehicle;

n. your stock and inventory cards or like records for the vehicle;

o. the daily cash receipts journal and/or ledger which reflect any payments by plaintiff or others on his behalf in connection with the Retail Installment Contract for the car;

p. all internal worksheets or other drafts or documents used by you in connection with the vehicle;

q. each inspection sticker or certificate for the vehicle and all other documents which refer to the vehicle being inspected by, passed or failed by any inspection station;

r. all other documents which record or refer to changes made or work done to the vehicle by the original selling dealer, by Peterson or others prior to its sale to plaintiff, at time of sale or after its sale to the plaintiff;

s. all notes, memoranda or other documents which record or reflect conversations or other communications related to the vehicle, its financing, Peterson or plaintiff, whether before, during or after his purchase of the vehicle;

t. all documents prepared for, sent to or received from the police or any insurance company or representative concerning theft, vandalism, accidents or damage involving the vehicle at any time;

u. each photograph, videotape or other visual embodiment of the vehicle taken or prepared at any time;

v. all printed advertisements, sales brochures or other promotional materials which refer to the vehicle, at any time;

w. the warranty history of the vehicle and all documents submitted by or received by you in connection with any warranty claims on the vehicle;

x. all other handwritten or typewritten notes and a printout of all computer entries which refer to plaintiff, his deal, his trade-in or financing of plaintiff's deal, to Peterson, or to the vehicle or plaintiff's trade-in;

y. all correspondence and other documents which you sent to, or received from, the person or entity from whom you acquired the vehicle which refer to the vehicle in any way, at any time (including the Buyer's Order or Bill of Sale, predelivery inspection checklist, disclosure of prior use or prior accident damage and all of your other purchase documents);

z. All recourse or partial recourse agreements with Peterson involving plaintiff's purchase;

aa. all other documents which refer to plaintiff or the vehicle in any way;

bb. all other documents of any kind signed by plaintiff, or by others for him, and any other documents which purport to bear his signature.

9. All documents which contain an explanation of the accounting codes or any other documents needed to understand abbreviations or codes contained in the documents and things produced in response to Request No. 8 above.

10. All other correspondence or other documents which you received from or sent to Peterson at any time in connection with plaintiff or the vehicle.

11. If you acquired the vehicle at auction, please produce all documents provided by the auction or seller in connection with the vehicle.

12. If you acquired or sold the vehicle at auction, any and all notes made by persons attending the auction regarding announcements made about the vehicle at the auction, and his or her inspection of the vehicle.

13. The underwriting guidelines and/or program information for the financing program available to Peterson through BMW Financial, as of the date Peterson sold the vehicle to plaintiff.

14. The Dealer Agreement, Master Agreement or other contract between Peterson and BMW Financial which establishes the terms upon which Peterson may assign, and BMW Financial may accept, Retail Installment Contracts.

15. BMW Financial's floor planning agreement with Peterson.

16. All other documents which establish or refer to the formula by which Peterson shall receive any commissions, reserves or other sums in connection with financing of the vehicle, and any documents which refer to the sums Peterson was to earn in connection with financing of plaintiff's vehicle.

17. All documents or things not previously produced which refer to plaintiff, the vehicle, plaintiff's trade-in or financing of the vehicle.

18. If you contend that the plaintiff knew or should have known about prior accident damage to the vehicle at the time of his purchase, all documents or things which support your contention.

19. If you contend that plaintiff's conduct in any way contributed to or caused the losses or damages claimed in the Complaint, or that he failed to mitigate damages, all documents or things which support such contention.

20. If you contend that you did not know that the vehicle had sustained damage in one or more accidents prior to the date you sold the vehicle to Peterson, or prior to the date that Peterson sold the vehicle to plaintiff, all documents or things which support your contention.

21. The personnel file of each person who negotiated, participated in or approved plaintiff's deal.

22. All documents which support any of your Affirmative Defenses to the Complaint.

23. All documents which support any of your other defenses to the Complaint.

24. A copy of each insurance agreement under which any person carrying on an insurance business might be liable to satisfy part or all of a judgment that might be entered in this action against BMW Financial or to indemnify or reimburse you in connection with this matter.

25. Each price guide (such as the Black Book, N.A.D.A. Official Used Car Guide, Kelly Blue Book, and so forth) which you either accept as authoritative or use in your business, which states a price or value for a 1994 BMW 530i as of May 31, 1996.

26. The *curriculum vitae* or other background information on each person whom you expect to testify as an expert at the trial of this action.

27. All documents you intend to mark for identification or introduce at the trial of this action.

Counsel for Plaintiff