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53022 B

**DISTRICT COURT
CLARK COUNTY, NEVADA**

ALBERT PARRA, KAREN PARRA and
MARTIN CORDOVA, individually and
on behalf of all others similarly situated,

Plaintiffs,

vs.

STATE OF NEVADA DEPARTMENT OF
MOTOR VEHICLES AND PUBLIC
SAFETY, and JOHN DREW, in his official
capacity as Director,

Defendants.

CASE NO.
DEPT. NO.

**PLAINTIFFS' APPLICATION
FOR PRELIMINARY INJUNCTION**

Plaintiffs, individually and on behalf of all other similarly situated, by and through counsel, Dan L. Wulz, Esq., Clark County Legal Services Program, Inc., pursuant to NRCP 65, hereby apply for a Preliminary Injunction enjoining defendants from licensing vehicles in the State of Nevada unless all the requirements of NRS 484.60665 and 49 U.S.C. § 32701 *et seq.* and the regulations adopted pursuant thereto, and state law are met, and specifically enjoining defendants from:

1. Licensing a vehicle when presented with a conforming title containing blanks for federal odometer disclosures.
2. Licensing a vehicle when presented with inconsistent federal odometer disclosures.
3. Licensing a vehicle and issuing a certificate of ownership (title) for a vehicle containing a reading of the vehicle's odometer not as provided to DMV by the transferor.
4. Use and acceptance of DMV Form RD-136, a non-secure power of attorney, permitting the holder to sign conforming certificates of ownership to vehicles containing federal odometer disclosures.
5. Licensing a vehicle when federal odometer disclosures are made pursuant to a power of attorney and when other documents show that at the time of the signing of the power of attorney, the title was in the possession of the transferor.
6. Licensing a vehicle when presented with a conforming title signed by a transferor on behalf of a transferee pursuant to a power of attorney which does not contain all the information required by federal law.
7. Licensing vehicles unless there is compliance with NRS 482.400(1), which provides that upon transfer of the title to, or the interest of an owner in, a vehicle issued a certificate of ownership (title), the transferor(s) and the transferee(s) shall write their signatures with pen and ink upon the certificate of ownership issued for the vehicle, together with the residence address of the transferee, in the appropriate spaces provided upon the reverse side of the certificate.
8. Licensing vehicles unless there is compliance with NRS 482.424, which provides that when a used vehicle is sold in this state to any person, except a licensed dealer, by a dealer, the seller shall complete and execute a dealer's report of sale. Unless an extension of time is granted by the department, the seller shall submit the original of the dealer's report of sale to the department within 30 days after the execution of the dealer's report of sale, together with the properly endorsed certificate of title or certificate of ownership previously issued for the vehicle.

A suggested form for the order of Preliminary Injunction is attached hereto as Exhibit # 1. The Court's Preliminary Injunction cannot, as a practical matter, be carried out unless defendants immediately advise Nevada dealers of the existence and practical effect of the Preliminary Injunction. As such, **when the Preliminary Injunction is granted**, plaintiffs request the Court order defendants to immediately fax a letter (attached as Exhibit # 2) to all Nevada car dealers

stating DMV will no longer engage in the acts from which it has been enjoined, as stated above, so that the Court's injunction can, as a practical matter, be given effect. This motion must be granted for the reasons set forth in the following Points and Authorities.

POINTS AND AUTHORITIES

I. INTRODUCTION

NRS 484.60665 provides: "The department shall enforce the provisions of 49 U.S.C. §§ 32701 *et seq.* and the regulations adopted pursuant thereto." The federal citation is to legislation officially known as the Motor Vehicle Information and Cost Savings Act, and popularly known as the Federal Odometer Act. 49 U.S.C. § 32705(b) provides that a "motor vehicle the ownership of which is transferred may not be licensed for use in a State unless..." the requirements contained in 49 U.S.C. § 32701 *et seq.* are followed. 49 U.S.C. § 32710(b) provides: "A person may bring a civil action to enforce a claim under this section" Defendants have failed and refused to follow the legal requirements of NRS 484.60665 and 49 U.S.C. § 32701 *et seq.* in the particulars stated herein.

This case should not have been required to be filed. In pre-litigation discussions, DMV acknowledged it was not following the law. DMV said it would make the changes plaintiffs requested but may not get to it for six months or so. Later, DMV said it would do so as soon as feasible. This is unacceptable. All DMV need do is fax a letter to every Nevada car dealer stating the changes in procedure as stated in this motion, above. A six month delay, or an undetermined delay, during which thousands of used cars will be licensed and titled in violation of state and federal law to the potential prejudice of all Nevada consumers of motor vehicles, cannot be tolerated. An immediate injunction is necessary.

II. ELEMENTS NECESSARY FOR THE ISSUANCE OF A PRELIMINARY INJUNCTION ARE PRESENT IN THIS CASE

"A preliminary injunction is available upon a showing that the party seeking it enjoys a reasonable probability of success on the merits and that the defendant's conduct, if allowed to continue, will result in irreparable harm for which compensatory damages is an

inadequate remedy." Sobol v. Capital Management Consultants, Inc., 102 Nev. 444, 726 P.2d 335, ??? (1986). Another factor often cited is the interest of the public. Plaintiffs will show that they meet all factors necessary for issuance of a preliminary injunction.

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Of course, under 42 U.S.C. § 1983, injunctive relief is available against state officials acting in their official capacities. Northern Nevada Ass'n of Injured Workers v. Nevada State Indus. Ins. System, 107 Nev. 108, 807 P.2d 728 (1991).

A. Probability Of Success On The Merits.

The exhibits attached to the Complaint irrefutably establish a paper trail of facts. When the law is applied to those irrefutable facts, the only possible conclusion is that defendants are in violation of the law.

A general overview of the applicable law follows. Each state has enacted a certificate of title act that requires that anytime someone purchases a car for use (as opposed to for resale), that purchaser must obtain a certificate of title or certificate of registration in his or her own name. Federal law requires that the title contain specified language with blank spaces for the transferor to complete, including a disclosure of the mileage at the time of sale, and certifies to one of the following: that the mileage is accurate, reflects mileage in excess of an odometer's mechanical limits, or that the mileage is inaccurate and cannot be relied upon. States began conforming their motor vehicle titles with these federal requirements in 1989¹ and such a title is known as a "conforming" title.

Federal law requires that when a motor vehicle with a conforming title is sold, the transferor shall complete the mileage disclosures on the title.² 42 U.S.C. § 32705(b)(1); 49 C.F.R. § 580.5(a).

¹ Nevada asked for and received a short extension. 54 Fed.Reg. 18,057.

² There are specified exemptions provided in 49 C.F.R. § 580.17 where federal odometer disclosures need not be made..

An exception to this requirement to disclose the mileage on the title exists when the title is not physically present upon transfer (e.g., as when held by a lien holder). 42 U.S.C. § 32705(b)(2)(A). In that event, the disclosures may be made on a power of attorney. 49 U.S.C. § 32705(b)(2)(A) and 49 C.F.R. § 580.13.

Under federal law, when it is appropriate to give a power of attorney to sign the title, the power of attorney must be printed by means of a secure printing process, must be signed by the transferor and transferee, and must contain the following information: (1) the odometer reading at the time of transfer; (2) the date of transfer; (3) the transferor's name and current address; (4) the transferee's name and current address; and (5) the identity of the vehicle, including its make, model, year, body type and vehicle identification number. 49 U.S.C. § 32705(b)(2)(A)(ii); 49 C.F.R. § 580.13.

Contrary to federal law, DMV in its Registration and Title Guide provides Nevada car dealers with its Form RD-136, a power of attorney printed by means of a non-secure process, which allows the recipient to sign in the name, place and stead of the signator "any Certificate of Ownership issued by the [DMV] covering the motor vehicle described above, in whatever manner necessary to transfer any registration of said motor vehicle." Nevada used car dealers routinely use this form in virtually every used car sale and submit same to DMV. When federal odometer disclosure is required, use of this form for this purpose has been in violation of federal law since states began use of conforming titles (1989) because (1) it is printed by a non-secure printing process and (2) it does not contain the information required as itemized in 49 C.F.R. § 580.13 as set forth above.

Finally, NRS 482.424 provides that when a used vehicle is sold in this state to any person, except a licensed dealer, by a dealer, the seller shall complete and execute a dealer's report of sale along with the properly endorsed certificate of title within 30 days after the execution of the dealer's report of sale unless an extension of time is granted.

1. The Parras.

As concerns plaintiffs, the Parras, on or about February 1, 1997, the original owner, Jack Benanti, transferred a 1989 Ford Aerostar Van, VIN 1FMCA11U4KZC26389 (hereafter, "the Ford Mini-Van"), a vehicle with a five digit odometer, to Howard Barnett with a partially conforming (i.e. one with space to make federal odometer disclosures on the title) title (attached as Exhibit # 1 to the Complaint) and leaving the odometer disclosures on the title blank. The title was accompanied by a separate, non-secure odometer disclosure statement that the odometer then read 56,641 (no tenths) miles, but checking the box that the odometer reading reflects the amount of mileage in excess of its mechanical limits (attached as Exhibit # 2 to the Complaint); this statement was not complete as it was not dated and the transferor's address was not completed. The title was also accompanied by a non-secure power of attorney by Jack Benanti appointing Howard Barnett "to sign in the name, place and stead of the undersigned, any Certificate of Ownership issued by the Department of Motor Vehicles. . . ." (attached as Exhibit # 3 to the Complaint).

On February 1, 1997, Howard Barnett transferred the Ford Mini-Van to Malco Enterprises of Nevada, Inc. d/b/a Budget Car and Truck Sales ("Budget"), with the title (Exhibit # 1) and a separate, non-secure odometer disclosure statement that the odometer then read 56,641 (no tenths) miles, and also checking the box that the odometer reading reflects the amount of mileage in excess of its mechanical limits (attached as Exhibit # 4 to the Complaint), as well as a non-secure power of attorney by Howard Barnett appointing Budget "to sign in the name, place and stead of the undersigned, any Certificate of Ownership issued by the Department of Motor Vehicles. . . ." (attached as Exhibit # 5 to the Complaint). The transfer to Barnett does not appear on the title. This was unlawful under state law because Barnett, not being a dealer, should have been required to register the vehicle under NRS 482.205 and in order to register the vehicle had to present proof of ownership under NRS 482.215. This would and should have resulted in issuance of a Nevada certificate of title showing Barnett as owner and the odometer as "exceeds mechanical limits" on the title. NRS 482.245 and 49 C.F.R. § 580.5(a). This Nevada title would

have been a conforming title and Barnett would have been required by federal law to make odometer disclosure on the conforming title. Therefore, it was unlawful for Barnett to make odometer disclosure on a separate disclosure statement as he did on Exhibit # 4.

On or about February 10, 1997, Budget transferred the Ford Mini-Van to Davey Deals, a Las Vegas used car dealer, with the title (Exhibit # 1) that was incomplete in that the mileage disclosure was left blank, along with a separate, non-secure odometer disclosure statement that was also left blank (attached as Exhibit # 6 to the Complaint).

Unaware of the existence of these documents, on March 10, 1997, plaintiff signed a contract to purchase the Ford Mini-Van. In connection with the purchase, Davey Deals had plaintiff sign a non-secure power of attorney by Albert Parra appointing Davey Deals "to sign in the name, place and stead of the undersigned, any Certificate of Ownership issued by the Department of Motor Vehicles. . . ." (attached as Exhibit # 5). In connection with the purchase, plaintiff was given a separate, non-secure odometer disclosure statement signed by Davey Deals. That statement certified that the odometer reading was 56,648 miles, and that the odometer reading to the best of the seller's knowledge reflected the actual mileage of the vehicle. (Attached as Exhibit # 7 to the Complaint). Davey Deals did not check a box stating the odometer reading reflects the amount of mileage in excess of its mechanical limits.

All of the above-described paperwork and the title for the Ford Mini-Van were then submitted together to DMV, which approved all the paperwork and licensed the Ford Mini-Van in violation of 49 U.S.C. § 32705 (which violates NRS 484.60665). DMV issued a title stating the mileage of 56,648 was the actual mileage. Licensing the vehicle and issuing such a title in light of the inconsistent odometer disclosures set forth above violates 49 U.S.C. § 32701 *et seq.* and NRS 482.245 in the following particulars:

- a. When Benanti transferred to Barnett, the odometer disclosure on the front of the title was left BLANK and remained BLANK when submitted to DMV. For a conforming title, this would violate 49 U.S.C. § 32705 and 49 C.F.R. § 580.5. Since this was not a completely conforming title, this was not a violation of the law but was a red flag which ties in with other violations below.

b. At the same time, Benanti signed and provided to Barnett a separate odometer disclosure statement stating the mileage was 56,641 but also checking the box that the odometer exceeded the mechanical limits (the 5-digit odometer had rolled over). Thus, this separate odometer disclosure statement was inconsistent with the BLANK odometer disclosure on the front of the title. Also, this disclosure was not complete in violation of 49 U.S.C. § 32705(a)(3) since the date was not completed and the transferor's address was not completed.

c. Barnett, title in hand, sold to Budget, and signed a separate odometer disclosure statement stating that the mileage was 56,641 and also checking the box. (Exhibit # 4). The transfer to Barnett does not appear on the title. This was unlawful under state law because Barnett, not being a dealer, should have been required to register the vehicle under NRS 482.205 and in order to register the vehicle had to present proof of ownership under NRS 482.215. This would and should have resulted in issuance of a Nevada certificate of title showing Barnett as owner and the odometer as "exceeds mechanical limits" on the title. NRS 482.245 and 49 C.F.R. § 580.5(a). This Nevada title would have been a conforming title and Barnett would have been required by federal law to make odometer disclosure on the conforming title. Therefore, it was not lawful for Barnett to make odometer disclosure on a separate disclosure statement as he did on Exhibit # 4.

d. Budget transferred the Ford Mini-Van to Davey Deals, providing the title with BLANKS in the odometer disclosure in the reassignment section and providing BLANKS in the odometer disclosure of a separate odometer disclosure statement. This violated 49 U.S.C. §32705 and 49 C.F.R. § 580.5.

e. Davey Deals transferred the Ford Mini-Van to plaintiff, Albert Parra, certifying on the back of the title that the mileage of 56,641, and certifying on a separate odometer disclosure statement that the mileage of 56,648, on the odometer was correct and not checking the box that the odometer exceeded mechanical limits. DMV issued a title stating the mileage of 56,648 was the actual mileage. Licensing the vehicle and issuing such a title in light of the inconsistent odometer disclosures set forth above violates 49 U.S.C. § 32701 *et seq.* and NRS 482.245.

None of defendants' acts of which complaint are made are incidental, isolated, or accidental. Each of the acts of which complaint are made are done intentionally and routinely as part of defendants' policy, practice and procedure. DMV's own Registration and Title Guide contains Form RD-136, which expressly allows the holder to sign the certificate of ownership, and it is

not printed by means of a secure printing process as required by 49 U.S.C. § 32705(b)(2)(A)(ii) and it does not contain the five items of information required by 49 U.S.C. § 580.13(b).

2. Martin Cordova

As concerns plaintiff, Martin Cordova, on July 16, 1998, Mr. Cordova signed a contract to purchase a 1991 Ford F-150 pickup truck, VIN 1FTDF15NXMPA33434 (the "first pickup") from KOI of Las Vegas, Inc. d/b/a/ The Used Car Factory (hereafter, "UCF"). On or about September 10, 1998, UCF agreed to accept return of the first pickup and provide plaintiff another pickup. On or about September 10, 1998, UCF provided plaintiff another 1991 Ford F-150 pickup truck, VIN 1FTDF15NXMLA66019 (the "second pickup").

UCF prepared a Dealer's Report of Sale ("DRS") as to both vehicles as required by Nevada law, NRS 482.424. As to the first pickup, the DRS is #467989 dated July 16, 1998 (attached as Exhibit # 9 to the Complaint). As to the second pickup, the DRS is #467819 dated September 14, 1998 (attached as Exhibit # 10 to the Complaint).

As to both vehicles, a search of DMV's records revealed no Dealer's Report of Sale (DRS) to plaintiff on file with DMV concerning the vehicles. However, when a vehicle is sold, NRS 482.424 requires that a DRS, together with the properly endorsed certificate of title or certificate of ownership previously issued for the vehicle, be submitted to DMV within 30 days (unless DMV grants an extension upon request). Failure to do so is a gross misdemeanor. NRS 482.436. This was **either not done** or if it was done DMV has no record of the transfer. Neither scenario is lawful.

Used car dealers are required to keep the yellow copy of the DRS and maintain it for three years from the date of sale. The books and records of the dealer are required to be open for inspection and copying by DMV during usual business hours. NRS 482.3263. If UCF failed to submit the original DRSs together with the certificates of title to DMV, then UCF violated NRS 482.424 and NRS 482.436 and UCF has not to plaintiff's knowledge been disciplined or sanctioned despite DMV being advised of the situation.

On the other hand, if UCF did submit the original DRSs together with the certificates of title to DMV, but DMV has not maintained a record of the transfers, then DMV has violated NRS 239.080 and 49 C.F.R. § 580.13(f) regarding retention of records. The certificates of title to both vehicles do not show the transfers to plaintiff. (Title to first pickup attached as Exhibit # 11 and title to second pickup attached as Exhibit # 12 to the Complaint).³ Neither UCF nor plaintiff ever signed the certificate of title to either vehicle transferring either vehicle to plaintiff.

Also, if UCF did submit the original DRSs together with the certificates of title to DMV, then DMV overlooked violations of NRS 482.400(1), which provides that upon transfer of the title to, or the interest of an owner in, a vehicle issued a certificate of ownership (title), the transferor(s) and the transferee(s) shall write their signatures with pen and ink upon the certificate of ownership issued for the vehicle, together with the residence address of the transferee, in the appropriate spaces provided upon the reverse side of the certificate.

Finally, if UCF did submit the original DRSs together with the certificates of title to DMV, then DMV violated NRS 484.60665, 49 U.S.C. § 32705, and 49 C.F.R. § 580.5, which

³ Consistent with DMV's routine and unlawful policy and practice, the title to the first Cordova pickup (Exhibit # 11 to the Complaint), a conforming title, shows DMV processed documents for a conforming title where the transferor's and transferee's (James Ruddell and James Chavis) signature on the title appears by a power of attorney (attached as Exhibit # 13 to the Complaint), which power of attorney is non-secure, does not require the signatures of both transferor and transferee, and does not contain the information required by federal law, 49 C.F.R. § 580.13.

Also consistent with DMV's routine policy and practice, DMV accepted a non-secure federal odometer disclosure statement from UCF to James Chavis (Attached as Exhibit # 15 to the Complaint) with a conforming title. This separate non-secure odometer disclosure statement (Appendix C to federal regulation Part 580) is intended for use with an old non-conforming title. While voluntarily making this second set of disclosures is not unlawful, DMV should inform dealers this is not necessary for conforming titles. Such would hopefully drive home the point that the whole purpose of the federal law is that standard procedure is that when federal odometer disclosures are required, the transferor's disclosures must be made on the title, but if the title is not present then they must be made on a secure power of attorney. Dealers should be told this separate non-secure odometer disclosure statement is unnecessary with conforming titles.

provides that in connection with the transfer of ownership of a motor vehicle, each transferor shall disclose the mileage to the transferee in writing on the title. If the transferor's title is physically held by a lien holder (making it impractical to disclose the mileage on the title), then 49 C.F.R. § 580.13 allows the transferor to give a power of attorney to his transferee for the purpose of mileage disclosure, but the power of attorney must contain all the information set forth 49 C.F.R. § 580.13, must be signed by the transferor and the transferee, and be on a *secure* power of attorney. *See*: Appendix E to Part 580, Power of Attorney Disclosure Form; 49 U.S.C. § 32705(b)(2)(A)(ii); 49 C.F.R. § 580.13. DMV provides dealers with and allows dealers to use DMV Form RD-136 (Exhibit # 8), a non-secure power of attorney for this purpose in violation of federal law. UCF never provided the federal mileage disclosures for either vehicle to plaintiff on the title or on a secure power of attorney.

There can be no dispute as to the facts and the law. Plaintiffs have established a probability of success on the merits.

B. Irreparable Harm.

In cases where an injunction is sought against continued violations of statutory law, the applicant may not even be required to prove irreparable harm. *See e.g. Nevada Real Estate Commission v. Ressel*, 72 Nev. 79, 294 P.2d 1115 (1956) (proof of irreparable damage not required to grant an injunction against real estate brokers' continued violation of the provisions of the Nevada Real Estate Brokers act). *See also: Clark County v. State, Equal Rights Com'n*, 107 Nev. 489, 813 P.2d 1006 (1991) (State of Nevada, Equal Rights Commission was enjoined from issuing subpoenas during the investigative stage of its cases in violation of statutory law; no discussion of irreparable harm); *Clark County Social Service Dept. v. Newkirk*, 106 Nev. 177, 789 P.2d 227 (1990) (where statute required that counties must provide relief to poor, without regard to whether they were employable, County social service department was properly enjoined from following its regulation providing that single employable individuals could not be provided welfare benefits. There was no discussion of "irreparable harm," the Court

simply saying: "As long as the state requires the counties to give relief to poor people, the county must do so. Newkirk is a poor person; therefore, Clark County must provide care and support and relief. It is as simple as that." *Id.*, 789 P.2d at 228).

If proof of irreparable harm is required, then what happened to the individual named plaintiffs shows the potential for harm to every class member. As a result of defendants' violations of the law, the Parras were harmed. They thought they were buying a low mileage Mini-Van and paid a purchase price commensurate with that understanding. In truth, they received a Mini-Van which certainly had more than 100,000 miles on it and probably had 156,648 miles or more on it. Defendants, not plaintiffs, were privy to this information upon issuance of title but failed to follow the requirements of state and federal law. The law required DMV to issue a title "exceeds mechanical limits" next to "odometer" on the front of the title, but DMV instead issued a title with "56,648 actual" next to "odometer." Defendants continue to so violate the laws with respect to every used car in the State of Nevada every day. Although the Parras were fortunate enough to discover the harm and sue the responsible dealers, the Court can well imagine how such frauds go undetected and thereby cause harm which is irreparable because when not discovered or when not discovered within the applicable period of limitations, the harm cannot be compensated. Moreover, a claim under the Federal Odometer Act requires proof of intent to defraud. 49 U.S.C. § 32710. In those few cases when consumers do discover odometer fraud and are able to sue the offending dealer, car dealer personnel defend themselves by pointing out the fact DMV not only condones but approves their actions and even provides the forms to do so! This frustrates consumers' efforts to seek just compensation and remedy the harm.

As a result of defendants' actions, plaintiff, Cordova was harmed. Mr. Cordova never got title to either pickup and never received federal disclosures on the title or other secure document. While Mr. Cordova is a plaintiff in a pending lawsuit against UCF, there is no assurance he will receive adequate compensation and if defendants are not enjoined, Mr.

Cordova could become an unwitting victim on another occasion.

Plaintiffs and all class members are residents of Nevada and intend to purchase used motor vehicles in this state. Plaintiffs and all class members have been and will continue to be harmed by defendants' failure and refusal to obey the law with respect to registration of used motor vehicles.

The Federal Odometer Act chose state DMVs as gatekeepers by providing that vehicles could not be licensed unless all the requirements of the law were met; DMV is the sole entity charged with that responsibility. Members of the plaintiff class do not know they are entitled by law to federal disclosures on the title or on a secure document, and DMV is licensing vehicles in violation of those requirements of the law. DMV even exacerbates the situation by providing dealers with an unlawful, non-secure power of attorney form (DMV Form RD-136, Exhibit # 8) which allows dealers to sign certificates of ownership for the buyers without making federal odometer disclosures to buyers on secure documents in violation of federal law, which facts are unknown to the plaintiff class but known to defendants. These violations occur on a daily basis without the knowledge of members of the plaintiff class, causing irreparable damage to members of the plaintiff class as it most often goes undiscovered.

Further, as a result of defendants' violations of the law, all members of the plaintiff class are potentially harmed in other ways. Defendants' violations coincidentally enable Nevada dealers to "yo-yo" vehicles, i.e. keep vehicles on a string. When DMV fails to require dealers to timely submit the DRS, and when DMV provides a form for dealers to unlawfully sign a conforming title for buyers, a dealer can make a transaction disappear; a dealer does not have to sign over its interest in a vehicle until a later time. This means a dealer can yo-yo (repossess) a "sold" vehicle back to its lot while taking the position that it can pocket a consumer's down payment and/or sell the consumer's trade in vehicle and keep the money for its trouble. The dealer can accomplish this because it has never signed the title or sent the DRS and the title to DMV within 30 days. UCF has done this to other consumers who complained to DMV (e.g.

George Karathanasis; Tina Rodriguez; Gene Kuberth).⁴ If the requirements of state and federal law were followed as requested herein, dealers could not so easily accomplish such unlawful, “yo-yo” sales. Thus, if DMV title processing would do its job on the front end, then fewer consumers would become the victims of unlawful practices and DMV Enforcement would have fewer complaints on the back end.

C. The Public Interest.

As noted, defendants' continued violations of the law threaten irreparable harm to the public. The law places upon defendants the responsibility of watchdog to see that vehicles are not licensed unless the requirements of The Federal Odometer Act are followed. If defendants are not doing their job, no one else will. The public certainly does not know the intricacies of these laws which are designed to protect them. DMV does know yet it continues to license vehicles in violation of the requirements of the law every day. DMV even exacerbates the situation by providing dealers with an unlawful, non-secure power of attorney form (DMV Form RD-136, Exhibit # 8) which allows dealers to sign certificates of ownership for the buyers without making federal odometer disclosures to buyers on secure documents in violation of federal law, which facts are unknown to the public but known to defendants.

The public is vitally interested in seeing that vehicles are not licensed in Nevada unless the requirements of the law are met. Congress has found that the mileage on a vehicle affects the condition and value of the vehicle. 49 U.S.C. § 32701. Inaccurate disclosure of the mileage enables fraud to the detriment of all consumers of motor vehicles in the State of Nevada.

CONCLUSION

Plaintiffs' application for a preliminary injunction must be granted.

⁴ DMV Bureau of Enforcement log sheets for these individuals are attached.

DATED this _____ day of February, 2000.

**CLARK COUNTY LEGAL SERVICES
PROGRAM, INC.**

By: _____

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