

Final
1/7/26

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

MICHAEL JONATHAN
SCHNACKENBERG,

Plaintiff,

v.

CHARLES GABUS MOTORS, INC. d/b/a
TOYOTA OF DES MOINES,

Defendant.

Case No. LACL159200

JURY INSTRUCTIONS

Judge Jeanie K. Vaudt

STATEMENT OF THE CASE

Members of the Jury: This case arises from a dispute over the sale of a 2023 Toyota BZ4X electric vehicle by Defendant to Plaintiff. Plaintiff alleges that Defendant's employee Eric Hippen made misrepresentations as to what level of charger was needed to charge the vehicle overnight and the range and capabilities different types of vehicle chargers to deceive Plaintiff to purchase an electric vehicle. The claim set forth by Plaintiff alleges consumer fraud by Defendant under Iowa Code chapter 714H. Defendant denies the claim.

Do not consider this summary as proof of any claim. Decide the facts from the evidence presented and apply the law which I now give you.

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INSTRUCTION NO. 1

My duty is to tell you what the law is. Your duty is to accept and apply this law and to decide all fact questions.

You must consider all of the Instructions together because no one Instruction includes all of the applicable law. The order in which I give these Instructions is not important.

Nothing I have said or done during this trial was intended to give any opinion as to the facts, proof, or what your Verdict should be.

As you consider the evidence, do not be influenced by any personal likes or dislikes, sympathy, bias, prejudices or emotions. It is common to have hidden or implicit thoughts that help us form our opinions. You are making very important decisions in this case. You must evaluate the evidence carefully and avoid decisions based on generalizations, gut feelings, prejudices, fears, sympathies, stereotypes, or inward or outward biases. The law demands that you return a just Verdict, based solely on the evidence, your reason and common sense, and these Instructions. As jurors, your sole duty is to find the truth and do justice.

INSTRUCTION NO. 2

Plaintiff is required to prove his claim of consumer fraud under Iowa Code chapter 714H by a preponderance of the evidence. Preponderance of the evidence is evidence that is more convincing than opposing evidence. Preponderance of the evidence does not depend on the number of witnesses testifying on one side or the other.

INSTRUCTION NO. 3

You shall base your Verdict only upon the evidence and these Instructions.

Evidence is:

1. Testimony in person or by deposition.
2. Exhibits received by the court.
3. Stipulations, which are agreements between the parties as to a fact.
4. Any other matter admitted into evidence.

Evidence may be direct or circumstantial. The weight to be given any evidence is for you to decide.

Sometimes during a trial, references are made to pre-trial statements and reports, witnesses' depositions, or other miscellaneous items. Only those things formally offered and received by the court are available to you during your deliberations. Documents or items read from or referred to which were not offered and received into evidence, are not available to you. Transcripts of testimony presented in person or by deposition are not available to you.

The following are not evidence:

1. Statements, arguments, questions and comments by the lawyers.
2. Objections and rulings on objections.
3. Any testimony that I told you to disregard.
4. Anything you saw or heard about this case outside this courtroom.

INSTRUCTION NO. 4

Decide the facts from the evidence. Consider the evidence using your observations, reasoning, common sense, and experience. It is your duty to determine the credibility of witnesses, to resolve any conflicts in the evidence, and to draw reasonable inferences from the evidence. In determining the facts, you may have to decide what testimony you believe. You may believe all, part, or none of any witness's testimony.

There are many factors that you may consider in deciding what testimony to believe, for example:

1. Whether the testimony is reasonable and consistent with other evidence you believe;
2. Whether a witness has made inconsistent statements;
3. The witness' appearance, conduct, age, intelligence, memory and knowledge of the facts; and
4. The witness' interest in the trial, their motive, candor, bias and prejudice.

Try to reconcile any conflicts in the evidence; but if you cannot, accept any evidence you find believable and give it the weight you believe it deserves.

INSTRUCTION NO. 5

Certain testimony has been read into evidence from a deposition. A deposition is testimony taken under oath before the trial and preserved in writing. Consider that testimony as if it had been given in court.

INSTRUCTION NO. 6

You have heard evidence claiming that a witness made statements before this trial while under oath and while not under oath. If you find such statements were made, you may regard the statements as evidence in this case the same as if the witness had made them under during the trial.

If you find such statements were made and were inconsistent with the witness's testimony during the trial, you may use also the statements as a basis for disregarding all or any part of the witness's testimony during the trial, but you are not required to do so. You should not disregard the witness's testimony during the trial if other credible evidence supports it or if you believe it for any other purpose.

INSTRUCTION NO. 7

You have heard evidence claiming Plaintiff made statements before this trial while under oath and while not under oath. If you find such statements were made, you may regard the statements as evidence in this case the same as if Plaintiff had made them under oath during the trial.

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If you find such ~~of~~ statements were made and were inconsistent with Plaintiff's testimony during the trial, you may also use the statements as a basis for disregarding all or any part of Plaintiff's testimony during the trial, but you are not required to do so. You should not disregard Plaintiff's testimony during the trial if other credible evidence supports it or if you believe it for any other purpose.

INSTRUCTION NO. 8

The fact that Defendant is a corporation should not affect your decision. All persons are equal before the law, and corporations, whether large or small, are entitled to the same fair and conscientious consideration by you as any other person.

INSTRUCTION NO. 9

To prove his claim for violation of the consumer fraud statute, Plaintiff must prove all of the following propositions:

1. Plaintiff is a consumer.
2. Plaintiff and Defendant entered into an agreement for Plaintiff to purchase an electric vehicle from Defendant.
3. The negotiation process between Plaintiff and Defendant leading up to the agreement included at least one of the following:
 - a. An unfair practice;
 - b. Deception;
 - c. Fraud;
 - d. False pretense;
 - e. False promise; or
 - f. The misrepresentation, concealment, suppression or omission of a material fact.
4. The unfair practice, deception, fraud, false pretense, false promise, or misrepresentation, concealment, suppression or omission related to a material fact.
5. Defendant intended that Plaintiff rely upon the unfair practice, deception, fraud, false pretense, ^{False promise as 1/1/26} misrepresentation, concealment, suppression or omission.
6. Plaintiff suffered an ascertainable loss of money or property as the result of a prohibited practice or act.
7. The claimed fraudulent practice caused actual damages.

If Plaintiff has failed to prove any one of these propositions, Plaintiff is not entitled to damages. If Plaintiff has proved all of these propositions, you shall then consider the defense of bona fide error as explained in Instruction No. 11.

INSTRUCTION NO. 10

“Unfair practice” means an act or practice which causes substantial, unavoidable injury to a consumer that is not outweighed by any consumer or competitive benefits which the practice produces.

INSTRUCTION NO. 11

Defendant claims any violation of the consumer fraud statute asserted by Plaintiff was not intentional and resulted from a bona fide error. Defendant is not liable if Defendant shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error.

If Defendant has proved that any violation of the consumer fraud statute asserted by Plaintiff was not intentional and resulted from a bona fide error, then there shall be no recovery for Plaintiff on the consumer fraud claim.

INSTRUCTION NO. 12

Defendant claims Plaintiff was at fault for failing to mitigate his alleged damages.

Plaintiff has a duty to exercise ordinary care to reduce, minimize or limit his alleged damages. However, Plaintiff has no duty to do something that is unreasonable under the circumstances.

To prove Defendant's claim of failure to mitigate, Defendant must prove all of the following:

1. There was something Plaintiff could do to mitigate his alleged damages.
2. Requiring Plaintiff to do so was reasonable under the circumstances.
3. Plaintiff acted unreasonably in failing to undertake the mitigating activity.
4. Plaintiff's failure to undertake the mitigating activity caused an identifiable portion of his alleged damages.

If Defendant has proved all of these propositions, then you shall reduce any recovery for consumer fraud in favor of Plaintiff by an amount you determine due to Plaintiff's failure to mitigate damages.

If Defendant has failed to prove all of these propositions, do not reduce any damages award you assigned to Plaintiff on his consumer fraud claim.

INSTRUCTION NO. 13

The conduct of a party is a cause of damage when the damage would not have happened except for the conduct. Plaintiff must show that but for Defendant's conduct, the harm would not have occurred.

INSTRUCTION NO. 14

“Actual damages” means all compensatory damages proximately caused by the prohibited practice or act that are reasonably ascertainable in amount. Actual damages do not include damages for bodily injury, pain and suffering, mental distress, or loss of consortium, loss of life, or loss of enjoyment of life.

You are further instructed that damages, to be recoverable, must be direct and certain. Speculative, remote, imaginary, contingent, or uncertain damages may not be awarded.

INSTRUCTION NO. 15

In arriving at an item of damage, you cannot arrive at a figure by taking down the estimate of each juror as to an item of damage and agreeing in advance that the average of those estimates shall be your item of damage.

INSTRUCTION NO. 16

Statutory damages may be awarded if Plaintiff has proven by a preponderance of clear, convincing and satisfactory evidence that Defendant's conduct constituted a willful and wanton disregard for the rights or safety of another and caused actual damage to Plaintiff.

Statutory damages cannot exceed three times the amount of actual damages.

INSTRUCTION NO. 17

Conduct is willful and wanton when a person intentionally does or performs an act of an unreasonable character in disregard of a known or obvious risk that is so great as to make it highly probable that harm will follow.

INSTRUCTION NO. 18

Evidence is clear, convincing and satisfactory if there is no serious or substantial uncertainty about the conclusion to be drawn from it.

INSTRUCTION NO. 19

You may not communicate about this case outside of the deliberation room before reaching your Verdict. This includes but is not limited to cell phones, and electronic media such as text messages, Facebook, LinkedIn, YouTube, Twitter, email, etc.

Do not do any research or make any investigation about this case on your own. Do not visit or view any place discussed in this case, and do not use Internet maps, Google Earth, Artificial Intelligence or any other program or device to search for or to view any place discussed in the testimony. Also, do not research any information about this case, the law, or the people involved, including the parties, the witnesses, the lawyers, or the court. This includes using the Internet and Artificial Intelligence to research events or people referenced in the trial.

This case was tried on evidence presented in the courtroom. If you conduct independent research, you will be relying on matters not presented in court. The parties have a right to have this case decided on the evidence they know about and that has been introduced here in court. If you do some research or investigation or experiment that we do not know about, then your Verdict may be influenced by inaccurate, incomplete or misleading information that was not tested by the trial process, including the oath to tell the truth and by cross-examination. All of the parties are entitled to a fair trial, rendered by an impartial jury, and you must conduct yourself so as to maintain the integrity of the trial process. If you decide a case based on information not presented in court, you will have denied the parties a fair trial in accordance with the rules of this state and you will have done an injustice. It is very important that you abide by these rules.

Failure to follow these Instructions may result in the case having to be retried and could result in you being held in contempt and punished.

It is important that you give deliberations your full and undivided attention.

INSTRUCTION NO. 20

During the trial, you have been allowed to take notes. You may take these with you to the jury room to use in your deliberations. Remember, these are notes and not evidence. Generally, they reflect the recollection or impressions of the evidence as viewed by the person taking them, and may be inaccurate or incomplete.

Upon reaching a Verdict, leave the notes in the jury room and they will be destroyed.

INSTRUCTION NO. 21

Upon retiring to the deliberation room you shall select a foreperson. It will be his or her duty to see that discussion is carried on in an orderly fashion, that the issues are fully and freely discussed, and that each juror is given an opportunity to express his or her views.

Your attitude at the beginning of your deliberations is important. It is not a good idea for you to take a position before thoroughly discussing the case with the other jurors. If you do this, individual pride may become involved and you may later hesitate to change an announced position even if shown it may be incorrect. Remember you are not partisans or advocates, but are judges – judges of the facts. Your sole interest is to find the truth and do justice.

INSTRUCTION NO. 22

Occasionally, jurors want to ask questions after they begin deliberating. If that should occur, please consider the following:

1. Words not defined in these Instructions should be given their ordinary meanings.
2. There will be no additional evidence and no additional Instructions on the law. These Instructions contain all the law you need to decide the case.
3. If you wish to ask me a question during deliberations, your foreperson must reduce the question to writing and give it to the court attendants who will deliver it to me. I must then contact the lawyers and conduct a hearing with them, but not in your presence. After that, I will send you a written answer consistent with subparagraphs (1) and (2).

If, after considering these matters, you still wish to ask me a question, follow the procedure outlined here. Then save your written question and the written answer I send you and return them with your Verdict Form when you have completed your deliberations and returned a Verdict.

The court attendants who have been working with me on this case are in the same position I am. The court attendants have taken an oath not to communicate with you except to ask you if you have agreed upon a Verdict. Please do not put the court attendants on the spot by asking them any questions. You should direct any questions to the court and not to the court attendants.

INSTRUCTION NO. 23

I am giving you one Verdict Form with fourteen questions. During the first six hours of deliberations, excluding meals and recesses outside your jury room, your decision must be unanimous. If you all agree, the Verdict Form must be signed by your foreperson.

After deliberating for six hours, excluding meals or recesses outside your jury room, a Verdict can be returned if seven of you agree upon the answers to these questions. In that case, the Verdict Form must be signed by all seven jurors who agree.

When you have agreed upon the Verdict and appropriately signed the Verdict Form, please inform the court attendants.

1/7/24 3:05 p.m.

Jessie K. Vauat, Judge
5th Judicial District of Iowa