

3. The sum of £250.00 was paid as a deposit by the buyer to the seller by credit card during a telephone call to the seller's premises, on the 20th August, and the balance of £10,865.00 was paid at the defendant's premises on the 23rd August, when the claimant collected the vehicle.
4. The contract was at all material times subject to an implied condition that the goods would be of satisfactory quality, pursuant to S14 (2) of the Sale of Goods Act (1979).
5. Further, the claimant sought, and received from the defendant, assurances that the vehicle was free of material defects. Mr M. H. O. (date of birth 25 February 1974), director of the defendant company, assured the claimant and his wife that there was "nothing wrong with the vehicle". He also stated that they had obtained an MOT test pass certificate for the vehicle, and that "there were no advisories".
6. Prior to agreeing to the purchase, the claimant and his wife took the vehicle for a test drive and the vehicle appeared satisfactory. The only comment raised by the claimant to the defendant related to rust on the chassis, which in the event the claimant agreed to overlook.
7. Specifically, when the claimant took the vehicle for a test drive, no warning lights were illuminated on the dash board. The claimant agreed the purchase, the purchase price was paid, and Mr M. H. O. then handed the vehicle manual to the claimant in the defendant's office. It later transpired that the manual contained the MOT certificate which the claimant had not had an opportunity to examine before purchase.

8. After approximately 45 minutes driving (or in any event when the claimant reached the vicinity of Cardiff) the ABS warning light illuminated. The claimant also noted that the four wheel drive facility appeared to be inoperative.
9. The claimant left the motorway, parked and telephoned the defendant and spoke to Mr ㄹㄱㄴ ㄷㄹ. The claimant reported the illuminated ABS warning light and the inoperable four wheel drive, and asked Mr ㄹㄱㄴ ㄷㄹ whether he knew anything about these issues prior to the sale. Mr ㄹㄱㄴ ㄷㄹ refused to comment on the issue of the ABS light, despite repeated questioning, and in relation to the four wheel drive, he said only *“you can’t change from two wheel drive to four wheel drive while you’re moving; you have to pull over”* (paraphrase). The claimant knew that this was not the case as he is the owner of a similar four wheel drive vehicle. Having discussed the matter with his wife, the claimant rang and again spoke to Mr ㄹㄱㄴ ㄷㄹ to ask if the vehicle was safe to drive. Mr ㄹㄱㄴ ㄷㄹ refused to respond to this and kept repeating that *“you should have stopped to change from two to four wheel drive”* (paraphrase).
10. On returning home, the claimant reviewed the manual which clearly states that the vehicle can be switched from two to four wheel drive whilst moving at speeds of up to 60mph. The claimant telephoned the defendant again, and again spoke to Mr ㄹㄱㄴ ㄷㄹ. When the claimant explained this to Mr ㄹㄱㄴ ㄷㄹ, he stated *“oh, I didn’t know that”*. The claimant once again asked the defendant if he knew about the ABS problem before the sale, and Mr ㄹㄱㄴ ㄷㄹ refused to comment.
11. Appended to these proceedings is a copy of the MOT certificate which the claimant found in the centre of the manual on returning home, together with a copy of a refusal

prior to the purchase. Despite this, the defendant failed to bring this to the attention of the claimant prior to purchase.

17. The material defect was not the sort of matter which a reasonable examination would have revealed.
18. Further, it transpired on returning home that the vehicle was emitting large quantities of black smoke from the exhaust. This also was not something that could have been ascertained prior to the sale following reasonable examination, as both the claimant and his wife were in the car for the test drive.
19. The defendant and/or their servants or agents were at all material times in breach of contract, statutory and common law duties.
20. The claimant claims damages accordingly.

PARTICULARS OF BREACH OF STATUTORY DUTY

The defendant and/or their servants or agents were negligent and/or in breach of their contractual and statutory duties in that they:

- 20.1. Failed to ensure that the goods were of satisfactory quality (S14(2) Sale of Goods Act (1979);
- 20.2. Failed to ensure that the goods were fit for the purpose for which they were intended (S14(2b)a) Sale of Goods Act (1979);
- 20.3. Failed to ensure that the goods were free of defects (S14(2b)c) Sale of Goods Act (1979);
- 20.4. Failed to ensure that the goods were safe, given that in the state in which the vehicle was driven home, after the ABS light had illuminated, the vehicle would have been an MOT failure (S14(2b)d) Sale of Goods Act (1979);

PARTICULARS OF NEGLIGENCE

- 20.5. Failed to bring to the claimant's attention the fact that the vehicle had a fault with the ABS system;
- 20.6. Failed to bring to the claimant's attention the fact that the vehicle had a fault with the four wheel drive system;
- 20.7. Failed to bring to the claimant's attention the fact that the vehicle was discharging thick black smoke from the exhaust;
- 20.8. Failed to remedy any or all of the issues detailed above;
- 20.9. Failed to warn the Claimant of the said defects.

PARTICULARS OF BREACH OF CONTRACT

Further, Mr ㄹㄱㄴ ㄷㄹ informed the claimant that "there was nothing wrong with the vehicle" and that "there are no advisories", meaning MOT advisory notes. The claimant relied upon these express warranties in their decision to purchase the vehicle. Had Mr ㄹㄱㄴ ㄷㄹ informed the claimant about the above faults, they would not have purchased the vehicle, or alternatively would only have done so had reasonable deductions been agreed from the price to repair the vehicle.

21. By reason of the above the Claimant has suffered loss and damage.

PARTICULARS OF LOSS AND DAMAGE

Remedial work -Repairer

Diagnosis of the ABS and 4WD defects and replacement of the off side wheel speed sensor;

Full service to resolve the smoke emission issue, and, in light of the other undisclosed problems, to check the vehicle for other problems; £922.88

Travel

Travel to repairer – (8m round trip x 2) x .45p/m £7.20

Travel to initial garage – (22m round trip x 1) x .45p/m £9.90

Telephone calls

To M&M – 3 (2.45, 1.25, 2.02 minutes)

To initial garage – 1 (2.11 minutes)

To repairer – 6 (5.36, 1.31, 2.06, 3.51 minutes... say) £25.00

TOTAL £964.98

Further, the Claimant claims interest pursuant to s69 of the County Courts Act (1984).

AND the Claimant claims:

- 1) Damages totalling £964.98
- 2) Interest to date of £7.61
- 3) Interest accruing per day of £0.21 until judgement or earlier order.

STATEMENT OF TRUTH

I believe the facts stated in these Particulars of Claim are true.

Signed

Dated – 29th September 2014

Claimant

Ref:- DVT/misc