



State of New Hampshire

DEPARTMENT OF SAFETY
DIVISION OF MOTOR VEHICLES
STEPHEN E. MERRILL BUILDING
23 HAZEN DRIVE, CONCORD, NH 03305



Robert L. Quinn
Commissioner of Safety

John Marasco
Director of Motor Vehicles

NEW MOTOR VEHICLE ARBITRATION
(603) 227-4385 TDD Access: Relay NH 1-800-735-2964

DECISION AND ORDER

Petition in the Matter of:

Craig & Rachael Burrell v FCA US LLC

HEARING #: 2023-00014

HEARING DATE: SEPTEMBER 12, 2023

CONSUMER: Craig & Rachael Burrell

REPRESENTED BY: Pro se

MANUFACTURER: FCA US LLC (Stellantis)

REPRESENTED BY: ROSEWALDORF PLLC

BOARD MEMBERS: George Dykstra, Nancy O'Brien and Joel Ginsburg

OPENING PROCEDURE:

- Persons testifying Craig & Rachael Burrell, Consumer and Alexandra Newcomb, representing the Manufacturer along with the Service Manager of Bob Mariano's, Scott Hayes, were sworn in by the Chair.
- There was a quorum of the board present for the hearing.
- The hearing was being audio-recorded and the procedure for requesting a copy explained.
- The Scope of Hearing and published authority within the Notice of Hearing issued to Consumer and Manufacturer.
- The Board Agenda Posting to the public.
- The exhibits submitted by the Consumer and Manufacturer were received in a timely manner by the Board.
- The exhibits listed (*Infra*);

EXHIBITS:

Consumer

Exhibit A- Consumer's Demand for Arbitration dated June 26, 2023 (60 pages);

Exhibit B- Final repair opportunity form dated July 24, 2023, performed.

Manufacturer

Exhibit 1- Manufacturer's response to Demand for Arbitration and response and acknowledgement receipt of the Consumer's Demand for Arbitration on July 10, 2023 (30 pages);

HISTORY:

The New Motor Vehicle Arbitration Board ("Board") received a petition for a hearing from Craig and Rachael Burrell hereafter ("Consumer"), requesting a hearing before the New Motor Vehicle Arbitration Board ("Board" or "NMVAB"). A notification was sent to the Consumer and to the Manufacturer providing the forms and communication(s) necessary pursuant to RSA 357-D:4.1 and procedures within Arb.203 (*et seq.*) to exchange with each other. The documentation submitted by the Consumer and the Manufacturer has been submitted as part of the record and has been reviewed separately by each Board Member prior to the hearing and during the hearing.

OPENING REMARKS

Everyone present was informed of the following:

- The Notice of Hearing explaining that this adjudicatory quasi-judicial public hearing which is conducted in accordance with RSA 357-D and Administrative Rules, Arb.100 through 200;
- The Notice and Conduct of Hearings including, but not limited to, the petition and all supporting documents shall be available for review, Arb.204.02.
- That the hearing is being electronically recorded along with the procedure to receive a copy, which shall remain available for sixty days from the date of final decision, Arb.204.06;
- The opportunity for each participant to present testimony at the hearing, explaining that persons shall give an oath or affirmation and state their name and address for the record, Arb.204.01;

- An introduction of the Board members present, Arb.204.01, (d)(3);
- The appeal procedure was explained, regarding the timeframe of thirty days, referencing RSA 541:3 and RSA 541:4.

OFFICIAL NOTICE:

- There is a quorum of the board present for the hearing. Arb.204.08;
- The hearing is being audio-recorded and the procedure for requesting a copy was explained. Arb.204.06;
- The Scope of Hearing and published authority within the Notice of Hearing issued to Petitioner and Manufacturer; Arb.201.01(a)(1)(2);
- The Board Agenda posting to the public and to the Consumer and Manufacturer providing the time, date, and location of the public hearing scheduled on September 12, 2023, at 9:00 AM; Arb.203.05;
- The exhibit(s) to the Manufacturer submitted by the Consumer were on the form CPMVA-2. The Manufacturer's reply on form CPMVA-1 sent to the Consumer and the Board, was timely received by the New Motor Vehicle Arbitration Board. Arb.203.01.

HEARING:

The Petition submitted by Craig and Rachael Burrell(hereafter Consumer) on form CPMVA-2 Demand for Arbitration was read into the record by the Chair. The Consumer asserts that the defect substantially impairs the vehicle's use, market value and safety and demands a refund. The vehicle has issues with Uconnect box requires service contact authorized dealer, trailer connection issue please check trailer connection error. The vehicle has been in the shop for the same repair a minimum of (3) three times. The first repair was diagnosed on pre-inspection of purchase at 40 miles, part was back ordered until January 2022 and repair was done January 11, 2022. The vehicle has had computer issues since new. Engine replacement will impact resale value. The vehicle could be a danger while pulling a trailer if/when system malfunctions. The vehicle has burdened us substantially with use, lost work time for pick up or drop off, with no loaner.

The Manufacturer's response on form CPMVA-1 was read into the record by the Chair. The Manufacturer asserts #06 The Consumer is or should be, satisfied with the final repair attempt #7 The manufacturer has not had a reasonable number of attempts to repair the vehicle during the express warranty period a- Not subject to at least three repair attempts for the same

defect. No concern covered under warranty which substantially impairs use, value or safety has been subject to repair three (3) or more times. #09 The alleged defect(s) or condition(s) does not substantially impair the vehicle's use, market value or safety. #10 The consumer refuses to make the vehicle available for a final repair #12 FAC US LLC reserves the right to supplement this response. The \$500.00 rebate should be deducted from any award in favor of the consumer.

The Consumer was informed that the Board has copies of all the documentation submitted by the Consumer and the Manufacturer, having been sent to each board member. The Board will also inspect and, as applicable, test drive the vehicle. Official Notice was taken that the documents submitted have been received by the Board.

SYNOPSIS OF TESTIMONY:

Consumer:

The Consumer was provided review of the Manufacturer's position with the Chair noting the specified listing as submitted by the Manufacturer as marked on the form CPMVA-1. Craig and Rachael testified in response to questions of the Chair that the manufacturer did not provide them with the documentation from Bonneville, but they are not at a disadvantage and will go forward with the hearing. The vehicle is present at the hearing site; payments are current; the vehicle is currently insured; and the vehicle has been driven approximately 30,000 miles and some change and has no body damage.

The Consumer received the Manufacturer's form CPMVA-1 and did have their vehicle available for a final repair attempt by the Manufacturer on August 2, 2023. Craig pulls his own utility trailer and has a few different friends trailers also, his trailer goes about 5 miles, and the trailer connection warning comes up. The same thing had happened with each one. The vehicle has been in the shop 10 different times for the Uconnect issue, and after almost all the components being replaced, they still have the issue. The auto stop start doesn't work properly, Rachael stated it happened to her that morning. The Consumer testified that regarding the final repair, the vehicle was still not fixed as, the manufacturer cannot duplicate the issue as they don't have a trailer to pull. When in reverse a few different times the vehicle will slam on the brakes as though there is an obstruction in the way. That is a safety concern for them, although extremely intermittent.

Manufacturer

Ms. Alexandra Newcomb testified on behalf of the manufacturer. She asked Bob Mariano's representative to state his name, he stated Scott Hayes

and has 25 plus years' experience. Scott stated the issues with the vehicle when the consumer brought it in. They had Uconnect and stop start issues, they diagnosed the Uconnect as 2 separate modules needed to be replaced, and the stop start issue was the battery at 43 percent. They replaced the modules and they charged the battery. Scott Hayes stated he was confident the final repairs resolved the issues. They were not able to duplicate the towing issue. They had in the past, replaced the steering rack and the engine. They did not have any further engine related or oil consumption issues after the engine was replaced, or steering issues.

Consumer:

The Consumer was asked if they had any questions of the Manufacturer, Craig Burrell stated yes, he did. He asked when he brought the vehicle in to check the trailer issue, did they connect a trailer to it? Scott Hayes replied they do not have a trailer at the dealership unfortunately. Craig asked with the Uconnect issue have you seen previous records where the modules were replaced? Scott said, no. Craig stated Bonneville had replaced some of the parts, then Bob Mariano replaced the same parts. Rachael stated her concern is having the same components replaced several times and the same issues keep coming back. When they purchased the vehicle, it was on a holding lot waiting for a recall part to be repaired. They finally picked up the vehicle a month and a half after they purchased it.

CLOSING ARGUMENTS:

Manufacturer:

The Manufacturer was surprised to hear there were so many issues spoken about in the hearing when the consumer only had the Uconnect and trailer connection listed on their CPMVA-2 form. Other issues that were a subject of conversation in the hearing were previously fixed, or not brought to the dealers' attention. Final repair attempt was the start stop issue, which was replaced on October second, and as her witness testified, they were not driving the vehicle enough and the battery is draining. As far as the Uconnect issue, they believe the vehicle is fixed. The tow issue was never duplicated.

DISCUSSION:

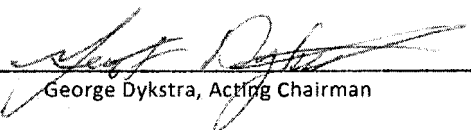
The Board reconvened in public session after looking at and test driving the vehicle to discuss and vote on the Craig and Rachael Burrell v. FCA US LLC hearing. Craig and Rachael Burrell were in attendance as was the Manufacturer's representative, Alexandra Newcomb, along with Scott Hayes from Bob Mariano. There was a quorum of the board present comprised of the same Board members hearing the testimony.

The test drive started with miles of 32610 and ended with 32622. The board was not able to duplicate any issues, and the board finds based upon all the documentary evidence in favor of the manufacturer.

FINAL DISPOSITION

The Board finds, based upon all the documentary evidence and testimony presented, that this case is under the jurisdiction of the New Motor Vehicle Arbitration Board. It is therefore ORDERED: In favor of the Manufacturer.

NEW MOTOR VEHICLE ARBITRATION BOARD

Signed: 
George Dykstra, Acting Chairman

Members participating in this action: George Dykstra, Nancy O'Brien and Joel Ginsburg

NOTICE
APPEAL

Pursuant to New Hampshire RSA 357-D:6, parties have the right to appeal any final decision rendered by the board. Any such appeal shall be filed with the Superior Court within 30 days of the date of the written board decision. The decision of the board shall be final and shall not be modified or vacated unless, on appeal to the superior court, a party to the arbitration proceeding proves, by clear and convincing evidence, that:

- (a) The award was procured by corruption, fraud or other undue means.
- (b) There was evident partiality by the board or corruption or misconduct by the board prejudicing the rights of any party.
- (c) The board exceeded its powers.
- (d) The board refused to postpone a hearing after being shown sufficient cause to do so, refused to hear evidence material to the controversy, or otherwise conducted the hearing contrary to the rules adopted by the board so as to prejudice substantially the rights of a party.

CERTIFICATE OF SERVICE:

I HEREBY CERTIFY that copies of the foregoing decision were sent via U.S. Mail to Craig and Rachael Burrell, Consumer, and FCA US LLC on this 26 day of October, 2023.

By: 
Robbin Pike, NH NMVAB Board Administrator