



Robert L. Quinn
Commissioner of Safety

State of New Hampshire

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



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:

Cindy Casale v FCA US LLC

HEARING #: 2023-00026

HEARING DATE: November 28, 2023

CONSUMER: CINDY CASALE

REPRESENTED BY: Pro se

MANUFACTURER: FCA US LLC (Stellantis)

REPRESENTED BY: ROSEWALDORF PLLC

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

OPENING PROCEDURE:

- Persons testifying Cindy Casale, Consumer and Katelynn Balsamico, representing the Manufacturer, and Jason Parker, Director of Service, Representing Claremont Chrysler Dodge Jeep Ram 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 September 20, 2023 (64 pages);

Exhibit B- Final repair opportunity form dated November 15, 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 November 1, 2023 (55 pages);

HISTORY:

The New Motor Vehicle Arbitration Board ("Board") received a petition for a hearing from Cindy Casale 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 November 28, 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 Ms. Cindy Casale (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 market value and demands a refund. Cindy purchased a 2022 Jeep Grand Cherokee, VIN #1C4RJKDG2N8547738 with 9 miles, in May 2022. In April 2023 the vehicle started with a loud vibration and humming that can be felt/heard in the steering wheel, the driver and front passenger seats, the driver and front passenger floor, and the gas and brake pedals when turning right or left and when backing up at a slow speed. The vehicle has been in the shop for the same repair a minimum of (3) three times.

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. #12 FCA US LLC reserves the right to supplement this response.

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:

Ms. Cindy Casale testified in response to questions of the Chair that the vehicle is present at the hearing site; payments are current; the vehicle is currently insured; the vehicle is inspected and has no body damage.

The Consumer received the Manufacturer's form CPMVA-1 and did have her vehicle available for a final repair attempt by the Manufacturer on November 15, 2023. The Consumer Stated they do not come here lightly; she feels as a consumer they have done everything they can do working with the dealership and Stellantis to remedy her vehicles issue. Cindy explained that the noise and vibration is more noticeable at slow speeds in a turning motion going forward or backing up. Cindy also stated she does not drive the vehicle much or take passengers with her as she does not know what is going to happen to the vehicle when this happens. 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.

Manufacturer:

Ms. Katelynn Balsamico testified on behalf of the manufacturer. She asked Jason Parker if he knew of this vehicle. He stated yes and that he worked with Stellantis Technical Advisor, Walter Johnson. Walter's opinion was that this happens with HVAC on, and it is a normal characteristic of this make, model and trim level. He stated different vehicles have different features. They did not have the same vehicle with the same trim level at the dealership to compare it to and has not had any other customers with this concern on their vehicle.

CLOSING ARGUMENTS:

Consumer:

The Consumer was asked if she had any questions of the Manufacturer. She just stated that this was the first she had heard about Walter Johnson looking at the vehicle. Under normal operating procedures, my question is why I did not discover this until around 8,000 miles on my vehicle. This is why she disagrees with the findings of Stellantis.

Manufacturer:

The Manufacturer, Katelynn asked the consumer if there has ever been any lights on the dash and the consumer stated no. Katelynn asked if she has ever had to pull over, and Cindy said no. Katelynn also asked, has your vehicle always gotten you from point A to point B and Cindy said yes. The board asked if they could see Stellantis' Service engineers report and Katelynn stated they do not exist, as they do not file a report. The Manufacturer argues that the vehicle is operating properly and as it should.

DISCUSSION:

The Board reconvened in public session after looking at and test driving the vehicle to discuss and vote on the Cindy Casale v. FCA US LLC hearing. Ms Cindy Casale was in attendance as was the Manufacturer's representative, Katelynn Balsamico. There was a quorum of the board present comprised of the same Board members hearing the testimony. The test drive started with miles of 13,564 and ended with 13,568. The board was able to feel the vibration even from the backseat. Joel stated that it does affect the value of the car substantially and he ruled in favor of the consumer. Dan Enxing and Nancy O'Brien also ruled in favor of the consumer. George made a motion based upon all the documentary evidence and their findings in favor of the consumer, along with the board ruling unanimously.

FINAL DISPOSITION

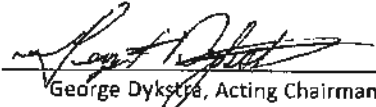
The Board finds, based upon all the documentary evidence and testimony presented, that this case is under the jurisdiction of the New Motor Vehicle Arbitration Board. It is therefore ORDERED: The Consumer's demand for a refund is APPROVED.

The manufacturer shall, within thirty days of this order, and upon presentation of the vehicle to an authorized dealer, remit the following amount to the consumer:

Cash Price paid	\$62,063.00
Plus Registration fees	\$833.20
MINUS the mileage setback	\$4933.39

TOTAL AWARD \$57,962.81

NEW MOTOR VEHICLE ARBITRATION BOARD

Signed: 
George Dykstra, Acting Chairman

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

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 E-Mail to Cindy Casale, Consumer, and FCA US LLC on this 2 day of January 2024.

By:



Robbin Pike, NH NMVAB Board Administrator