

MUDASSAR KHAN,
Claimant,

v.

SOUTHWEST INFINITI,
Respondent.

§ **AMERICAN**

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§ **ARBITRATION**

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§ **ASSOCIATION**

CLAIMANT'S SPECIFICATION OF CLAIMS

Claimant, **MUDASSAR KHAN**, by and through the undersigned attorney, files this his Specification of Claims against Respondent, **SOUTHWEST INFINITI**, and alleges as follows:

SUMMARY

In violation of the Texas Deceptive Trade Practices Act, during a consumer transaction, Respondent falsely represented that a vehicle had 1) almost 4000% fewer miles than it actually did, and 2) a rarer and more expensive color combination than it actually did. Claimant relied on the misrepresentations in entering the lease agreement.

FACTS

- 1.** On or about December 14, 2018, in Houston, Texas, Mudassar Khan ("Khan") agreed to lease a new motor vehicle from Southwest INFINITI. Although Khan completed the transaction in Houston, Harris County, Texas, the vehicle was located in a different city and county at the time the lease documents were executed. Therefore, Khan was unable to physically inspect the vehicle prior to the transaction. However, he was shown photos on the internet of a vehicle that was ostensibly the new vehicle he was leasing.
- 2.** The vehicle shown to Khan had a white interior and a white exterior, which was a \$1,600 upgrade from the same year make and model with a black

interior instead. Throughout the transaction, Khan made it clear that he was only interested in the relatively rare white interior/ white exterior combination and was not at all interested in the more common black interior/white exterior combination. He relied solely on the information that Southwest INFINITY provided in deciding to enter into the lease agreement.

3. After being promised that the new vehicle would be delivered by December 17, 2018, Khan completed and signed all the required paperwork for a vehicle on December 14, 2018 with the following descriptors:

VIN: JN1BY1AP8JM180814

Year/Make/Model: 2018 INFINITI Q70

Color: White exterior/white interior

Mileage: New vehicle with 17¹ miles

4. When the vehicle was delivered one day late on December 18, 2018, not only did it have a black interior instead of white, it also had over 600 miles.
5. **Color discrepancy:** When Khan first saw the vehicle and realized the interior was black instead of white, he complained about the discrepancy. He was told that the vehicle he thought he was purchasing was actually already sold unbeknownst to the manager at time of the transaction.
6. **Mileage discrepancy:** When Khan complained about the mileage discrepancy, the manager admitted that the current mileage exceeded 600 and asked Khan to sign another odometer disclosure showing the correct mileage, which was almost 4000% higher than the mileage shown on the paperwork.

¹ The mileage was stated as 50 miles on one document, but 17 miles elsewhere.

7. Essentially, Khan was led to believe that he was leasing a new car that was upgraded with a white interior, but instead he got used car that was not so upgraded. Khan would not have entered into the agreement had these facts been revealed to him and had he not been shown misleading photographs of the vehicle.

CLAIMS

8. Southwest INFINITI's actions constituted one or more violations of the Texas Deceptive Trade Practices Act ("DTPA"), Texas Business and Commerce Code, Section 17.41 et seq. *Inter alia*, the DTPA prohibits a merchant from engaging in the following conducts:

Misrepresenting the standard, quality, or grade of goods:

9. A merchant is prohibited from "representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another". Texas Business and Commerce Code Sec. 17.46(7). Southwest INFINITI violated this section when it misrepresented that the vehicle was new with only 17 miles when in fact it was a used vehicle with over 600 miles.

Failing to disclose that the vehicle had black interior:

10. A merchant is also prohibited from "failing to disclose information concerning goods or services which was known at the time of the transaction if such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed". Texas Business and Commerce Code Sec. 17.46(24). Southwest INFINITI knew that Khan was only interested in purchasing a vehicle with a white interior and failed to disclose the fact that the vehicle he was leasing actually had a black interior. In fact, Southwest affirmatively represented, through photographs and oral statements, that the interior of the vehicle being leased was white.

Unconscionable action:

11. A merchant may not engage in an unconscionable action or course of action. Texas Business and Commerce Code Sec. 17.50(3). "Unconscionable action or course of action" means an act or practice which, to a consumer's detriment, takes advantage of the lack of knowledge, ability, experience, or capacity of the consumer to a grossly unfair degree. Texas Business and Commerce Code Sec. 17.45(5). Southwest INFINITI, knowing Khan was not able to view the vehicle prior to lease transaction, made a series of misstatements designed to mislead and take advantage of Khan. For example, Southwest INFINITI showed Khan a vehicle in its current inventory and falsely represented that the vehicle he was purchasing was identical to the one on the lot except for the engine. Southwest INFINITI even falsified the odometer reading on the Odometer Disclosure Statement even though such an act was a third-degree felony pursuant to Texas Transportation Code Section 501.155.

RELIEF REQUESTED

12. **Economic Damages.** The violations described above were the producing causes of the following damages. The total cost of the lease at issue is \$52,378.79, which Khan is now obligated to pay due to Southwest Infiniti's violations of the DTPA.
13. **Statutory Damages.** Because Southwest INFINITI'S actions were knowing or intentional, Claimant seeks treble damages as authorized by Texas Business and Commerce Code Section 17.50(b)(1). For example, Respondent intentionally showed false photographs during the transaction to mislead Claimant about the characteristics of the vehicle at issue.
14. **Attorney Fees.** Claimant has incurred, and will continue to incur, legal fees in the prosecution of this matter. Claimant seeks reasonable and necessary attorney fees as authorized by Texas Business and Commerce Code Section 17.50(d).

PRAYER

15. For these reasons, Claimant asks for the following:
 - a. Actual damages.

- b. Prejudgment and postjudgment interest.
- c. Statutory damages and interest pursuant to the Texas Deceptive Trade Practices Act.
- d. Court costs.
- e. Attorney fees.
- f. All other relief to which Claimant is entitled.

Respectfully submitted,

/s/ Leroy Scott
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