

07-793-CD
Jacob George al vs Dealer Comp. AI

Jacob George vs Dealer Computer et al
2007-793-CD

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

Jacob George Ford Sales, Inc.

Plaintiff,

v.

Dealer Computer Services, Inc.

and

ProQuest Business Solutions

and

Snap-On Business Solutions, Inc.

Defendants.

Civil Action –Law Division

No. 2007 - 793-CD

FILED sec Amy
MAY 21 2007 11:03 AM
William A. Shaw
Prothonotary/Clerk of Courts
85.00

COMPLAINT – CIVIL ACTION

Jacob George Ford Sales, Inc. ("Plaintiff") by and through undersigned counsel, hereby file this Complaint against Dealer Computer Services, Inc. ("DCS"), ProQuest Business Solutions, Inc. ("ProQuest") and Snap-On Business Solutions, Inc. ("Snap On") for damages and for related relief. In support of the relief requested in the Complaint, the Plaintiff states as follows.

PARTIES

1. Plaintiff is a Pennsylvania Corporation in good standing, with an address at 125 Spring Street, Houtzdale. Clearfield County, Pennsylvania.

2. Defendant DCS is, upon information and belief, a Texas corporation with its principal address located at 7600 Hollister Street, Houston, Texas 77040.

3. Defendant ProQuest is upon information and belief, an Ohio corporation with an address at 3900 Kinross Lakes Parkway, Richfield, Ohio 44286.

4. Snap-on Business Solutions, is upon information, an Ohio corporation with a principal address at 3900 Kinross Lakes Parkway, Richfield, Ohio 44286.

5. All of events leading up to this lawsuit took place within the Commonwealth of Pennsylvania, and Clearfield County.

BACKGROUND

6. DCS was formerly a favored contractor of the Ford Motor Company ("Ford").

7. As a consequence of this position dealers across the county were forced to enter into contracts with DCS in order to gain access to Ford's computer assisted parts ordering program.

8. As a consequence of DCS's relationship with Ford, thousands of Ford dealers (the "Dealers"), like Jacob George Ford were forced to enter into contracts with DCS.

9. There was no negotiation for the contracts as they were presented as "take it or leave it propositions" to the thousands of Ford Dealers.

10. As a consequence, DCS had a monopoly over the parts information business at Ford, and there were no alternatives made available to the Dealers including Jacob George Ford.

11. Dealers were left with no real economic choice in entering into the Agreement.

12. Included in the Agreement are terms that provided for remedies to DCS for the Dealer's default. However, there are no provisions in the Agreements providing the terms under which DCS could be deemed in default. Indeed, there ARE NO DEFAULT provisions in the Agreement as it pertains to DCS, and further there are no remedies to the Dealers in the event of a default or failure to perform by DCS.

13. Though there is an arbitration provision which purports to bind the Dealers, DCS is not so bound. DCS is entitled to sue or seek relief against the Dealer for payment anywhere it deems fit, in any court with competent jurisdiction, even if it is a thousand miles remote of the situs of the contract. Accordingly, only the Dealer is bound to arbitrate, not DCS.

14. Under the Agreement, the attempted assignment cuts off any objections the Dealer has to the performance by DCS. Specifically, the Agreement provides

"This Agreement shall be binding and shall inure to the benefit of the parties and their respective successors and assigns as permitted hereunder. Moreover, any payment or obligation due, or herein after due to **FDCS may be assigned or transferred by it upon notice to Dealer, and such transferee shall have the rights, powers privileges and remedies of FDCS, without right of set-off or counterclaim by Dealer.**" [emphasis added].

15. Importantly, DC does not purport to assign its contractual **duties** to the assignee, only the payment rights. The practical effect of the assignment provision therefore, is to leave the Dealer without a remedy, and to permit DCS to cut off the contractual rights and common law remedies of Dealers, simply by making an assignment.

16. At the time of the attempted assignment, DCS was in default of its Agreements with numerous Dealers, including Jacob George Ford.

17. Jacob George Ford has had a dispute with DCS over its failure to perform under the Agreement, which dispute has existed for nearly a year.

18. On numerous occasions, informed DCS of its failures to perform under the Agreement including:

- a. Failing to upgrade the their software;
- b. Failing to provide uninterrupted and reliable access to Ford's parts system;
- c. Failing to maintain the equipment, including the hard drives, which equipment was obsolete, out of date, slow, unreliable, and prone to breakdowns;
- d. Failing to repair not working equipment; and
- e. Failing to provide needed upgrades due to a dispute DCS had directly with Ford, which dispute had nothing to do with the Dealers; and
- f. Failing to deal with Jacob George Ford in good faith and with honesty in fact.

19. DCS purportedly completed the assignment of the Agreements, over the objection and without the consent of Jacob George Ford, and without addressing the numerous failures, defaults and non performance by DCS.

20. For the entire period, DCS and its asserted assignee ProQuest have ignored and refused to address Jacob George's issues with respect to DCS's performance.

21. Rather than address issues raised over a year ago, the Defendants and each of them, have ignored their contractual obligations.

22. Rather than address the defaults pointed out by Jacob George Ford over the preceding year, DCS attempted to assign its rights under the Agreement to ProQuest.

23. Jacob George Ford Objected to the assignment, and again declared DCS to be in default in its obligations.

24. Upon information and belief, the receivable was further assigned to Snap-On, who in its own right and as assignee of DCS and ProQuest.

25. Rather than resolve the dispute, the Defendants have instead retained Receivables Management Services ("RMS") to collect a debt which DCS, ProQuest and Snap-On all know is disputed and subject to the set offs and counterclaims of Jacob George Ford. The Defendants continue to have RMS threaten and attempt to extract moneys from Dealers on the threat of ruining the Dealer's credit.

26. Moreover, the Defendants' agent RMS has interfered with Jacob George's rights by continuing to threaten and attempt to extract moneys from the Dealers, including Jacob George Ford, and by continuing to contact Jacob George Ford after an attorney informed them that counsel was retained and that no direct communications should occur.

27. Notwithstanding the instruction not to contact Jacob George Ford, RMS on behalf of DCS, ProQuest and Snap-On has continued to make harassing telephone calls to Jacob George Ford in which they state and continue to state that: (a) counsel is not acting in its best interests; (b) there is no remedy that the Dealers can resort to; (c) that the contract can not be terminated under any applicable law and; (d) that Jacob George's credit was about to be ruined because of counsel's advice.

COUNT I
(UNCONSCIONABILITY)

28. Plaintiff incorporates by reference the foregoing paragraphs as if set forth fully herein and at length.

29. The Agreement is unconscionable and unenforceable both as a whole and separately.

30. The Agreement is unconscionable as to Jacob George Ford because:

- (a) The Dealers had no meaningful choice in negotiating the contracts since DCS had an exclusive agreement with Ford, and the access to part ordering essentially to the Dealer's survival;
- (b) DCS had a monopoly on the Ford business, and therefore there was no choice in the contracting with DCS, DCS refused to negotiate terms for the Agreement and left Dealers, including Jacob George with a "take it or leave it" situation;
- (c) The Agreement purports to give the Dealer no remedy in the event of a failure to perform by DCS or its assignee following an assignment. and
- (d) The Arbitration provision is oppressive and binds only the Dealer while DCS or its nominees can sue in court anywhere there is jurisdiction, while the Dealer is forced to arbitrate in a remote location;

31. Because the Agreement is unconscionable it can not be enforced as written.

32. Because the Agreement is unconscionable, this court can rescind or reform the contract, or excise the unconscionable terms.

WHEREFORE, THE Plaintiff prays this court enter judgment in its favor and against the Defendants and each of them: (a) declaring the agreement unconscionable; (b) refusing to enforce the Agreement, or the individual provisions, including the arbitration provisions; and (c) provide such other and further relief as the court deems just an equitable.

**COUNT II
(BREACH OF AGREEMENT)**

33. Plaintiff incorporates by reference the allegations in the foregoing paragraphs as if set forth fully herein and at length.

34. The Defendants as the original contracting parties or assignees thereof are in breach of the Agreement.

- a. Such breaches include but are not limited to: Failing to upgrade the operating system software, which was antiquated and in many instances not functioning;
- b. Failing to maintain the equipment, including the hard drives, which equipment was obsolete, out of date, slow, unreliable, and prone to breakdowns;
- c. Failing to repair not working equipment; and

- d. Failing to provide needed upgrades due to a dispute DCS had directly with Ford, which dispute had nothing to do with the Dealers.

35. As a result of the breaches by the Defendants and each of them, Jacob George Ford was forced to find a new provider at substantial expense and hardship to itself.

36. On October 26, 2006, after months of being ignored by DCS, Jacob George Ford provided its notice of termination of the Agreement.

37. In addition, at the same time, Jacob George Ford made available all of the Defendants' antiquated equipment and peripherals. To date, the Defendants have refused to mitigate their asserted damages, or to reclaim their property.

WHEREFORE, Plaintiff prays this court enter judgment in its favor and against the Defendants, and provide such other and further relief as the court deems just and equitable.

**COUNT III
(FRAUD IN THE INDUCEMENT)**

38. Plaintiff incorporates by reference the allegations in the foregoing paragraphs as if set forth fully herein and at length.

39. At the time of contracting the Defendant DCS made material misrepresentations to Jacob George Ford, including but not limited to:

40. These statements were false and knowingly false and made in order to induce Jacob George into entering into the Agreement.

41. The material misrepresentations include:

- (a) that DCS had the technical wherewithal to provide Dealers with unparalleled and continuous access to Ford's part system;
- (b) that DCS had local technicians and staff who could immediately deal with Dealer issues relating to the service;
- (c) that DCS would routinely and timely upgrade the hardware in order to maintain "cutting edge" access to Ford's part system;
- (d) that DCS could timely provide technical and other support to insure that the Dealer's parts system was continuously "on line" and connected to Ford.

42. The representations were false and knowingly false and intended to induce and did in fact induce reliance by Jacob George Ford.

43. Jacob George Ford did in fact rely upon the false statements and did in fact enter into the Agreement based upon the representations.

44. Jacob George Ford was damaged by the false statements in that the services provided by DCS were substandard, and not in accordance with the representation made at the time of contracting.

45. Upon information and belief there was also a dispute between DCS and Ford which dispute was not disclosed to Dealers.

46. Jacob George Ford was forced to find a substitute performance when DCS failed to provide the necessary hardware and software updates necessary to keep the system functioning properly.

WHEREFORE, Plaintiff prays this court enter judgment in its favor and against the Defendants, (a) rescinding the Agreement because of the fraud of DCS in the inducement, (b) awarding damages to the Plaintiff; and (c) provide such other and further relief as the court deems just and equitable.

**COUNT IV
(BREACH OF DUTY OF GOOD FAITH AND FAIR DEALING)**

47. Plaintiff incorporates by reference the allegations in the foregoing paragraphs as if set forth fully herein and at length.

48. Every contract carries with it a duty of good faith and fair dealing.

49. the Defendants, in their own right and as putative assignee of DCS have violated the duty of good faith and fair dealing owed by each of the Defendants by among other things:

- (a) Inducing Plaintiff to enter into an agreement where there is no remedy to the Plaintiff;
- (b) Failing to deal with Jacob George Ford with honesty in fact;
- (c) Improperly threatening to ruin Plaintiff's credit by reporting moneys owed to credit agencies, even though all were aware that there is a bona fide dispute in this matter;

- (d) Using its debt collector RMS to improperly, and in violation of the rights of Jacob George Ford, cut off any attempt to contest its liability to the Defendants;
- (e) Refusing to respond to, investigate and address legitimate disputes raised by Jacob George Ford with respect to the nature and quality of the services
- (f) Failing to mitigate damages by refusing to accept of give creditor for the equipment that Plaintiff attempted to return
- (g) Interfering with Jacob George's contractual rights to confer with counsel and receive advice as to this matter; and
- (h) Committing acts of commercial extortion.

50. The breaches of the duty of good faith and fair dealing have caused the Plaintiff damages.

WHEREFORE, Plaintiff prays this court enter judgment in its favor and against the Defendants, and provide such other and further relief as the court deems just and equitable.



Edmond M. George, Esquire

Date: 5/18/07

Attorney for Plaintiff
Jacob George Ford Sales, Inc.

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CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA

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Plaintiff,

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Civil Action - Law Division

Dealer Computer Services, Inc.

No. 2007 -

and

ProQuest Business Solutions

and

Snap-On Business Solutions, Inc.

Defendants.

VERIFICATION

I, Edmond M. George, hereby verify that I am authorized to make this
Verification and that the facts and statements contained in the foregoing, are true and
correct to the best of my information, knowledge and belief. I make these statements
subject to the penalties of 18 Pa. C. S. A. § 4904 relating to unsworn falsification to
authorities.


EDMOND M. GEORGE

4158885

**IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY
COMMONWEALTH OF PENNSYLVANIA**

Jacob George Ford Sales, Inc.

Plaintiff,

v.

Dealer Computer Services, Inc.

and

ProQuest Business Solutions

and

Snap-On Business Solutions, Inc.

Defendants.

Civil Action –Law Division

May Term, 2007

No. 07-793-CD

FILED *no cc*
m/10:45/6/
JUN 08 2007 *(GR)*

William A. Shaw
Prothonotary/Clerk of Courts

NOTICE TO DEFEND

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

**PHILADELPHIA BAR ASSOCIATION
LAWYER REFERRAL AND INFORMATION SERVICE
One Reading Center
Philadelphia Pennsylvania 19107
Telephone: (215) 238-1701**

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentar una comparecencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELÉFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

**ASOCIACIÓN DE LICENCIADOS DE FILADELFA
SERVICIO DE REFERENCIA E INFORMACIÓN LEGAL
One Reading Center
Filadelfia, Pennsylvania 19107
Telefono: (215) 238-1701**



OBERMAYER

REBMANN MAXWELL & HIPPEL LLP

Attorneys At Law

Edmond M. George, Esquire

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Philadelphia, PA 19103-1895

P 215-665-3000

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June 7, 2007

VIA FEDERAL EXPRESS

Office of the Prothonotary

230 E. Market Street

Clearfield, PA 16830

Re: Jacob George Ford Sales, Inc. v. Dealer Computer Services, et al.
May Term, 2007
No. 07-793-CD

Dear Sir or Madam:

Enclosed please find a Notice to Defend which was inadvertently not attached to the Complaint, filed on May 21, 2007. Kindly file the Notice to Defend and forward a stamped filed copy back to my office in the self-addressed stamped envelope provided, for service upon the non-resident defendants.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Edmond M. George

EMG/tam

Enclosure

Over a Century of Solutions

Philadelphia
Pennsylvania 19103-1895

Harrisburg
Pennsylvania

Pittsburgh
Pennsylvania

Cherry Hill
New Jersey

Wilmington
Delaware

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY
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Plaintiff,

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ProQuest Business Solutions

and

Snap-On Business Solutions, Inc.

Defendants.

Civil Action –Law Division

No. 2007 -793-CD

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

MAY 21 2007

Attest.

William A. Brown
Prothonotary/
Clerk of Courts

COMPLAINT – CIVIL ACTION

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5. All of events leading up to this lawsuit took place within the Commonwealth of Pennsylvania, and Clearfield County.

BACKGROUND

6. DCS was formerly a favored contractor of the Ford Motor Company ("Ford").

7. As a consequence of this position dealers across the county were forced to enter into contracts with DCS in order to gain access to Ford's computer assisted parts ordering program.

8. As a consequence of DCS's relationship with Ford, thousands of Ford dealers (the "Dealers"), like Jacob George Ford were forced to enter into contracts with DCS.

9. There was no negotiation for the contracts as they were presented as "take it or leave it propositions" to the thousands of Ford Dealers.

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12. Included in the Agreement are terms that provided for remedies to DCS for the Dealer's default. However, there are no provisions in the Agreements providing the terms under which DCS could be deemed in default. Indeed, there ARE NO DEFAULT provisions in the Agreement as it pertains to DCS, and further there are no remedies to the Dealers in the event of a default or failure to perform by DCS.

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“This Agreement shall be binding and shall inure to the benefit of the parties and their respective successors and assigns as permitted hereunder. Moreover, any payment or obligation due, or herein after due to FDSC may be assigned or transferred by it upon notice to Dealer, and such transferee shall have the rights, powers privileges and remedies of FDSC, without right of set-off or counterclaim by Dealer.” [emphasis added].

15. Importantly, DC does not purport to assign its contractual duties to the assignee, only the payment rights. The practical effect of the assignment provision therefore, is to leave the Dealer without a remedy, and to permit DCS to cut off the contractual rights and common law remedies of Dealers, simply by making an assignment.

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17. Jacob George Ford has had a dispute with DCS over its failure to perform under the Agreement, which dispute has existed for nearly a year.

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20. For the entire period, DCS and its asserted assignee ProQuest have ignored and refused to address Jacob George's issues with respect to DCS's performance.

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22. Rather than address the defaults pointed out by Jacob George Ford over the preceding year, DCS attempted to assign its rights under the Agreement to ProQuest.

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26. Moreover, the Defendants' agent RMS has interfered with Jacob George's rights by continuing to threaten and attempt to extract moneys from the Dealers, including Jacob George Ford, and by continuing to contact Jacob George Ford after an attorney informed them that counsel was retained and that no direct communications should occur.

27. Notwithstanding the instruction not to contact Jacob George Ford, RMS on behalf of DCS, ProQuest and Snap-On has continued to make harassing telephone calls to Jacob George Ford in which they state and continue to stated that: (a) counsel is not acting in its best interests; (b) there is no remedy that the Dealers can resort to; (c) that the contract can not be terminated under any applicable law and; (d) that Jacob George's credit was about to be ruined because of counsel's advice.

COUNT I
(UNCONSCIONABILITY)

28. Plaintiff incorporates by reference the foregoing paragraphs as if set forth fully herein and at length.

29. The Agreement is unconscionable and unenforceable both as a whole and separately.

30. The Agreement is unconscionable as to Jacob George Ford because:

- (a) The Dealers had no meaningful choice in negotiating the contracts since DCS had an exclusive agreement with Ford, and the access to part ordering essentially to the Dealer's survival;
- (b) DCS had a monopoly on the Ford business, and therefore there was no choice in the contracting with DCS, DCS refused to negotiate terms for the Agreement and left Dealers, including Jacob George with a "take it or leave it" situation;
- (c) The Agreement purports to give the Dealer no remedy in the event of a failure to perform by DCS or its assignee following an assignment. and
- (d) The Arbitration provision is oppressive and binds only the Dealer while DCS or its nominees can sue in court anywhere there is jurisdiction, while the Dealer is forced to arbitrate in a remote location;

31. Because the Agreement is unconscionable it can not be enforced as written.

32. Because the Agreement is unconscionable, this court can rescind or reform the contract, or excise the unconscionable terms.

WHEREFORE, THE Plaintiff prays this court enter judgment in its favor and against the Defendants and each of them: (a) declaring the agreement unconscionable; (b) refusing to enforce the Agreement, or the individual provisions, including the arbitration provisions; and (c) provide such other and further relief as the court deems just an equitable.

**COUNT II
(BREACH OF AGREEMENT)**

33. Plaintiff incorporates by reference the allegations in the foregoing paragraphs as if set forth fully herein and at length.

34. The Defendants as the original contracting parties or assignees thereof are in breach of the Agreement.

- a. Such breaches include but are not limited to: Failing to upgrade the operating system software, which was antiquated and in many instances not functioning;
- b. Failing to maintain the equipment, including the hard drives, which equipment was obsolete, out of date, slow, unreliable, and prone to breakdowns;
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d. Failing to provide needed upgrades due to a dispute DCS had directly with Ford, which dispute had nothing to do with the Dealers.

35. As a result of the breaches by the Defendants and each of them, Jacob George Ford was forced to find a new provider at substantial expense and hardship to itself.

36. On October 26, 2006, after months of being ignored by DCS, Jacob George Ford provided its notice of termination of the Agreement.

37. In addition, at the same time, Jacob George Ford made available all of the Defendants' antiquated equipment and peripherals. To date, the Defendants have refused to mitigate their asserted damages, or to reclaim their property.

WHEREFORE, Plaintiff prays this court enter judgment in its favor and against the Defendants, and provide such other and further relief as the court deems just and equitable.

**COUNT III
(FRAUD IN THE INDUCEMENT)**

38. Plaintiff incorporates by reference the allegations in the foregoing paragraphs as if set forth fully herein and at length.

39. At the time of contracting the Defendant DCS made material misrepresentations to Jacob George Ford, including but not limited to:

40. These statements were false and knowingly false and made in order to induce Jacob George into entering into the Agreement.

41. The material misrepresentations include:

- (a) that DCS had the technical wherewithal to provide Dealers with unparalleled and continuous access to Ford's part system;
- (b) that DCS had local technicians and staff who could immediately deal with Dealer issues relating to the service;
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42. The representations were false and knowingly false and intended to induce and did in fact induce reliance by Jacob George Ford.

43. Jacob George Ford did in fact rely upon the false statements and did in fact enter into the Agreement based upon the representations.

44. Jacob George Ford was damaged by the false statements in that the services provided by DCS were substandard, and not in accordance with the representation made at the time of contracting.

45. Upon information and belief there was also a dispute between DCS and Ford which dispute was not disclosed to Dealers.

46. Jacob George Ford was forced to find a substitute performance when DCS failed to provide the necessary hardware and software updates necessary to keep the system functioning properly.

WHEREFORE, Plaintiff prays this court enter judgment in its favor and against the Defendants, (a) rescinding the Agreement because of the fraud of DCS in the inducement, (b) awarding damages to the Plaintiff; and (c) provide such other and further relief as the court deems just and equitable.

**COUNT IV
(BREACH OF DUTY OF GOOD FAITH AND FAIR DEALING)**

47. Plaintiff incorporates by reference the allegations in the foregoing paragraphs as if set forth fully herein and at length.

48. Every contract carries with it a duty of good faith and fair dealing.

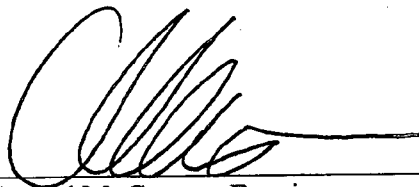
49. the Defendants, in their own right and as putative assignee of DCS have violated the duty of good faith and fair dealing owed by each of the Defendants by among other things:

- (a) Inducing Plaintiff to enter into an agreement where there is no remedy to the Plaintiff;
- (b) Failing to deal with Jacob George Ford with honesty in fact;
- (c) Improperly threatening to ruin Plaintiff's credit by reporting moneys owed to credit agencies, even though all were aware that there is a bona fide dispute in this matter;

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- (g) Interfering with Jacob George's contractual rights to confer with counsel and receive advice as to this matter; and
- (h) Committing acts of commercial extortion.

50. The breaches of the duty of good faith and fair dealing have caused the Plaintiff damages.

WHEREFORE, Plaintiff prays this court enter judgment in its favor and against the Defendants, and provide such other and further relief as the court deems just and equitable.



Edmond M. George, Esquire

*Attorney for Plaintiff
Jacob George Ford Sales, Inc.*

Date: 5/16/07

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Plaintiff,

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Dealer Computer Services, Inc.

and

ProQuest Business Solutions

and

Snap-On Business Solutions, Inc.

Defendants.

Civil Action - Law Division

No. 2007 -

VERIFICATION

I, Edmond M. George, hereby verify that I am authorized to make this
Verification and that the facts and statements contained in the foregoing, are true and
correct to the best of my information, knowledge and belief. I make these statements
subject to the penalties of 18 Pa. C. S. A. § 4904 relating to unsworn falsification to
authorities.


EDMOND M. GEORGE

415885

3. After a reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

4. After a reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

5. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required. To the extent that it contains any factual averments, after a reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of those averments.

BACKGROUND

6. Denied as stated. DCS maintains various business relationships with Ford.

7. Denied that dealers were forced to enter into contracts with DCS in order to gain access to Ford's computer assisted parts ordering program.

8. Denied that "thousands" of Ford dealers were "forced" to enter into contracts with DCS.

9. Denied that the parties did not negotiate regarding the contracts and it is further denied that the contracts were presented as "take it or leave it." The remaining averments of this paragraph comprise a conclusion of law to which no responsive pleading is required.

10. Denied that DCS had a monopoly over parts information and that no alternatives were available to dealers. By way of further answers, dealers had a variety of methods for accessing parts information and were free to select whatever methods they wanted.

11. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required. To the extent they contain any factual averments, they are denied.

12. Admitted only that the agreement is a thing which speaks for itself and consequently, no responsive pleading is required. The effects and consequences of the referenced provisions are conclusions of law to which no responsive pleading is required.

13. Admitted only that the agreement is a thing which speaks for itself and consequently, no responsive pleading is required. The effects and consequences of the referenced provisions are conclusions of law to which no responsive pleading is required.

14. Admitted only that the agreement is a thing which speaks for itself and consequently, no responsive pleading is required.

15. Admitted only that the agreement is a thing which speaks for itself and consequently, no responsive pleading is required. The effects and consequences of the referenced provisions are conclusions of law to which no responsive pleading is required.

16. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required. To the extent the paragraph contains

any facts, it is denied that DCS was in default with dealers, including Jacob George Ford.

17. It is denied that Jacob George Ford had any dispute with DCS.

The averments of this paragraph regarding failure to perform under any agreement comprise a conclusion of law to which no responsive pleading is required.

18. It is denied that DCS:

- a. Failed to upgrade software;
- b. Failed to provide uninterrupted and reliable access to Ford's parts system;
- c. Failed to maintain the equipment or that the equipment was obsolete, out of date, slow, unreliable, and prone to breakdowns;
- d. Failed to repair not working equipment;
- e. Failed to provide needed upgrades;

18 (f). The averments of this subparagraph comprise a conclusion of law to which no responsive pleading is required.

19. Denied that DCS assigned agreements without the consent of Jacob George Ford and without addressing failures, defaults, and non-performances of DCS. By way of further answer, it is denied that DCS was required to obtain the consent of Jacob George Ford prior to any assignments. It is further denied that any failures, defaults, and non-performances of DCS existed.

20. Denied that DCS has ignored and refused Jacob George's issues with respect to DCS's performance. By way of further answer, ProQuest is the assignee of the agreement at issue and it is therefore denied that DCS owes any legal obligation to Jacob George.

21. Whether DCS had any contractual obligation to Jacob George is a matter of law to which no responsive pleading is required. By way of further answer, ProQuest is the assignee of the agreement at issue and it is therefore denied that DCS owes any legal obligation to Jacob George.

22. It is denied that Jacob George pointed out any defaults to DCS. It is admitted that DCS assigned the Agreement to ProQuest.

23. Denied that Jacob George "objected" to the assignment because Jacob George had no authority or right to make any such objection in the first place. Whether DCS was in default of any obligation is a conclusion of law and as such, no responsive pleading is required.

24. After a reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph. It is denied that Snap-On was an assignee of DCS.

25. After a reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph regarding whether RMS was retained. It is denied that DCS threatens Plaintiff and it is denied that DCS has any knowledge about a disputed debt.

26. After a reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph regarding RMS. It is denied that RMS is an agent of DCS.

27. After a reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph regarding RMS. It is denied that RMS has taken any action on behalf of DCS.

**COUNT I
(UNCONSCIONABILITY)**

28. The averments of the foregoing paragraphs are incorporated as if set forth herein.

29. Denied. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required.

30. The averments of this paragraph and its accompanying subparagraphs comprise a conclusion of law to which no responsive pleading is required. To the extent that any facts are set forth that have not already been denied herein, they are denied.

31. Denied. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required.

32. Denied. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required.

WHEREFORE, Defendant, Dealer Computer Services, Inc. demands that the Complaint in this matter be dismissed with prejudice and that judgment be entered in its favor and against the Plaintiff, together with an award of Attorneys'

Fees as allowed by law, and such other relief as this Court deems just and proper.

**COUNT II
(BREACH OF AGREEMENT)**

33. The averments of the foregoing paragraphs are incorporated as if set forth herein.

34. The averments of this paragraph and its accompanying subparagraphs comprise a conclusion of law to which no responsive pleading is required. To the extent that any facts are set forth that have not already been denied herein, they are denied.

35. Denied that DCS did not perform under the contract. The remaining averments of this paragraph comprise a conclusion of law to which no responsive pleading is required. After a reasonable investigation, DCS is without sufficient knowledge as to whether Jacob George Ford was forced to find a new provider.

36. It is denied that Jacob George provided any notice of termination to DCS or that DCS ignored Jacob George.

37. After a reasonable investigation, DCS is without sufficient knowledge as to whether Jacob George Ford made "equipment available." DCS is also without sufficient knowledge as to what this refers to. After a reasonable investigation, DCS is also without sufficient knowledge as to what damages it failed to mitigate or what property it failed to reclaim. The averments of this paragraph are therefore denied.

WHEREFORE, Defendant, Dealer Computer Services, Inc. demands that the Complaint in this matter be dismissed with prejudice and that judgment be entered in its favor and against the Plaintiff, together with an award of Attorneys' Fees as allowed by law, and such other relief as this Court deems just and proper.

**COUNT III
(FRAUD IN THE INDUCEMENT)**

38. The averments of the foregoing paragraphs are incorporated as if set forth herein.

39. Denied. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required.

40. Denied. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required.

41. The averments of this paragraph and its accompanying subparagraphs comprise a conclusion of law to which no responsive pleading is required. To the extent that any facts are set forth that have not already been denied herein, they are denied.

42. Denied. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required.

43. Denied. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required.

44. Denied. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required.

45. It is admitted that DCS and Ford had a dispute only as to securing catalog data. It is denied that any such dispute would have relevance to the instant matter or that DCS had an obligation to disclose such dispute to any dealers.

46. Denied that DCS failed to provide software and hardware. After a reasonable investigation, DCS is without sufficient knowledge as to whether Jacob George Ford obtained a new provider.

WHEREFORE, Defendant, Dealer Computer Services, Inc. demands that the Complaint in this matter be dismissed with prejudice and that judgment be entered in its favor and against the Plaintiff, together with an award of Attorneys' Fees as allowed by law, and such other relief as this Court deems just and proper.

**COUNT IV
(BREACH OF DUTY OF GOOD FAITH AND FAIR DEALING)**

47. The averments of the foregoing paragraphs are incorporated as if set forth herein.

48. Denied. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required.

49. The averments of this paragraph and its accompanying subparagraphs comprise a conclusion of law to which no responsive pleading is required. To the extent that any facts are set forth that have not already been denied herein, they are denied.

50. Denied. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required.

WHEREFORE, Defendant, Dealer Computer Services, Inc. demands that the Complaint in this matter be dismissed with prejudice and that judgment be entered in its favor and against the Plaintiff, together with an award of Attorneys' Fees as allowed by law, and such other relief as this Court deems just and proper.

NEW MATTER

51. In 2006, DCS assigned all of its agreements to provide Ford electronic parts catalog services to ProQuest.

52. Prior to that assignment, DCS had performed all of its duties under the agreements.

53. DCS does not owe Jacob George Ford any duty, contractual, quasi-contractual, or otherwise because there is a lack of privity between the parties.

54. Jacob George has failed to set forth a cause of action upon which relief can be granted.

55. This action is barred based upon the arbitration clause set forth in the Agreement.


56. The action is barred by the applicable statute of limitations.

57. The action is barred by the doctrine of laches.

WHEREFORE, Defendant, Dealer Computer Services, Inc. demands that the Complaint in this matter be dismissed with prejudice and that judgment be entered in its favor and against the Plaintiff, together with an award of Attorneys'

Fees as allowed by law, and such other relief as this Court deems just and proper.

FLAMM, BOROFF & BACINE, P.C.
794 Penllyn Pike
Blue Bell, PA 19422
Telephone: 267-419-1500
Facsimile: 267-419-1560

By: 
Walter H. Flamm, Jr.
Robert J. Krandel
Attorneys for Defendant,
Dealer Computer Services, Inc.

VERIFICATION

I, Cynthia Wade, am authorized to make this verification. I have reviewed the foregoing responses to Plaintiff's Complaint and verify that the answers are true and correct to the best of my knowledge and belief. I make this verification pursuant to the penalties of 18 Pa.C.S.A. §4904 relating to the unsworn falsification to authorities.


CYNTHIA WADE

Flamm, Boroff & Bacine, P.C.
By: Walter H. Flamm, Jr.
I.D. No.: 16607
Robert J. Krandel
I.D. No.: 89485
794 Penllyn Pike
Blue Bell, PA 19422
267-419-1500

**IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW**

JACOB GEORGE FORD SALES, INC.

V.

DEALER COMPUTER SERVICES, INC.,
et al.

No.: 2007-793-CD

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Answer of Defendant, Dealer Computer Services, Inc. was served upon all parties interested in this action, by First Class Mail, postage prepaid, addressed as follows:

Edmond M. George, Esquire
OBERMAYER
One Penn Center – 19th Floor
1617 John F. Kennedy Boulevard
Philadelphia, PA 19102

Edmond M. George, Esquire
Obermayer, Rebmann, Maxwell & Hippel LLP
1617 JFK Boulevard
Suite 1900
Philadelphia, PA 19103
T: (215) 665-3141
F: (215) 665-3165

FILED *WGC*
NOV 01 2007 *OR*

William A. Shaw
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW**

JACOB GEORGE FORD SALES, INC. :
:
v. : No.: 2007-793-CD
:
DEALER COMPUTER SERVICES, :
INC., *et al.* :

**RESPONSE OF PLAINTIFF, JACOB GEORGE FORD SALES, INC. TO
DEFENDANT, DEALER COMPUTER SERVICES, INC.'S NEW MATTER**

Jacob George Ford Sales, Inc., by and through undersigned counsel, hereby
responds to the New Matter of Defendant, Dealer Computer Services, Inc. ("DCS").

51. Denied. It is denied that DCS properly assigned any of its rights to ProQuest.

52. Denied. Specifically denied that DCS has performed all of its duties and
agreements as alleged in Plaintiff's Complaint. DCS on numerous occasions, failed to
perform its contractual obligations to the Plaintiff's, by failing to maintain the software,
provide updates, or provide continuous or uninterrupted services as required by this
Contract.

53. Denied. This allegation is a conclusion of law which no response is required.
To the extent that the allegations are factual, Plaintiff is without sufficient information to
attest to the truth or falsity of the allegations contained herein and therefore, they are
denied.

54. Denied. This allegation is a conclusion of law which no response is required. To the extent that the allegations are factual, Plaintiff is without sufficient information to attest to the truth or falsity of the allegations contained herein and therefore, they are denied.

55. Denied. This allegation is a conclusion of law which no response is required. To the extent that the allegations are factual, Plaintiff is without sufficient information to attest to the truth or falsity of the allegations contained herein and therefore, they are denied. By way of further answer, Defendant has waived the provision in the Agreement calling for arbitration.

56. Denied. This allegation is a conclusion of law which no response is required. To the extent that the allegations are factual, Plaintiff's are without sufficient information to attest to the truth or falsity of the allegations contained herein and therefore, they are denied.

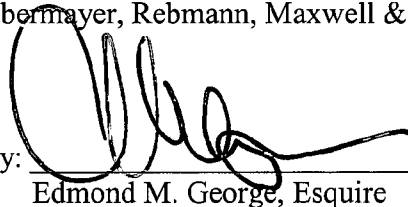
57. Denied. This allegation is a conclusion of law which no response is required. To the extent that the allegations are factual, Plaintiff's are without sufficient information to attest to the truth or falsity of the allegations contained herein and therefore, they are denied.

WHEREFORE, Plaintiff prays this court enter a judgment in favor of the Plaintiff and against the Defendants, plus interest costs and attorneys fees.

Obermayer, Rebmann, Maxwell & Hippel, LLP

Dated: October 31, 2007

By:



Edmond M. George, Esquire

Edmond M. George, Esquire
Obermayer, Rebmann, Maxwell & Hippel LLP
1617 JFK Boulevard
Suite 1900
Philadelphia, PA 19103
T: (215) 665-3141
F: (215) 665-3165

**IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW**

JACOB GEORGE FORD SALES, INC. :
 :
v. : No.: 2007-793-CD
 :
DEALER COMPUTER SERVICES, :
INC., *et al.* :

CERTIFICATE OF SERVICE

I, Edmond M. George, an attorney at Obermayer Rebmann, Maxwell & Hippel, LLP, hereby certify that a true and correct copy of Response Of Plaintiff, Jacob George Ford Sales, Inc. To Defendant, Dealer Computer Services, Inc.'s New Matter, was served on this day the 31st of October, 2007, via U.S. First Class Mail, postage pre-paid upon the following:

Robert J. Krandel, Esquire
Flamm, Boroff & Bacine, P.C.
794 Penllyn Pike
Blue Bell, PA 19422-1669

By: _____


Edmond M. George, Esquire

FLAMM, BOROFF & BACINE, P.C.

BY: Walter H. Flamm, Jr.

I.D. No. 16607

Robert J. Krandel

I.D. No. 89485

794 Penllyn Pike

Blue Bell, PA 19422

(267) 419-1500

FILED NO CC
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William A. Shaw
Prothonotary/Clerk of Courts

Attorneys for Defendant, ProQuest
Business Solutions

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

JACOB GEORGE FORD SALES, INC.

v.

DEALER COMPUTER SERVICES, INC., et
al.

No. 2007-793-CD

ANSWER OF DEFENDANT PROQUEST BUSINESS SOLUTIONS.

Defendant, ProQuest Business Solutions ("ProQuest") by and through undersigned counsel, hereby files this Answer to the Complaint of Plaintiff, Jacob George Ford Sales, Inc. and responds to the averments of the Complaint in accordance with the following paragraphs:

PARTIES

1. After a reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

2. After a reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

3. Denied that ProQuest is an Ohio Corporation with the referenced address in the Complaint.

4. After a reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

5. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required. To the extent that it contains any factual averments, after a reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of those averments.

BACKGROUND

6. Denied as stated. DCS maintains various business relationships with Ford.

7. Denied that dealers were forced to enter into contracts with DCS in order to gain access to Ford's computer assisted parts ordering program.

8. Denied that "thousands" of Ford dealers were "forced" to enter into contracts with DCS.

9. Denied that the parties did not negotiate regarding the contracts and it is further denied that the contracts were presented as "take it or leave it."

The remaining averments of this paragraph comprise a conclusion of law to which no responsive pleading is required.

10. Denied that DCS had a monopoly over parts information and that no alternatives were available to dealers. By way of further answers, dealers had a variety of methods for accessing parts information and were free to select whatever methods they wanted.

11. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required. To the extent they contain any factual averments, they are denied.

12. Admitted only that the agreement is a thing which speaks for itself and consequently, no responsive pleading is required. The effects and consequences of the referenced provisions are conclusions of law to which no responsive pleading is required.

13. Admitted only that the agreement is a thing which speaks for itself and consequently, no responsive pleading is required. The effects and consequences of the referenced provisions are conclusions of law to which no responsive pleading is required.

14. Admitted only that the agreement is a thing which speaks for itself and consequently, no responsive pleading is required.

15. Admitted only that the agreement is a thing which speaks for itself and consequently, no responsive pleading is required. The effects and consequences of the referenced provisions are conclusions of law to which no responsive pleading is required.

16. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required. To the extent the paragraph contains any facts, it is denied that DCS was in default with dealers, including Jacob George Ford.

17. It is denied that Jacob George Ford had any dispute with DCS. The averments of this paragraph regarding failure to perform under any agreement comprise a conclusion of law to which no responsive pleading is required.

18. It is denied that DCS:

- a. Failed to upgrade software;
- b. Failed to provide uninterrupted and reliable access to Ford's parts system;
- c. Failed to maintain the equipment or that the equipment was obsolete, out of date, slow, unreliable, and prone to breakdowns;
- d. Failed to repair not working equipment;
- e. Failed to provide needed upgrades;

18 (f). The averments of this subparagraph comprise a conclusion of law to which no responsive pleading is required.

19. Denied that DCS assigned agreements without the consent of Jacob George Ford and without addressing failures, defaults, and non-performances of DCS. By way of further answer, it is denied that DCS was required to obtain the consent of Jacob George Ford prior to any assignments. It

is further denied that any failures, defaults, and non-performances of DCS existed.

20. Denied that DCS or ProQuest have ignored and refused Jacob George's issues with respect to DCS's performance.

21. Whether DCS had any contractual obligation to Jacob George is a matter of law to which no responsive pleading is required. By way of further answer, ProQuest is the assignee of the agreement at issue and it is therefore denied that DCS owes any legal obligation to Jacob George. It is denied that ProQuest refused to address Jacob George's issues with respect to performance.

22. It is denied that Jacob George pointed out any defaults to DCS. It is admitted that DCS assigned the Agreement to ProQuest.

23. Denied that Jacob George "objected" to the assignment because Jacob George had no authority or right to make any such objection in the first place. Whether DCS was in default of any obligation is a conclusion of law and as such, no responsive pleading is required.

24. Admitted that Snap-On acquired the receivable from ProQuest.

25. After a reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph regarding whether RMS was retained. It is denied that ProQuest threatens Plaintiff and it is denied that ProQuest has any knowledge about a disputed debt.

26. After a reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph regarding RMS. It is denied that RMS is an agent of ProQuest.

27. After a reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph regarding RMS. It is denied that RMS has taken any action on behalf of ProQuest.

**COUNT I
(UNCONSCIONABILITY)**

28. The averments of the foregoing paragraphs are incorporated as if set forth herein.

29. Denied. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required.

30. The averments of this paragraph and its accompanying subparagraphs comprise a conclusion of law to which no responsive pleading is required. To the extent that any facts are set forth that have not already been denied herein, they are denied.

31. Denied. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required.

32. Denied. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required.

WHEREFORE, Defendant, ProQuest Business Solutions demands that the Complaint in this matter be dismissed with prejudice and that judgment be entered in its favor and against the Plaintiff, together with an award of Attorneys'

Fees as allowed by law, and such other relief as this Court deems just and proper.

**COUNT II
(BREACH OF AGREEMENT)**

33. The averments of the foregoing paragraphs are incorporated as if set forth herein.

34. The averments of this paragraph and its accompanying subparagraphs comprise a conclusion of law to which no responsive pleading is required. To the extent that any facts are set forth that have not already been denied herein, they are denied.

35. Denied that ProQuest did not perform under the contract. The remaining averments of this paragraph comprise a conclusion of law to which no responsive pleading is required. After a reasonable investigation, ProQuest is without sufficient knowledge as to whether Jacob George Ford was forced to find a new provider.

36. It is denied that Jacob George provided any notice of termination to DCS or ProQuest or that DCS or ProQuest ignored Jacob George.

37. After a reasonable investigation, ProQuest is without sufficient knowledge as to whether Jacob George Ford made "equipment available." ProQuest is also without sufficient knowledge as to what this refers to. After a reasonable investigation, ProQuest is also without sufficient knowledge as to what damages it failed to mitigate or what property it failed to reclaim. The averments of this paragraph are therefore denied.

WHEREFORE, Defendant, ProQuest Business Solutions demands that the Complaint in this matter be dismissed with prejudice and that judgment be entered in its favor and against the Plaintiff, together with an award of Attorneys' Fees as allowed by law, and such other relief as this Court deems just and proper.

**COUNT III
(FRAUD IN THE INDUCEMENT)**

38. The averments of the foregoing paragraphs are incorporated as if set forth herein.

39. Denied. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required.

40. Denied. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required.

41. The averments of this paragraph and its accompanying subparagraphs comprise a conclusion of law to which no responsive pleading is required. To the extent that any facts are set forth that have not already been denied herein, they are denied.

42. Denied. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required.

43. Denied. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required.

44. Denied. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required.

45. It is admitted that DCS and Ford had a dispute only as to securing catalog data. It is denied that any such dispute would have relevance to the instant matter or that DCS had an obligation to disclose such dispute to any dealers.

46. Denied that DCS failed to provide software and hardware. After a reasonable investigation, ProQuest is without sufficient knowledge as to whether Jacob George Ford obtained a new provider.

WHEREFORE, Defendant, ProQuest Business Solutions demands that the Complaint in this matter be dismissed with prejudice and that judgment be entered in its favor and against the Plaintiff, together with an award of Attorneys' Fees as allowed by law, and such other relief as this Court deems just and proper.

**COUNT IV
(BREACH OF DUTY OF GOOD FAITH AND FAIR DEALING)**

47. The averments of the foregoing paragraphs are incorporated as if set forth herein.

48. Denied. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required.

49. The averments of this paragraph and its accompanying subparagraphs comprise a conclusion of law to which no responsive pleading is required. To the extent that any facts are set forth that have not already been denied herein, they are denied.

50. Denied. The averments of this paragraph comprise a conclusion of law to which no responsive pleading is required.

WHEREFORE, Defendant, ProQuest Business Solutions demands that the Complaint in this matter be dismissed with prejudice and that judgment be entered in its favor and against the Plaintiff, together with an award of Attorneys' Fees as allowed by law, and such other relief as this Court deems just and proper.

NEW MATTER

51. In 2006, DCS assigned all of its agreements to provide Ford electronic parts catalog services to ProQuest.

52. ProQuest performed all of its duties under the agreements and did not breach any obligations owed to Jacob George Ford at any time.

53. As stated in the Complaint and acknowledged by Plaintiff, Snap-On subsequently acquired the receivable for the Ford electronic parts catalog services.

54. As a result of the foregoing, ProQuest does not owe Jacob George Ford any duty, contractual, quasi-contractual, or otherwise because there is a lack of privity between the parties.

55. Jacob George has failed to set forth a cause of action upon which relief can be granted.


56. This action is barred based upon the arbitration clause set forth in the Agreement.

57. The action is barred by the applicable statute of limitations.

58. The action is barred by the doctrine of laches.

WHEREFORE, Defendant, ProQuest Business Solutions. demands that the Complaint in this matter be dismissed with prejudice and that judgment be entered in its favor and against the Plaintiff, together with an award of Attorneys' Fees as allowed by law, and such other relief as this Court deems just and proper.

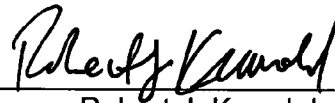
FLAMM, BOROFF & BACINE, P.C.
794 Penllyn Pike
Blue Bell, PA 19422
Telephone: 267-419-1500
Facsimile: 267-419-1560

By: 
Walter H. Flamm, Jr.
Robert J. Krandel
Attorneys for Defendant,
ProQuest Business Solutions

VERIFICATION

I, Robert J. Krandel am the attorney of record for the Defendant, ProQuest. Pursuant to Pennsylvania Rule of Civil Procedure 1024(c)(2), Defendant ProQuest is outside the jurisdiction of the court and a verification cannot be obtained with the time allowed for filing the instant pleading.

I have read the foregoing Answer and verify that all of the information contained therein is true and correct to the best of my knowledge, information and belief. I make this verification pursuant to the penalties of 18 Pa.C.S.A. §4904 relating to the unsworn falsification to authorities.

A handwritten signature in black ink, appearing to read "Robert J. Krandel", is written over a horizontal line.

Robert J. Krandel

Flamm, Boroff & Bacine, P.C.
By: Walter H. Flamm, Jr.
I.D. No.: 16607
Robert J. Krandel
I.D. No.: 89485
794 Penllyn Pike
Blue Bell, PA 19422
267-419-1500

**IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW**

JACOB GEORGE FORD SALES, INC.

V.

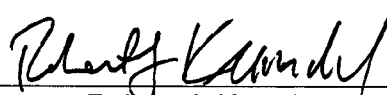
DEALER COMPUTER SERVICES, INC.,
et al.

No.: 2007-793-CD

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Answer of Defendant, ProQuest Business Solutions was served upon all parties interested in this action, by First Class Mail, postage prepaid, addressed as follows:

Edmond M. George, Esquire
OBERMAYER
One Penn Center – 19th Floor
1617 John F. Kennedy Boulevard
Philadelphia, PA 19102



Robert J. Krandel

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JACOB GEORGE FORD SALES, INC.,
Plaintiff

vs.

DEALER COMPUTER SALES, INC., et al
Defendants

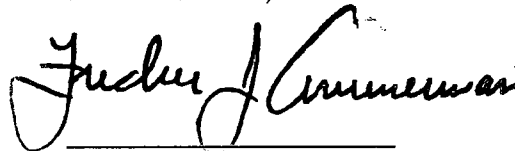
* NO. 2007-793-CD
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ORDER

NOW, this 26th day of July, 2013, it is the ORDER of this Court that a **status conference** be and is hereby scheduled for the **29th day of August, 2013 at 1:30 p.m.** in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania.

If this case has been concluded, the moving party is directed to file the appropriate Praecipe with the Prothonotary of Clearfield County to finalize that status of the case.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED 1CC Ark
of 2:56pm E. George
JUL 26 2013 1CC dotts
William A. Shaw
Prothonotary/Clerk of Courts OK

FILED

JUL 26 2013

**William A. Shaw
Prothonotary/Clerk of Courts**

deft
Dealer Computer Services Inc.
7600 Hollister St
Houston TX 77040

ProQuest Business Solutions
+
Snap-on Business Solutions Inc
3900 Kinross Lakes Parkway
Richfield OH 44286

Edmond M. George, Esquire
Obermayer Rebmann Maxwell & Hippel LLP
One Penn Center, 19th Floor
1617 J.F.K Boulevard
Philadelphia, PA 19103
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CA
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AUG 08 2013 OK
William A. Shaw
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW**

JACOB GEORGE FORD SALES, INC. :
v. : No.: 2007-793-CD
DEALER COMPUTER SERVICES, :
INC., *et al.* :

PRAECIPE TO SETTLE, DISCONTINUE, AND END

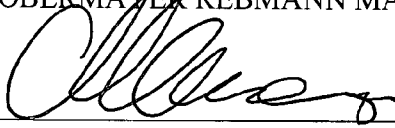
To the Prothonotary:

Kindly mark the above captioned matter settled, discontinued and ended.

Respectfully submitted,

OBERMAYER REBMANN MAXWELL & HIPPEL LLP

Dated: August 7, 2013


Edmond M. George, Esquire (45969)
One Penn Center, 19th Floor
1617 John F. Kennedy Blvd.
Philadelphia, PA 19103
Attorneys for Plaintiff

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JACOB GEORGE FORD SALES, INC.,

NO. 2007-793-CD

vs

DEALER COMPUTER SERVICES, INC., et al *

*
*
*
*

ORDER

NOW, this 8th day of August, 2013, the Court notes that a Praeipce to Settle, Discontinue and End in the above-captioned case was filed on August 7, 2013 by Edmond M. George, Esquire. Therefore, it is the ORDER of this Court that the **status conference** in the above-captioned case scheduled for the 29th day of August, 2013 is **canceled**.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED

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Prothonotary/Clerk of Courts

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William A. Shaw
Prothonotary/Clerk of Courts

Dealer Computer Services Inc.
7600 Hollister St
Houston TX 77040

ProQuest Business Solutions
Snap-on Business Solutions Inc
3900 Kinross Lake Parkway
Richfield OH 44286

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JACOB GEORGE FORD SALES, INC.,

NO. 2007-793-CD

VS

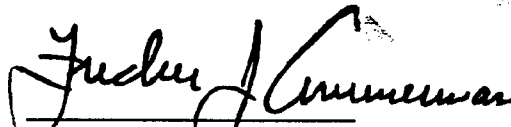
DEALER COMPUTER SERVICES, INC., et al *

7400 Hollister St
Houston TX 77040

ORDER

NOW, this 8th day of August, 2013, the Court notes that a Praecipe to Settle, Discontinue and End in the above-captioned case was filed on August 7, 2013 by Edmond M. George, Esquire. Therefore, it is the ORDER of this Court that the **status conference** in the above-captioned case scheduled for the 29th day of August, 2013 is **canceled**.

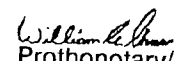
BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

AUG 09 2013

Attest.


Prothonotary/
Clerk of Courts

CLERK

PROTHONOTARY

WILLIAM L. BROWN
PROTHONOTARY

William A. Shaw
Prothonotary/Clerk of Courts
Po Box 549
Clearfield, PA 16830.

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William A. Shaw
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