

February 2023

MPT-1 File

In re Hill

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Foss & Associates LLP
Attorneys at Law
3200 Lakefront Dr., Suite 700
Franklin City, Franklin 33012

MEMORANDUM

To: Examinee
From: Zoe Foss
Date: February 21, 2023
Re: Jasmine Hill matter

We represent Jasmine Hill in connection with her purchase of a boat with serious mechanical issues. Ms. Hill purchased the boat from Reliant Boating, a local boat shop, with the understanding that although the boat was used, it was in perfect working condition. After purchasing the boat, Ms. Hill discovered that the boat's motor had a cracked engine block and needed to be replaced. She has now replaced the motor and would like to know what legal remedies she has against Reliant.

I need you to draft a memorandum to me analyzing whether Ms. Hill has one or more claims against Reliant under the Franklin Deceptive Trade Practices Act (DTPA) (Fr. Bus. Code §§ 200 *et seq.*). Be sure to discuss what specific relief Ms. Hill would be entitled to if she were to succeed in a DTPA action.

Do not include a separate statement of facts, but be sure to incorporate the relevant facts, analyze the applicable legal authorities, and explain how the facts and law affect your analysis. Focus only on Ms. Hill's potential DTPA claim or claims. Another associate will research other potential claims Ms. Hill may have against Reliant, including any claims based on breach of express or implied warranty.

Transcript of Interview with Jasmine Hill

February 20, 2023

Attorney: Jasmine, it's good to meet you. What can we help you with?

Hill: Thanks for meeting with me. I bought a boat from Reliant Boating, and now I feel like I've been taken advantage of.

Attorney: Why don't you tell me what happened.

Hill: It all started when I decided to buy a boat last year.

Attorney: Have you ever owned a boat before?

Hill: No. This is my first time. My family and I enjoy the outdoors. We like to go camping, hiking, and fishing at Lake Franklin. Over the summer, we rented a boat a few times and had a ball, which got me thinking about getting my own boat.

Attorney: How did you come to buy a boat from Reliant?

Hill: After researching new and used boats, I decided to buy a used boat because I didn't have enough money saved up for a new one. I did an internet search, and Reliant's name popped up. It's one of only a few boat stores in town that sells used boats. I called Reliant in August and spoke with the store's owner, Greg Stevens. I told him I was looking for a good-quality used boat.

Attorney: What did Mr. Stevens say?

Hill: He recommended that I consider buying a pontoon-style boat. You know, the kind that's flat and boxy, with a built-in sunshade over the top and comfortable seating along the sides. He said he had two used pontoon boats in stock: a 2017 18-foot Perth Envoy and a 2019 21-foot Wellington Mariner. He suggested I come down to the shop and take a look at them.

Attorney: And did you do that?

Hill: Yes, I went to the store, and Mr. Stevens showed me both boats. He encouraged me to buy the Envoy. He turned the engine on, and it sounded fine. I told him I needed to think about it and would get back to him. He gave me his email address and cell-phone number and told me to let him know if I had any questions. That evening, I talked to my family, and we all agreed that the Envoy was our best option because it was significantly less expensive than the Mariner but still roomy enough to comfortably seat six to eight people. I was really excited about the Envoy but had

some concerns, so I emailed Mr. Stevens. Here's a copy of my email exchange with him.

Attorney: Thanks! When did you buy the boat, and what did you pay for it?

Hill: I returned to the shop a few days after my initial visit. I paid \$7,500 for the boat, which is less than half of what a new 18-foot pontoon boat typically costs. The price included the boat, motor, and trailer. At the time, I thought I was getting a great deal. Mr. Stevens told me that the boat was a real gem and that it was in great condition. The bill of sale said that there were no defects. Here's a copy of it.

Attorney: Thank you. What happened after you bought the Envoy? Were you able to use it?

Hill: We trailered the boat to Lake Franklin, intending to stay the weekend and spend most of our time boating. About 15 minutes after we got out on the water, the motor died. I called Reliant immediately and told Mr. Stevens about the problem with the motor.

Attorney: What did he say?

Hill: He said there was no warranty on the boat, so I was responsible for any repairs. He started asking me questions about how I had operated the boat and suggested that I had done something wrong that caused the motor to die, which was infuriating. I was disappointed—our weekend getaway was ruined! The whole point of the trip was to spend as much time as possible on the lake enjoying our new boat. We didn't bring our hiking boots or our trail bikes. When the boat stopped working, there was no point in staying for the weekend, so we packed up our camping equipment and left.

Attorney: Were you able to find out what was wrong with the motor?

Hill: A boat mechanic inspected it and found that the engine block was cracked. The mechanic said that the motor couldn't be repaired and would have to be replaced. I told him that before I bought the boat, Mr. Stevens ran the motor briefly and it seemed to work fine. The mechanic said that it's not uncommon for a motor with a cracked engine block to run for a few minutes under test conditions. But then when you try to use it in the water for an extended period, the motor starts leaking oil, overheats, and seizes up. He said he found epoxy glue in the cracks on the engine

block, and he could tell that the glue had been recently applied. This told him that the engine block was damaged when I bought it.

Attorney: Did you have the motor replaced?

Hill: Yes, I did. And it cost me an arm and a leg! I brought a copy of the receipt. Having to replace the motor was stressful because it set me back financially. I think Reliant took advantage of me. The boat runs fine now, but I never would have bought it if I'd known it would need a new motor. I want to keep the boat now that it works, but I think Reliant should reimburse me for the replacement motor and all the hassle I've been put through.

Attorney: That's very understandable. I think you have some legal options against Reliant. I'll review the documents you provided and research a few issues and then get back to you early next week.

Hill: That sounds great. Thanks for helping me with this!

Jasmine Hill/Greg Stevens Email Correspondence [in chronological order]

August 10, 2022

From: Jasmine Hill<jhill@cmail.com>
To: Greg Stevens<gStevens@reliant-boat.com>
Subject: Pontoon Boat

Hi, Greg. Thanks so much for taking the time to show me the Perth Envoy and Wellington Mariner pontoon boats. I'm leaning toward the Envoy because it's the one you recommended and it's in my price range.

From: Greg Stevens<gStevens@reliant-boat.com>
To: Jasmine Hill<jhill@cmail.com>
Subject: Pontoon Boat

Jasmine, I think the Envoy is a real gem and would be a perfect fit for you because it has plenty of room for you and your family!

From: Jasmine Hill<jhill@cmail.com>
To: Greg Stevens<gStevens@reliant-boat.com>
Subject: Pontoon Boat

You mentioned that the Envoy is five years old. I'm a little concerned about its age. This is a big purchase for me. I don't want to buy a boat that's going to need repairs.

From: Greg Stevens<gStevens@reliant-boat.com>
To: Jasmine Hill<jhill@cmail.com>
Subject: Pontoon Boat

The Envoy is a few years old, but it's in excellent condition and runs just like new.

From: Jasmine Hill<jhill@cmail.com>
To: Greg Stevens<gStevens@reliant-boat.com>
Subject: Pontoon Boat

OK, let's do this! Can I come by the shop this weekend to complete the paperwork?

From: Greg Stevens<gStevens@reliant-boat.com>
To: Jasmine Hill<jhill@cmail.com>
Subject: Pontoon Boat

Sure! See you then!

Boat Bill of Sale

BE IT KNOWN that for payment in the sum of \$7,500, the full receipt of which is acknowledged, the undersigned Greg Stevens d/b/a Reliant Boating (Seller) hereby sells and transfers to Jasmine Hill (Buyer) the following boat, motor, and trailer (Boat):

Make: Perth

Model or series: Envoy

Year: 2017

Color: White

Hull ID No.: SSR 77070 173 06

Style: 18-foot pontoon

Odometer Reading (# hours): 275 hours

Title #: [omitted]

Motor: 9.9-horsepower Jupiter

Trailer: 20-foot standard boat trailer

The sale is subject to the following conditions and representations:

Seller acknowledges receipt of \$7,500 as full payment for the Boat, with title transfer to take place immediately.

* * *

Seller has no knowledge of any defects in and to the Boat.

Seller: Greg Stevens

Date: August 13, 2022

Buyer: Jasmine Hill

Date: August 13, 2022

In the presence of (Witness): Graham Taylor

Date: August 13, 2022

INVOICE NO. 3017

DATE: September 20, 2022

JB Boat Repairs

Proudly Serving Franklin Boaters Since 2012

1200 Marina Blvd.

Franklin City, FR 33015

TO:

Jasmine Hill

9361 Castle Lane

Franklin City, FR 33015

Diagnosis:

Examined broken Jupiter 9.9-horsepower motor in 2017 Perth Envoy pontoon boat and found that engine block was cracked. Found remnants of epoxy glue in cracked engine block, indicating engine block had been previously damaged. Motor is not fixable and needs complete replacement.

Work Performed

Remove broken motor and install refurbished 9.9-horsepower Jupiter replacement motor. Fill oil tank. Test motor. Test propeller.

Total Cost

\$3,000

THANK YOU FOR YOUR BUSINESS!