

COURT OF QUEBEC

Small Claims Division

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL
TOWN OF MONTREAL
Civil Division

No: 500-32-117069-098

DATE: September 2, 2011

BY THE HONOURABLE SUZANNE HANDMAN, J.C.Q.

STEVEN MILLER

[...], Hampstead, Qc., [...]

Plaintiff

v.

INFINITI LUCIANI

4000, Jean-Talon Ouest, Montréal, Qc., H4P 1V5

Defendant

JUDGMENT

[1] Steven Miller is suing Infiniti Luciani (Luciani) for \$7,000 after the company refused to sell him the vehicle he had purchased. Luciani denied the claim, invoking a mistake by one of its employees.

The evidence:

[2] Mr. Miller, who was seeking a new car, decided to purchase a FX50 Infiniti from Luciani. Since no new models were available, a salesperson offered to sell the demonstrator model to Mr. Miller for \$60,240. The parties signed a contract, which was subject to credit approval. This condition was then met.

[3] However, a few days later, Luciani's salesperson called Mr. Miller, advising him that his supervisor refused to sell the car. No explanation was given. Mr. Miller returned to Luciani to speak to the salesperson who curtly told Mr. Miller he had no car to sell to him. No other offer was made.

[4] Mr. Miller then went to Spinelli Infiniti. Although he wanted the fully equipped car he had purchased originally from Luciani, he bought a base model for \$57,960.

[5] Luciani's sales manager, Jean Longevin, explained that before a demonstrator can be sold, the transaction must be verified by a manager, which was not done in this case. Luciani claimed the salesperson who had dealt with Mr. Miller had made a mistake concerning the price and therefore Luciani would not sell the car to Mr. Miller. Luciani also claimed that Mr. Miller was invited to the dealership to discuss other options but he failed to return, a fact denied by Mr. Miller.

Analysis:

[6] The evidence establishes that Luciani contracted with Mr. Miller with respect to the sale of an Infiniti 2009 model FX50 for \$60,240. The contract was validly concluded by both parties.

[7] Article 1458 of the Civil code of Quebec states that every person has the duty to honour his contractual undertakings. Where he fails in this duty, he is responsible for any material injury he causes to the other contracting party and is liable to reparation for the injury.

[8] Luciani claims the salesperson who dealt with Mr. Miller had provided the wrong price of the car, by error. He had failed to consult the manager before setting the price. However, article 1463 of the Civil code of Quebec provides that *"The principal is liable to reparation for injury caused by the fault of his agents and servants in the performance of their duties..."*.

[9] In light of the foregoing, Luciani is responsible for the error made by one of its employees. Since a contract had been validly signed by the parties and since Luciani failed to respect it, Luciani is liable to repair the injury caused to Mr. Miller.

[10] Mr. Miller is claiming \$7,000 for obtaining a car of lesser value for approximately the same price he would have paid for the model FX50. He is entitled to compensation. The Court considers that the amount of \$2,000 is appropriate; although Mr. Miller

obtained a car with lesser equipment, he nevertheless got a new vehicle as opposed to a demonstrator model.

FOR THESE REASONS, THE COURT:

GRANTS the action;

CONDEMNS Infiniti Luciani to pay Steven Miller the sum of \$2,000 with interest at the legal rate and the additional indemnity foreseen by section 1619 of the Civil code of Quebec since the institution of the action plus judicial fees of \$157.

SUZANNE HANDMAN, J.C.Q.

Date of hearing: July 5, 2011