



## **NJ AUTO INDUSTRY ALERT**

**September 17, 2015**

### **NEW JERSEY ATTORNEY GENERAL'S OFFICE CONTINUES TO AGGRESSIVELY PURSUE CAR DEALERS; PAID SICK LEAVE BILLS REMAIN PENDING**

#### **NJ Attorney General Obtains \$693,645.91 Default Judgment Against Dealer, Most of Which Was Potentially Avoidable**

In what has become an all too commonplace complaint, the State recently alleged that RLMB Auto Sales violated the Consumer Fraud Act, the Motor Vehicle Advertising and Sales Vehicle Regulations, and the Used Car Lemon Law. *The issues raised against this particular dealer are typical of the issues that the Attorney General routinely looks for when investigating any dealership.*

*Unfortunately, the dealer made a grave mistake, as it failed to respond to the complaint filed against the company.* Because RLMB failed to respond, the judge entered a default judgment of \$640,000.00 in civil penalties, \$31,200.91 in reimbursement to the state for its legal investigative costs and \$22,445.00 in restitution to seven consumers. RLMB's failure to explain to the State why some of the allegations against it were perhaps false or taken out of context, or why the civil penalty might have been excessive, *led to the imposition of damages that far exceeded the fines.*

Specifically, the AG alleged, among other things, that RLMB violated state statutory and regulatory requirements by: failing to properly disclose prior damage; selling vehicles as is when they qualified for a warranty; failing to timely provide consumers with title and registration; having consumers sign blank documents; offering vehicles for sale by third parties on Craig's List when the vehicles were titled in the dealer's name; offering used vehicles for sale without the Federal Trade Commission Used Car Buyer's Guide; offering vehicles without conspicuously displaying the selling price; failing to itemize documentary service fees; and failing to include state mandated language that "price(s) all cost(s) be paid by consumer, except for licensing costs, registration fees and taxes."

We encourage dealers to proactively take steps to ensure they are complying with all statutes and regulations that govern their business, and that their employees are properly trained and knowledgeable about the requirements. As the RLMB judgment demonstrates, if you are contacted by the State Attorney General's Office or any other state or federal agency about an investigation or a lawsuit, you must respond and engage in the process. Failure to do so can be extremely costly. Please do not hesitate to reach out for us if you have questions about any of these areas.



## **Uncertain Fate for Paid Sick Leave in the New Jersey Legislature/ Obama Signs Executive Order Mandating Sick Leave for Federal Contractors**

Legislation that would mandate paid sick leave for both full and part-time employees is ready for a vote in both houses of the State Legislature; in two different forms. The bills, S785/A2354, sponsored by Senate Majority Leader Loretta Weinberg (D-Teaneck) and Assemblywoman Pam Lampitt (D-Voorhees), are still considered to be a priority in the Democratically-controlled Legislature; however, efforts to move the bill have stalled for now because of the two different versions pending in the Assembly and Senate.

The legislation would mandate that all NJ businesses provide employees with one hour of earned sick leave for every 30 hours worked. However, employers with more than 10 employees in the state would not be required to allow more than 72 hours of earned sick leave to accrue at any one time or to carry forward to the next year. For employers with less than 10 employees in the state, that number drops to 40 hours of earned sick leave to be accrued or carried-forward. Employees could use earned sick leave for themselves or to care for a family member.

The two houses are at odds over whether to allow towns to enact stricter local ordinances. Business groups continue to oppose the bill as harmful to small business, and have unsuccessfully challenged paid sick leave ordinances enacted in at least 9 New Jersey municipalities, including Newark and Trenton. Without consensus on this issue, the bills won't make it to the Governor's desk. Should the two houses find common ground, further action is not anticipated until after the November election, when the entire General Assembly is up for reelection. Even if agreement is reached, Republican Governor Chris Christie is expected to veto the bill swiftly.

### **Executive Order Mandates Paid Sick Leave for Federal Contractors**

On September 7, President Obama issued an [Executive Order](#) mandating one hour of paid sick time for every 30 hours worked for all federal contractors, subcontractors and lower-tiered subcontractors. The U.S. Department of Labor has until September 30, 2016 to publish regulations implementing the Order, which takes effect on January 1, 2017. Paid Sick Leave appears to be gaining traction on both the state and federal levels.

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*Anthony Bush is a Member in Eckert Seamans' Princeton Office with over two decades of experience with automotive issues. He counsels a wide spectrum of clients including automobile dealerships, operators of wholesale motor vehicle auctions, auto parts distributors, finance companies, and auto body repair facilities. Tony and Eckert Seamans have expertise representing dealers in consumer and corporate litigation, land use matters, business counseling, employment matters, franchise disputes, before the New Jersey Motor Vehicle Commission and New Jersey Department of Law and Public Safety, Division of*



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