

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

PAUL J. PETCAVAGE, : No. 04-01,134
Plaintiff :
VS :
HIGHLAND LEASE CORPORATION, :
A SUBSIDIARY OF M&T BANK, :
Defendants :

OPINION AND ORDER

The Court has been requested to reconsider its granting of a demurer to Count 5 of Plaintiff's complaint (now Count 2 of the amended complaint) for violation of the Unfair Trade Practices and Consumer Protection Law. 73 P.S. 201-1, et seq. The crux of Plaintiff's claim is that a representative of the Defendant made fraudulent oral representations to him regarding the return of a lease vehicle and the termination of the lease.

The Court believes that the demurer was incorrectly granted and therefore Plaintiff is permitted to proceed with Count 2 of his amended complaint. While the alleged oral contract is questionable, the Act does have a broad "catch-all" provision which provides a cause of action for "engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or misunderstanding". 73 P.S. 201-2(4)(xxi)(emphasis added). Commonwealth Court has said that this catch-all is designed to cover, generally, all unfair and deceptive acts or practices in the conduct of trade or commerce. Hammer v. Nikol 659 A.2d 617, 619 (PA Commonwealth 1995). Further, the law is to be liberally construed to effectuate the legislative goal of consumer protection. Commonwealth v. Percudani 825 A.2d 743 (PA Commonwealth 2003).

ORDER

AND NOW, this 18th day of November, 2004, Plaintiff's Motion for Reconsideration is **GRANTED**. The Court's Order of September 29, 2004, is **AMENDED** to provide that the demurer to Count 5 is overruled. Defendant shall file an answer to the amended complaint in twenty (20) days.

By The Court,

Hon. Richard A. Gray, Judge

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