

Tony Sbarra Successfully Defends Porsche Cars North America

KEY SERVICES

Litigation

- Product Liability

RELATED ATTORNEYS

Anthony J. Sbarra, Jr.

By Anthony J. Sbarra, Jr. on March 24, 2022

Tony Sbarra successfully defended Porsche Cars North America in warranty arbitrations in Connecticut and Massachusetts.

In the Connecticut case, *Ceci v. PCNA, CAP-Motors*, Case 95201025, the claimant alleged that a “screeching noise” condition with the heating system in a 2017 Porsche Macan constituted a serious safety defect in violation of Conn. Gen. Stats. Sec 42-179 (b) and (d), the Connecticut Lemon Law. For these alleged violations, the claimant sought repurchase of the vehicle from PCNA, plus attorneys’ fees and costs. At the hearing, the claimant presented video evidence of audible humming coming from the heating vents in the vehicle. PCNA presented the testimony of the service manager for the Porsche dealership in question and, more significantly, of PCNA’s New England Field Technical Manager, who testified about the proper operation of the Macan’s climate control system. PCNA then argued, based on *General Motors Corp., v. Dohmann*, 247 Conn. 274, 288 (1988), that it is not just the existence of any condition or defect that is compensable, but rather, the defect must be one that substantially impairs the use, safety, or value of the vehicle. The arbitrator concluded that although the Macan in question did meet the requirements of the law with regard to repairs and days out of service, the noises could be substantially diminished if the system were operated in auto mode and that the Macan’s condition did not constitute a compensable nonconformity under applicable Connecticut law.

In the Massachusetts case, *Blair v. PCNA, CAP-Motors*, Case 95211005, the claimant alleged that loud squeaking emanating from the brakes in a 2020 Porsche Macan constituted a serious safety defect in violation of Mass. Gen. Laws Ch. 90, Sec. 7N ½, the Massachusetts Lemon Law. For these alleged violations, the claimant sought repurchase of the vehicle from PCNA plus attorneys’ fees and costs. The claimant testified at the arbitration hearing that the noise occurred during slow braking only and not at higher speeds. He also presented video evidence documenting the noise. PCNA presented the testimony of the service manager for the Porsche dealership in question and, more significantly, of PCNA’s New England Field Technical Manager, who testified about Porsche braking systems in general and explained that the low speed noises were a typical characteristic of the vehicle’s operation and not a safety hazard. Under *Finigan-Mirisola v. DaimlerChrysler Corp.*, 2006 WL 3479520 (Mass. Super. Ct. 2006), PCNA argued that the noise alone did not rise to a nonconformity or defect that substantially impaired the use, safety, or value of the vehicle. The arbitrator found that the only compensable element available to the claimant would have been if he had established that the

Macan was worth less in resale due to the noise, but that there had been no admissible evidence offered on that issue. Consequently, PCNA prevailed.

**This content was originally posted in DRI's April 2021 edition of The Voice.*