

Woman Wins \$125,000 From Dealership

Jury Awards Money In Truck-Sale Case

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A state District Court jury has awarded a 24-year-old Albuquerque woman \$125,000 in damages from Melloy Nissan for fraud and violating New Mexico's Unfair Practices Act and Motor Vehicle Dealer Franchise Act.

The 12-person jury deliberated roughly 2½ hours following a weeklong civil trial before state District Judge Ted C. Baca before finding that Melloy Nissan defrauded Tara Hendry and violated the laws.

They awarded Hendry \$25,000 in actual damages and \$100,000 in punitive damages.

Hendry claimed in a December 1997 lawsuit that earlier that year Melloy sold her a 1995 pickup truck it claimed was new, but which in fact had been sold to a Crownpoint resident and was driven hundreds of miles for several weeks before it was "seriously damaged" in an accident.

The truck was returned to Melloy Nissan in March 1996 when the prospective owner's financing fell through with at least 2,500 miles on the odometer, according to a final pretrial order in the case.

Melloy repaired the truck and sold it to Hendry in August 1997 as a "demonstrator vehicle," with some 2,906 miles on the odometer, the order said.

Richard N. Feferman, who represented Hendry along with attorneys Susan Warren and James T. Roach, said Tuesday the dealer sold Hendry "a used car and called it new" and failed to disclose that it had been wrecked and had received some \$2,100 in repairs.

According to the complaint, about a month after paying for the truck, Hendry was told she couldn't have the title and license plate until she signed a statement saying she knew the truck had been damaged.

But she refused to sign and Melloy refused to provide her with the license and title for more than two months "in order to pressure her to sign the false statement that she had been told about the accident," the suit alleged.

Hendry didn't learn about the truck's previous buyer until she contacted Nissan Motor Cor-

poration U.S.A. headquarters, Feferman said.

Feferman said that under state regulations a vehicle that has been driven more than 200 miles by one or more retail buyers is "used," and to describe it as "new" or a "demonstrator" is an unfair or deceptive trade practice.

Paul T. Yarbrough, who represented Melloy Nissan, said there was "absolutely no fraud or misrepresentation of any nature" by the Albuquerque car dealer.

Though the verdict went against Melloy, "no evidence of damages was ever presented," he said.

"The jury did not get to hear the whole story," said Yarbrough, who said he'd be filing motions to be "relieved from the verdict" once a final judgment is entered.

"It's by no means over. This is just round one," Yarbrough said. He declined to detail what evidence and testimony had been excluded from the trial by Baca.

According to the pretrial order, the defense argued that while Melloy employees "administratively overlooked" the previous sale attempt, Hendry got the pickup "for a very fair and reasonable price."