

LEGAL FILE: PA Dealership Faces Trial in Identity Theft Case  
Eric Freedman  
Automotive News  
September 6, 2004

**Who's at fault?**

Issue: Is a Pennsylvania store liable for a salesman's fraudulent use of customer credit information?

Where it stands: U.S. District judge says maybe and authorizes trial in identity theft suit.

A Pennsylvania dealership may be on the legal hook in an identity fraud case because its salesman allegedly misused customer financing information to help set up fraudulent credit card accounts.

U.S. District Judge Petrese Tucker rejected arguments that Dunphy Nissan Inc. of Drexel Hill, Pa., can't be held liable under the Fair Credit Reporting Act for the alleged conduct of ex-salesman Anthony Williams.

The ruling clears the way for trial unless there is a settlement.

The lawsuit contends that Williams had disclosed his record of forgery and theft convictions when the dealership hired him in 2002, although the parties dispute details of his hiring, according to the court.

The suit also claims that Williams was on parole at the time for a theft-by-deception conspiracy conviction.

In the lawsuit, plaintiff Gregory Lukens contends that he visited the dealership to look at SUVs before Williams became licensed as a salesman. Williams completed a form authorizing the dealership to get Lukens' credit report. Lukens signed the form, which listed an incorrect middle initial and telephone number, but ultimately didn't buy a vehicle there.

Within a month, five fraudulent credit accounts were opened in Lukens' name, each with an application that had the incorrect initial and phone number, the lawsuit alleges.

In her decision, the judge let stand the credit-related claims. She said that even if the dealership had properly obtained Lukens' credit report, it was allegedly "used impermissibly to supply an impostor with his personal information." The dealership may be liable, the judge said.

About \$12,000 was charged to the phony accounts before they were closed. Although Lukens didn't have to pay those charges, information about them remains on his credit

report, and he has spent "considerable time dealing with the entire situation," meaning he may be entitled to damages for emotional distress, the judge said.