

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS

GPI KS-SB, INC. d/b/a Baron BMW,

Plaintiff,

v.

**AMOGH KARNEY,
8901 Mission Road
Leawood, KS 66206**

Defendant.

Case No. _____

JURY TRIAL DEMANDED

**PETITION
(Filed Pursuant to K.S.A. Chapter 60)**

Plaintiff GPI KS-SB, Inc. d/b/a Baron BMW, by undersigned counsel, and for its causes of actions against Defendant Amogh Karney, states and alleges as follows:

I. Parties, Jurisdiction and Venue

1. Baron BMW is the trade name for GPI KS-SB, Inc., a corporation licensed to do business in the state of Kansas, with its principal place of business located at 9010 Shawnee Mission Parkway, Merriam, Kansas, 66202, as a franchise motor vehicle dealership licensed by the Kansas Department of Revenue.

2. Defendant Amogh Karney is or was at one time, a Kansas resident residing at 8901 Mission Road, Leawood, Kansas 66206, and may be served at the address shown in the caption above pursuant to K.S.A. §60-304(c)(3).

2.1 Karney has a historical record of engaging in fraudulent activity.

2.2 Unknown to Baron BMW, on February 26, 2020, an Order to Cease and Desist was entered by the State of Nebraska Department of Banking & Finance noting that Karney is a resident of Omaha, Nebraska, formerly a Northwest Mutual Investment Service broker-dealer but never registered in Nebraska as required by law although working in the state. During 2017 – 2019 he represented to consumers that he was an investment advisor when in fact he was not.

2.3 The state of Nebraska found that Karney solicited investment opportunities via his company, ARK Capital LLC, asserting it was an investment fund, that it had been operating for 2 years, had closed each tax year with distributions and that a new investor could be a passive investor. A (false) certificate of organization represented those investments contained within it totaled \$600,000 and that Karney had contributed \$300,000. Using these false statements and documents, Karney secured a \$75,000 investment from a consumer.

2.4 On March 27, 2020, Karney had his Nebraska license revoked by the Nebraska Department of Insurance arising from misrepresentations.

2.5 On July 2, 2020, Karney entered into a Consent Order with the Insurance Commissioner of the Commonwealth of Pennsylvania arising out of misrepresentations he made to consumers who purchased insurance products. In the Order, he agreed that his license in the state was revoked.

3. This Court has personal jurisdiction over Defendant Karney, pursuant to K.S.A. §60-308(b)(A)(B) and (E), in that Plaintiff's claims arise from Karney's tortious acts and omissions occurring during the course of a business dealing in this state with Plaintiff, and the entry into a contract with Plaintiff.

4. Venue is proper in this Court pursuant to K.S.A. §60-603(3) in that Plaintiff's cause of action arose in Johnson County, Kansas.

II. General Allegations

5. On or about July 16, 2022, Baron BMW agreed to purchase a motor vehicle, namely a 2022 BMW X5M, (the "subject vehicle") from Karney, relying upon Karney's material representation that the subject vehicle was unencumbered by any liens or the claims of others.

6. To perpetuate his false representation, Defendant provided Plaintiff with a Nebraska certificate of title for the subject vehicle showing a purchase date of April 5, 2022, and a title issue date of July 8, 2022. This title did not show the existence of any liens on the vehicle, yet Plaintiff knew that a subsequent title had issued to reflect Defendant's knowledge that the subject vehicle was subject to a lien by a financial institution who loaned him money to acquire the subject vehicle.

7. Based upon the representations of Defendant that the subject vehicle was owned free and clear of any liens, Plaintiff completed the purchase on or around July 18, 2022, and paid the purchase price to Defendant.

8. Plaintiff then sold the subject vehicle to a third party on or about August 20, 2022. That purchaser notified Plaintiff that there was a lien on the vehicle.

9. Plaintiff was subsequently contacted by a financial institution who demonstrated that it had financed the Defendant's purchase of the subject vehicle by Defendant with said loan being secured by the subject vehicle and unsatisfied.

10. Plaintiff has incurred economic losses and has been damaged as a direct result of Defendant's acts and omissions described herein and is thereby entitled to the relief it seeks in this Petition.

Count I – Negligent Misrepresentation

11. Plaintiff incorporates by reference the foregoing allegations in this Petition as if fully set forth herein.

12. The presence of a lien encumbering the subject vehicle was a fact that existed when Defendant sold the subject vehicle to Plaintiff in July 2022, and was material to that sale.

13. In the course of Defendant's sale of the subject vehicle, he had a duty to provide truthful information material to the sale, including whether liens were attached to the subject vehicle. He breached that duty.

14. Defendant represented to Plaintiff that the subject vehicle was unencumbered by liens; when in truth and in fact, the subject vehicle was encumbered by a lien to a financial institution and that indebtedness was unsatisfied.

15. Defendant failed to exercise reasonable care or competence in representing that the subject vehicle was unencumbered by liens when signing documents as part of the sale transaction to Plaintiff and he failed to disclose the interest of the financial institution when he had a duty to disclose the truth.

16. Plaintiff reasonably relied upon Defendant's representations (and his corresponding failure to disclose the truth) that the subject vehicle was unencumbered by liens, both in the purchase of the subject vehicle, as well as the subsequent sale of the subject vehicle to a third party.

17. As a result of Plaintiff's reliance upon Defendant's misrepresentations regarding the liens attached to the subject vehicle, it suffered damages in excess of \$75,000.

Count II – Fraud

18. Plaintiff incorporates by reference the foregoing allegations in this Petition as if fully set forth herein.

19. The presence of a lien encumbering the subject vehicle was a fact that existed at the time of its sale to Plaintiff in July of 2022, and was material to that sale.

20. At the time Defendant represented to Plaintiff that the subject vehicle was unencumbered by any liens, Defendant knew this representation to be false or recklessly made this representation without knowledge of its validity.

21. Defendant intentionally made the statement for the purpose of inducing the Plaintiff to act upon it; or he intentionally concealed the existence of the lien to induce Plaintiff to pay the entire purchase price to him, to the detriment of the lien holder.

22. Plaintiff reasonably relied upon Defendant's representations that the subject vehicle was unencumbered by liens, both in the purchase of the subject vehicle, as well as the subsequent sale of the subject vehicle to a third party.

23. As a result of Plaintiff's reliance upon Defendant's misrepresentations regarding the liens attached to the subject vehicle, it suffered damages in an amount greater than \$75,000.

Wherefore, Baron BMW, respectfully prays that the Court:

A. Enter judgment in its favor and against Plaintiff, in an amount that will fairly and justly compensate Plaintiff its damages incurred in the action in excess of \$75,000, for post-judgment interest at the statutory rate, for costs and:

B. For such further and other relief as the Court deems reasonable, appropriate, and just.

Jury Demand

Plaintiff Baron BMW demands a trial by jury.

Respectfully submitted,

Case Linden Kurtz Buck P.C.

/s/Kevin D. Case

Kevin D. Case, KS 14570
2600 Grand Boulevard, Suite 300
Kansas City, MO 64108
Tel: (816) 979-1500
Fax: (816) 979-1501
kevin.case@caselinden.com
Attorney for Plaintiff Baron BMW